



Ordinary Council Meeting

# Agenda

16 October 2024



## *Our Vision*

Where environment, lifestyle and opportunity meet

## *Community Aspirations*



### KEY THEME 1

#### **Environment**

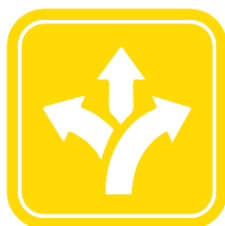
An environment that is valued, conserved and enjoyed by current and future generations.



### KEY THEME 2

#### **Lifestyle**

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



### KEY THEME 3

#### **Opportunity**

A vibrant City with diverse opportunities and a prosperous economy.



### KEY THEME 4

#### **Leadership**

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

**NOTICE OF MEETING**

**TO: THE MAYOR AND COUNCILLORS**

**NOTICE** is given that a meeting of the Council will be held in the Council Chambers, Administration Building, Southern Drive, Busselton on 16 October 2024, commencing at 5:30pm.

Your attendance is respectfully requested.

**DISCLAIMER**

Statements or decisions made at Council meetings or briefings should not be relied on (or acted upon) by an applicant or any other person or entity until subsequent written notification has been given by or received from the City of Busselton. Without derogating from the generality of the above, approval of planning applications and building permits and acceptance of tenders and quotations will only become effective once written notice to that effect has been given to relevant parties. The City of Busselton expressly disclaims any liability for any loss arising from any person or body relying on any statement or decision made during a Council meeting or briefing.



**TONY NOTTLE**

**CHIEF EXECUTIVE OFFICER**

3 October 2024

## BEHAVIOUR PROTOCOLS

The City of Busselton values are:

- Listening
- Considered Decision Making
- Appreciation
- Respect
- Teamwork

In accordance with these values, the following outlines the behaviour expectations while attending a Council meeting, Committee meeting, Community Access Session, or Public Agenda Presentation:

- Listen respectfully through the meeting or presentation
- Respect the Council process and comply with directions from the Presiding Member
- Use respectful language when addressing Council, staff, and other members of the public
- Behave in a manner that is respectful and non-confrontational
- Do not use offensive language or derogatory language towards others

The City values the diverse input of the community and seeks to ensure that all members of the community can attend a meeting and have their say.

Elected Members, Committee members and Candidates are bound by the City's Code of Conduct and agree to uphold the values of the City of Busselton and principles of good behaviour, maintaining and contributing to a harmonious, safe, and productive environment.

Anyone who does not behave in accordance with the above values and behaviours may be asked by the Presiding Member to leave the gallery.

**CITY OF BUSSELTON**

Agenda for the Council Meeting to be held on 16 October 2024.

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## 1. OFFICIAL OPENING

The City of Busselton welcomes Elected Members, staff, guests and members of the public to the Ordinary Council Meeting of 16 October 2024.

The City of Busselton acknowledges the Wadandi and Bibbulmun people as the traditional custodians of this region and pay respects to Elders past and present.

This meeting will be audio recorded for minute taking purposes and will also be live streamed on the City of Busselton YouTube channel.

A prayer will be read out as part of the opening of this meeting.

## 2. ATTENDANCE

| <b>PRESIDING MEMBER</b> | <b>MEMBERS</b>              |
|-------------------------|-----------------------------|
| Mayor Phill Cronin      | Cr Anne Ryan (Deputy Mayor) |
|                         | Cr Val Kaigg                |
|                         | Cr Jodie Lee                |
|                         | Cr Kate Cox                 |
|                         | Cr Mikayla Love             |
|                         | Cr Richard Beecroft         |
|                         | Cr Andrew Macnish           |
|                         | Cr Jarrod Kennedy           |

| <b>OFFICERS</b>                             |
|---|
| Chief Executive Officer                     |
| Director Infrastructure and Environment     |
| Director Community Planning                 |
| Director Economic and Business Development  |
| Director Corporate Strategy and Performance |
| Governance and Risk Coordinator             |
| Governance Officer                          |

| <b>APOLOGIES</b>          |
|---------------------------|
| Nil at time of publishing |

**LEAVE OF ABSENCE**

Nil at time of publishing

**APPLICATIONS FOR LEAVE OF ABSENCE**

|                     |                  |
|---------------------|------------------|
| Cr Mikayla Love     | 20 November 2024 |
| Cr Richard Beecroft | 20 November 2024 |

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

**4. DISCLOSURES OF INTEREST**

**DISCLOSURES OF FINANCIAL INTEREST**

A declaration under section 5.65 of the *Local Government Act 1995* requires that the nature of the interest must be disclosed. An elected member or employee who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter on which the subject of the declaration without the approval of the Council in accordance with the Act.

**DISCLOSURES OF IMPARTIALITY INTEREST**

Elected members and employees are required, in addition to declaring any financial interest, to declare an interest that might cause or perceive to cause a conflict. If the elected member or employee declares that their impartiality will not be affected then they may participate in the decision-making process.



## 5. CONFIRMATION AND RECEIPT OF MINUTES

### 5.1. Ordinary Council Meeting 18 September 2024

#### RECOMMENDATION

That the minutes of the Ordinary Council Meeting, 18 September 2024 be confirmed as a true and correct record (as published at 3 October 2024 on the [City of Busselton's website](#), inclusive of any confidential material published on the restricted internal Docs on Tap application).

## 6. PUBLIC QUESTION TIME

Public question time allows members of the public to participate in local government by asking questions of the Council in relation to issues affecting the City.

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

### 6.2. QUESTION TIME FOR PUBLIC

#### Public question time procedures and guidance

- The City will allocate a minimum of 15 minutes and a maximum of 30 minutes per Council meeting for public question time.
- Members of the public should register their intent to ask a question at a Council meeting by completing and submitting the [Public Question Time form](#) before 4pm the day prior to the relevant meeting.
- Members of the public will be invited to ask their question in order of registration.
- Questions will be limited to three per person. Additional questions may be permitted by the Presiding Member where time permits.
- Where a person is not present to ask their submitted question it will be responded to administratively as general correspondence.
- Questions may be taken on notice, to be responded to at a later time by the CEO in accordance with clause 6.7 of the Standing Orders.
- Public question time is for the tabling of questions, not for members of the community to make statements. For context, the Presiding Member may allow a short preamble.
- Questions containing defamatory remarks or offensive language, or that question the competency or personal affairs of Elected Members or employees may be ruled inappropriate by the Presiding Member subject to the Presiding Member taking reasonable steps to assist the member of the public to rephrase the question.
- There will be no debate or discussion on the response provided.

For further information, please see the [Meetings, Information Sessions and Decision Making Processes Policy](#).

## 7. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

### 7.1. PETITIONS

#### *Extract from City of Busselton Standing Orders Local Law 2018*

##### **6.9 Petitions**

- (1) A petition, in order to be considered by the Council, is to –
  - (a) be addressed to the Mayor;
  - (b) be made by the electors of the district;
  - (c) state the request of each page of the petition;
  - (d) contain the name, address and signature of each elector making the request;
  - (e) contain a summary of the reasons for the request;
  - (f) state the name of the person whom, and an address at which, notice to the petitioners can be given;
  - (g) be respectful and temperate in it's language.
- (2) Despite subclause (1), the Presiding member may allow a petition to be considered in circumstances where the petition complies with the majority if the requirements in subclause (1).
- (3) In response to a petition presented to it, the Council may determine –
  - (a) that the petition be received;
  - (b) that the petition be rejected;
  - (c) that the petition be received and referred to the CEO to prepare a report to Council or a committee; or
  - (d) that the petition be received and referred to the CEO for action.
- (4) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented at that meeting, unless –
  - (a) the matter is the subject of a report included in the agenda; and
  - (b) the Council has considered the issues raised in the petition.

### 7.2. PRESENTATIONS BY PARTIES WITH AN INTEREST

#### *Extract from City of Busselton Standing Orders Local Law 2018*

##### **6.10 Presentations by parties with an interest**

- (1) Once an agenda of a meeting of the Council has been issued, parties with a demonstrable interest in any item listed on the agenda for discussion may seek to present to the Council at the time during the meeting allocated for this purpose.
- (2) A person must demonstrate that they are a party with an interest in an item on the agenda by stating their name, the item to which they wish to speak, whether or not they are in agreement with the recommendation in the agenda and they are—
  - (a) the applicant or one duly authorised representative of the applicant;
  - (b) an adjoining neighbour sharing a common length of boundary or directly opposite neighbour of the affected property;

- (c) one person duly representing a community-based organisation where an item on the agenda has broad community impact and is associated with the objectives of the organisation; or
  - (d) such other person as in the opinion of the presiding member has a significant direct interest or is duly representing those that have a significant direct interest in the item.
- (3) A person addressing the Council on an agenda item will be limited to a period of 5 minutes unless the person is granted an extension by the presiding member.
  - (4) Where multiple parties wish to present on an item, the applicant (or their duly authorised representative) is to be given the opportunity to give the final presentation on the item.
  - (5) Members may, through the presiding member, question a person addressing the Council on the item but no debate or general discussion will be permitted.

### 7.3. DEPUTATIONS

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

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

### ADOPTION BY EXCEPTION RESOLUTION EN BLOC

#### Extract from the *City of Busselton Standing Orders Local Law 2018*

##### 5.10 Adoption by exception resolution

- (1) In this clause adoption by exception resolution means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the committee or employee recommendation as the Council resolution.
- (2) The Council may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
  - (a) that requires a 75% majority or a special majority;
  - (b) in which an interest has been disclosed;
  - (c) that is a matter on which a member wishes to ask a question;
  - (d) that is a matter on which a member wishes to make a statement; or
  - (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.
- (4) A member who wishes to ask a question or make a statement in relation to a matter that would otherwise be within an adoption by exception motion should, as far as practicable, notify the CEO by 3pm on the day before the meeting.
- (5) A member who wishes to move a motion that is different to the recommendation in a matter that would otherwise be within an adoption by exception resolution should, as far as practicable, give notice of the motion that –
  - (a) is in writing;
  - (b) identifies the matter and gives the reason or reasons for the motion; and
  - (c) is given to the CEO by 3pm on the day before the meeting.
- (6) Where a member intends to move a motion referred to in sub-clause (5), the CEO must be given an opportunity to provide advice to the Council prior to consideration of the motion, in accordance with section 5.41 (b) of the Act.

## 10. REPORTS OF COMMITTEE

### 10.1 Annual Statutory Review of Delegated Authority

|                                 |  |
|---------------------------------|--|
| <b>Strategic Theme:</b>         | Key Theme 4: Leadership<br>4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.   |
| <b>Directorate:</b>             | Corporate Strategy and Performance   |
| <b>Reporting Officer:</b>       | Governance and Risk Coordinator - Tegan Robertson  |
| <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>             | <ol style="list-style-type: none"> <li>1. DRAFT delegations of authority - September 2024 [<b>10.1.1</b> - 46 pages]</li> <li>2. 6.1.2 DRAFT Delegations of Authority - tracked changes [<b>10.1.2</b> - 46 pages]</li> <li>3. Committee Recommendation - DA 1 - 26 [<b>10.1.3</b> - 1 page]</li> <li>4. Committee Recommendation - DA 7 - 01 [<b>10.1.4</b> - 2 pages]</li> </ol> |

This item was considered at the Policy and Legislation Committee at its meeting held on 18 September 2024, the recommendations of which have been included in this report.

#### COMMITTEE RECOMMENDATION

That the Council adopt the City of Busselton Delegations of Authority as per attachment 1, subject to:

- Retaining the current condition for DA 1 – 26
- Adding an appropriate explanatory note to DA 7 – 01 clarifying that, pursuant to Division 2A of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the Council cannot delegate the determination of, nor call-in applications for prescribed single house development.

#### OFFICER RECOMMENDATION

That the Council adopt the City of Busselton Delegations of Authority as per attachment 1.

#### EXECUTIVE SUMMARY

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

Delegations made under the *Planning and Development Act 2005* do not require an annual review, however, officers have reviewed the existing delegations. Delegations under the *Food Act 2008*, *Building Act 2011*, *Bush Fires Act 1954*, *Graffiti Vandalism Act 2016*, and the *Public Health Act 2016*

also do not require an annual review and will be reported separately should any changes be required.

## STRATEGIC CONTEXT

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

## BACKGROUND

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

Section 5.46(2) of the Act requires all delegations by Council to the CEO to be reviewed at least once each financial year. The last review was undertaken and adopted by Council in October 2023 (C2310/130), on recommendation from the Policy and Legislation Committee.

## OFFICER COMMENT

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

| Delegation  | Summary of amendments recommended since previous adoption  |
|---|--|
| <b>Local Government Act 1995:<br/>Delegations to CEO</b>          |  |
| <b>DA 1 – 01</b><br>Issuing Notices                               | No change to power or duty delegated. Minor amendments to description of function for clarity.   |
| <b>DA1 – 02</b><br>Entry in an Emergency                          | No amendments.   |
| <b>DA 1 – 03</b><br>Abandoned Vehicle Wreck                       | No amendments.   |
| <b>DA 1 – 04</b><br>Confiscated or Uncollected Goods              | No amendments.   |
| <b>DA 1 – 05</b><br>Closure of Thoroughfares                      | No amendments.   |
| <b>DA 1 – 07</b><br>Inviting, Rejecting and Accepting Tenders     | No change to power or duty delegated. Minor amendments to description of function for clarity. Conditions amended for clarity, and to specify delegation to accept tenders for good and services may only be exercised if there is a provision for the purchase in the adopted budget or Long-Term Financial Plan. |
| <b>DA 1 – 08</b><br>Expression of Interest for Goods and Services | No change to power or duty delegated. Minor amendments to description of function for clarity.   |

|  |   |
|--|---|
| <b>DA 1 – 10</b><br>Panels of Pre-Qualified Suppliers                                      | No amendments.  |
| <b>DA 1 – 12</b><br>Disposing of Property (Leases at the Busselton Margaret River Airport) | No change to power or duty delegated. Minor amendments to description of function for clarity. Conditions amended as follows: <ul style="list-style-type: none"> <li>• 4(a): Initial annual market rental value of the lease being less than \$25,000 p.a. for ground lease (previously \$10,000); and</li> <li>• 6: Condition removed: provide report of leases entered into under delegation to the Council.</li> </ul>   |
| <b>DA 1 – 13</b><br>Dispose of Sick or Injured Animals                                     | No change to power or duty delegated. Policy references updated to remove policies not current or not relevant.   |
| <b>DA 1 – 14</b><br>Power to Defer, Grant Discounts, Waive or Write-Off Debts              | No change to power or duty delegated. Policy references updated to include Council Policy: Community Hire of City Property.   |
| <b>DA 1 – 15</b><br>Rates and Service Charges  | Description of function expanded for completeness: <ul style="list-style-type: none"> <li>• s6.45(3): The power to impose an additional charge for instalments has been removed, as this function is performed by the Council when adopting the annual budget.</li> <li>• s.6.60(2): Require a lessee to pay the local government rent in satisfaction of an outstanding rate or service charge has been included for completeness.</li> <li>• s.6.64(3): Lodge and withdraw a caveat in respect of land where payment of rate or service charges imposed are in arrears has been included for completeness.</li> </ul> |
| <b>DA 1 – 16</b><br>Investment of Surplus Funds  | No amendments.  |
| <b>DA 1 – 19</b><br>Urgent Legal Representation  | No change to power or duty delegated. Policy references updated to remove DLGSC Operational Guideline 14.   |
| <b>DA 1 – 20</b><br>Administer Local Laws  | No change to power or duty delegated. Hyperlinks to local laws on the City's website have been updated.   |
| <b>DA 1 – 21</b><br>Acquisition of Property  | No change to power or duty delegated. Conditions amended to specify delegation may only be exercised if there is a provision for the acquisition in the adopted budget or Long Term Financial Plan.   |
| <b>DA 1 – 22A</b><br>Disposition of Property: Other than by Lease                          | No change to power or duty delegated. Conditions amended for clarity (but not changed).   |
| <b>DA 1 – 22B</b><br>Disposition of Property: Leasing of Property                          | No change to power or duty delegated. Conditions amended: <ul style="list-style-type: none"> <li>• 3: Delegation leasing of property increased to a value of \$25,000 per annum (from \$25,000 total) for a maximum term not exceeding 10 years reflecting current market rents for leases within the Busselton Community Resource Centre.</li> <li>• Condition removed: provide report of leases entered into under delegation to the Council.</li> </ul>  |



|  |  |
|--|--|
| <b>DA1 – 22C</b><br>Disposition of Residential Property by Lease | No amendments.   |
| <b>DA 1 – 23</b><br>Payments from Municipal Fund or Trust Fund   | No amendments.   |
| <b>DA 1 – 24</b><br>Affixing of the Common Seal                  | No change to power or duty delegated. Minor amendments to description of function for clarity. Condition removed, as it did not in fact reflect a condition of delegation (instead a description of function). |
| <b>DA 1 – 25</b><br>Complaints Officer – Code of Conduct         | Description of power or duty delegated amended to include reference to City of Busselton Code of Conduct – Council Members, Committee Members and Candidates (in addition to Model Code of Conduct).           |
| <b>DA 1 – 26</b><br>Rate Exemptions                              | Condition removed: provide report of rate exemptions approved under delegation to the Council.   |
| <b>Local Government Act 1995:<br/>Delegations to Committees</b>  |  |
| DA 11 – 01<br>Meelup Regional Park Management Committee          | No change to power or duty delegated. Minor amendments to description of conditions to align to Committee Terms of Reference.  |
| DA 11 – 02<br>Audit and Risk Committee                           | No change to power or duty delegated. Statutory references corrected.  |
| DA 11 – 03<br>Behaviour Complaints Committee                     | Delegation revoked, Behaviour Complaints Committee has been disbanded.   |
| DA 11 – 04<br>Airport Advisory Committee                         | No amendments.   |
| DA 11 – 05<br>Finance Committee                                  | No amendments.   |
| DA 11 – 06<br>Policy & Legislation                               | No amendments.   |
| DA 11 – 07<br>Waterway Management Committee                      | New delegation. As per adopted Waterway Management Committee Terms of Reference.   |

|   |   |
|---|---|
| <b>Cat Act 2011:<br/>Delegations to CEO</b>   |   |
| DA 4 – 01<br>The Powers and Duties of the Local Government pursuant to the Cat Act 2011 | No change to power or duty delegated. Policy references updated to remove Council Policy no longer in force.  |
| <b>Dog Act 1976:<br/>Delegations to CEO</b>   |   |
| DA 5 – 01<br>The Powers and Duties of the Local Government pursuant to Dog Act 1976     | No change to power or duty delegated. Policy references updated to remove Council Policy no longer in force.  |
| <b>Planning and Development Act 2005:<br/>Delegations to CEO</b>                        |   |
| DA 7 – 01<br>Development Control  | Amendment to express power to delegate: Statutory references corrected.<br><br>Amendments to conditions: <ul style="list-style-type: none"> <li>• Condition to provide elected members a summary of development applications in Special Character Areas weekly, prior to determination, has been removed as the volume of Special Character Applications which can be determined by the Council has been significantly reduced following changes to regulations for Single House Development.</li> <li>• Condition to review delegation conditions following the Gazettal of Amendment 56 to Local Planning Scheme 21 has been removed, as Amendment 56 is currently on hold and will likely be superseded by a new Local Planning Scheme.</li> <li>• Condition pertaining to 'Reconsideration' of applications for DA has been removed, as there is no statutory basis for 'Reconsideration' and this is condition is no longer considered relevant to current operational practices</li> <li>• Condition pertaining to applications for review by the State Administrative Tribunal have been amended for clarity.</li> </ul> |
| DA 7 – 02<br>Unauthorised Development   | No change to power or duty delegated. Statutory references corrected.   |

### **Statutory Environment**

Section 5.42 of the Act provides the Council with the ability to delegate powers and duties to its CEO. Some powers and duties cannot be delegated in accordance with Section 5.43 of the Act, such as matters that require an absolute majority decision of the Council. Section 5.16 of the Act provides the ability for powers and duties to be delegated to Committees. The Council may impose conditions on any delegation it grants.

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

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

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

**Relevant Plans and Policies**

Policies are referenced in the relevant delegations (where applicable).

**Financial Implications**

Not Applicable

**External Stakeholder Consultation**

Not Applicable

**Risk Assessment**

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

**Options**

As an alternative to the proposed recommendation the Council could:

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

**CONCLUSION**

The annual statutory review has been completed and it is recommended that the Council adopt the City of Busselton Delegations of Authority as set out in attachment 1.

**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 |
|--|-----------------|
| Register of Delegated Authority will be amended within 2 weeks of the Council’s adoption | 30 October 2024 |

## 10.2 Outcomes from the Peak Period Workshop

|                                 |   |
|---------------------------------|---|
| <b>Strategic Theme:</b>         | Key Theme 2: Lifestyle<br>2.2 Work with key partners to facilitate a safe, healthy and capable community.<br>Key Theme 4: Leadership<br>4.3 Make decisions that respect our strategic vision for the District.      |
| <b>Directorate:</b>             | Community Planning  |
| <b>Reporting Officer:</b>       | Manager Community Safety - Rachel Runco   |
| <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. Workshop Record - Peak Periods Policy August 2024 [6.2.1 - 8 pages]  |

This item was considered at the Policy and Legislation Committee at its meeting held on 18 September 2024, the recommendations of which have been included in this report.

### COMMITTEE RECOMMENDATION

That the Council:

1. **Accept the proposed definition of 'peak period' within the Officer Comment section of this report.**
2. **Request the CEO implement Option 4 of the future management options identified within the Officer Comment section of this report.**
3. **Request the CEO develop a proactive community engagement and education campaign focused on the key identified challenges associated with the 'Peak Period', to be presented to elected members via an information briefing prior to 1 November 2024.**
4. **Request the CEO schedule an elected member information briefing prior to 1 December 2024 to present:**
  - a. **Cost/benefit feasibility assessment of trialing a coastal node shuttle bus service; and**
  - b. **Developed visitor dispersion ideas**
5. **Request the CEO schedule a workshop with elected members and relevant City officers before 31 March 2025 to reflect on the 2024/2025 peak period and identify improvement areas that may require consideration within the 2025/2026 annual budget.**

## **OFFICER RECOMMENDATION**

That the Council:

1. Accept the proposed definition of 'peak period' within the Officer Comment section of this report.
2. Request the CEO implement Option 4 of the future management options identified within the Officer Comment section of this report.
3. Request the CEO develop a proactive community engagement and education campaign focused on the key identified challenges associated with the 'Peak Period', to be presented to elected members via an information briefing prior to 1 November 2024.
4. Request the CEO schedule an elected member information briefing prior to 1 December 2024 to present:
  - a) Cost/benefit feasibility assessment of trialing a coastal node shuttle bus service; and
  - b) Developed visitor dispersion ideas
5. Request the CEO schedule a workshop with elected members and relevant City officers before 31 March 2025 to reflect on the 2024/2025 peak period and identify improvement areas that may require consideration within the 2025/2026 annual budget.

## **EXECUTIVE SUMMARY**

This report presents the outcomes of the peak period workshop (PPW) held 28 August 2024, in response to Council resolution C2403/74 at the 20 March 2024 ordinary Council meeting.

## **STRATEGIC CONTEXT**

Transparency and engagement with the community with regard to planned management solutions to minimise impacts on the local environment, amenity and provision of usual services that can be incurred as a result of prolonged population surges supports alignment of decision making with the community's strategic vision for the district.

## **BACKGROUND**

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

*"That the Council:*

1. *Commence a process for the drafting of a "Peak Periods Policy" (or other name to be determined) to be relied upon for future considerations of resourcing, service delivery, education and enforcement.*
2. *As a first step schedule a workshop with relevant persons to discuss related matters, including but not limited to:*
  - *The definition of 'Peak Periods',*
  - *Car Parking capacity, access/egress and temporary overflow provisions,*
  - *fencing, fines.*
  - *Pre-period and during-period education (including signs) and enforcement,*

- *Locations and timing for policy application,*
- *Ranger functions generally and ensuring compliance in peak periods,*
- *Soliciting and recruiting volunteer (Ranger) resources to assist,*
- *Legal obligations pertaining to the implications from matters above; including but not limited to street closures, Reserve use (management orders), volunteer insurance cover, appropriate fines process).*
- *Promotion of the City's proactivity with respect to this policy development*
- *(including possible public advertising).*

...

5. *Request the CEO to present the outcomes of the workshop to be converted into an item/report for the next scheduled Policy Committee meeting after the workshop"*

This report responds to parts 1, 2 and 5 of that resolution.

#### **OFFICER COMMENT**

The tourism sector is a key economic driver of the City of Busselton region, which has substantially contributed to the character of the area. However, the seasonal peaks that exist within the tourism cycle can also have adverse impacts on residents' lifestyles, amenity and environment when left unmanaged.

The City of Busselton has long been regarded as a tourism destination of choice, most recently being recognised as Western Australia Top Tourism Town in the 2024 Australia's Top Tourism Town awards. Strategic marketing of the local government area as the '*Events Capital of WA*', destination marketing by tourism bodies and the commencement of interstate flights into Busselton Margaret River Airport has seen overnight visitation increase by 11% from ~809,000 in 2013 to 895,000 in 2023. During the same period the population of the City has also increased by approximately 30% from 34,000 in 2013 to an estimated 43,969 in 2023.

Whilst visitation growth contributes significantly to the local economy, the combined pattern of resident population growth of the area, has resulted in increased pressure on services, amenities and community infrastructure at differing times of the year.

The need to strike the right balance between the benefits and impacts of the visitor economy on the local community was explored during the requested Peak Period Workshop (PPW) on 28 August 2024. The workshop held with elected members and relevant City staff sought to achieve the following objectives:

1. develop a clear and agreed collective definition of 'peak period';
2. explore the current opportunities and issues associated with the 'peak period';
3. discuss improvement actions that are proposed or implemented to date; and
4. identify preferred management strategies for summer of 2024-2025.

#### **Peak period**

Through the workshop, agreement was reached amongst the participants that the concept of 'peak period' applies to occasions when the typical municipal population volumes are inflated and the pressure applied on services and community infrastructure influences achievement of delivery targets/expectations.

The concept could be applied to a short, isolated population surge influenced by a significant event, but for the purposes of defining a management approach, consensus amongst the workshop participants was that this pressure becomes problematic when the impacts of these surges are prolonged. For the region, this typically occurs from the ‘leavers weekend’ (hosted early November) and extends until the summer school holidays ends (around early February) each year.

The following definition of peak period is proposed:

**The period between November and February when the pressure on services and infrastructure through increased population volumes require adjusted management solutions to achieve business-as-usual service provision expectations.**

### **Opportunities and impacts**

The opportunities and impacts associated with the peak period are experienced in varying ways across differing localities of the City. There is a need to strike a harmonious balance between the economic prosperity associated with the visitor economy and preservation of the region’s character.

Challenges identified that exist within the peak period were identified to include parking congestion, impacts on infrastructure and environment, community amenity and antisocial behaviours, lack of dispersion of visitation, waste management, facility congestion, illegal camping, affordability of accommodation, bushfire risk concerns, and irresponsible animal management.

The positive benefits the community receive from the visitor economy were also recognised in discussion, including increased investment in the region, economic and employment opportunities, cultural and entertainment events.

Identified outputs of the peak period can be categorised into management themes, social, environmental, economic and political.

### **Existing governance framework**

The role of the City in tourism is to support, facilitate and continue to build the capacity of the local tourism industry, in a manner that is sustainable and in harmony with community needs, values and expectations. This requires an effective and strategic leadership plan.

The City has a well-established and thorough legislative and strategic governance framework in place that supports accountable management and regulation of the district. Through the workshop the relevant elements in place related to the concept of peak period were explored and discussed.

The below table provides an assessment of the identified challenges associated with the peak period against the existing governance framework to determine any gaps that may impede the ability of the City to effectively manage any negative impacts if required.

| Identified challenges | Governance/enforcement tools   | Management Controls   |
|-----------------------|--|---|
| Illegal Camping       | <i>Caravan and Camping Act 1995</i><br><i>City of Busselton Property Local Law 2010</i><br><i>Council Policy: Compliance and Enforcement</i> | Infringement notices<br>Move on notices<br>Targeted and coordinated inspection blitzes with WAPOL |

| Identified challenges                           | Governance/enforcement tools  | Management Controls   |
|---|---|---|
| Parking congestion                              | <i>Road Traffic Code</i><br><i>City of Busselton Parking Local Law 2020</i><br><i>City of Busselton Consolidated Parking Scheme</i><br><i>City of Busselton Activities in Thoroughfares &amp; Public Places &amp; Trading Local Law 2015</i><br><i>Council Policy: Compliance and Enforcement</i>                         | Infringement notices<br>Parking controls and restrictions<br>Towing of vehicles   |
| Campfires                                       | <i>Bushfires Act 1954</i><br><i>City of Busselton Activities in Thoroughfares &amp; Public Places &amp; Trading Local Law 2015</i><br><i>City of Busselton Property Local Law 2010</i><br><i>Council Policy: Compliance and Enforcement</i>   | Infringement notices<br>Education campaigns   |
| Damage to native vegetation                     | <i>Environmental Protection Act 1986</i><br><i>City of Busselton Property Local Law 2010</i><br><i>City of City of Busselton Activities in Thoroughfares &amp; Public Places &amp; Trading Local Law 2015</i><br><i>Council Policy: Compliance and Enforcement Council Policy: Environment</i>                            | Infringement notices<br>Education campaigns   |
| Waste management                                | <i>Litter Act 1979</i><br><i>Environmental Protection Act 1986</i><br><i>Waste Local Law 2016</i><br><i>City of Busselton Activities in Thoroughfares &amp; Public Places &amp; Trading Local Law 2015</i><br><i>City of Busselton Property Local Law 2010</i><br><i>Council Policy: Compliance and Enforcement</i>       | Infringement notices<br>prosecutions<br>Amended waste services collection frequencies.  |
| Management of dogs                              | <i>Dog Act 1976</i><br><i>City of Busselton Dog Local Law 2014</i><br><i>City of Busselton Activities in Thoroughfares &amp; Public Places &amp; Trading Local Law 2015</i><br><i>City of Busselton Property Local Law 2010</i><br><i>Council Policy: Compliance and Enforcement</i>                                      | Dog management controls and restrictions across the LG<br>Infringement notices<br>Impoundment mechanisms<br>Education campaigns |
| Damage to community infrastructure & facilities | <i>City of Busselton Activities in Thoroughfares &amp; Public Places &amp; Trading Local Law 2015</i><br><i>City of Busselton Property Local Law 2010</i><br><i>Jetties Local Law 2014</i><br><i>Council Policy: Compliance and Enforcement</i>   | Infringement notices<br>prosecutions  |
| Access to community infrastructure & facilities | <i>Strategic Community Plan</i><br><i>Long Term Financial Plan</i><br><i>Asset Management Strategy and Council Policy</i><br><i>Council Policy: Events</i>  | Education campaigns<br>Forward planning processes<br>Permits  |
| Event Management                                | <i>City of Busselton Activities in Thoroughfares &amp; Public Places &amp; Trading Local Law 2015</i><br><i>City of Busselton Property Local Law 2010</i><br><i>Council Policy: Events</i><br><i>Council Policy: Commercial use of City Land and Facilities</i><br><i>Council Policy: Community Hire of City Property</i> | Permits and approval requirements<br>Parking controls and restrictions  |
| Community amenity impact                        | <i>City of Busselton Activities in Thoroughfares &amp; Public Places &amp; Trading Local Law 2015</i><br><i>City of Busselton Property local Law</i><br><i>Holiday Homes Local Law 2012</i><br><i>Council Policy: Regulation of Holiday Homes</i>   | Infringement notices<br>Noise and land use restrictions and conditions of use<br>Ability to withdraw use rights                 |
| Anti-social behaviours                          | <i>City of Busselton Activities in Thoroughfares &amp; Public Places &amp; Trading Local Law 2015</i><br><i>City of Busselton Property Local Law 2010</i><br><i>Holiday Homes Local Law 2012</i>  | Infringement notices  |

It can be asserted through the above assessment table that there is a comprehensive governance framework which exists that provides any necessary tools for the City to manage the negative challenges that may at times be incurred during the peak period and the issues incurred may instead



be a result of gaps in application of the management tools, resourcing constraints, or misalignment between community expectations and operational priorities.

### **Improvement actions**

In an information briefing to elected members on 6 March 2024, City officers presented an overview of the 2023/2024 summer period, focusing on community feedback in relation to issues, concerns, impacts and gaps in achievement of service expectations.

Subsequent to this information briefing, officers investigated further conceptual improvement actions that could be implemented prior to 2024/2025 summer period to address or mitigate the most problematic issues.

| <b>Identified issue</b>  | <b>Proposed Action</b>   | <b>Justification</b>   | <b>Implementation Status</b>   |
|--------------------------|--|--|--|
| Illegal camping          | Implementation of parking restrictions in key coastal carparks   | Provides an alternative enforcement approach for management of large volumes of illegal campers.   | Council adopted<br>On track for implementation by 30 November 2023   |
| Illegal camping          | Trial free RV camping areas  | There are no locations within the Capes region where free RV roadside camping is permitted. Trialling provision of such areas can support in reducing illegal camping in locations within the LG where this is not supported.  | Proposal developed.<br><br>Information briefing for elected members planned – if supported community consultation on proposed locations to follow.   |
| Bushfire concerns        | Implementation of additional Fire danger rating (FDRS) signage.<br>Increased promotion of restrictions that apply.<br><br>Some parking restrictions                      | Concerns related to bushfire primarily were associated with campfires or vehicles parking on dry, densely vegetated road verges. Improving education on the significant bushfire risks of the region will assist in changing visitor behaviour.                              | Council adopted parking changes. On track for implementation by 30 November 2023.<br><br>City has received DRF grant for installation of 5 additional FDRS and procurement processes are underway. |
| Event parking congestion | Trial of specified parking areas, kiss and drop and volunteer parking for key events (Iron Man and Jetty Swim) communication and agreed messaging to event participants. | Concerns related to parking issues associated with key significant events are impacting the amenity of surrounding community. Working with event organisers to communicate behaviour expectations and approved all day parking locations will support education of visitors. | On-track, trialling improvement strategies 2 key events.   |

| Identified issue   | Proposed Action   | Justification  | Implementation Status  |
|--|---|--|--|
| Dog management   | Review of dog exercise areas over summer. Community consultation undertaken to identify issues. Improved signage, education and ranger presence for period seasonal areas in force. | Through community consultation issues were identified in relation to responsible animal ownership practices, and confusion on beach exercise areas due to poor signage and lack of education of dog owner responsibilities. Community feedback indicated the management controls when applied are working but a lack of visibility of Ranger staff to enforce controls is impeding effectiveness.  | On-track Report for Council consideration on 18 September 2024 agenda.   |
| Access to boat ramps and trailer parking                   | Identification of parking areas restricted for boat trailers only between certain times   | There are only a limited number of boat ramps distributed throughout the City with limited volumes of associated boat trailer parking. A recurring issue last summer was utilisation of these bays by other vehicles. Formalisation of restriction of use by vehicles without boat trailers may reduce this issue.   | Council adopted parking changes. On track for implementation by 30 November 2023.  |
| Access to coastal parking                                  | Implementation of parking restrictions/controls in key coastal carparks.  | Improve turn-over of parking or availability of specific parking in key locations.   | Council adopted parking changes. On track for implementation by 30 November 2023.  |
| Alignment of Ranger priorities with community expectations | Revised resourcing model to improve service quality   | The peak visitor period also coincides with the peak reactive demands of this service area. Illegal camping, bushfire compliance requirements, and livestock management issues all overlap with the peak period. In addition, with increased population there are also increasing non-compliant behaviours related to parking and animal management which are also serviced by this business area. | A revised service structure has been implemented for this workforce since 2023/2024 summer. The changes include revising the seasonal workforce model. Previous year additional contracted resourcing Mon - Fri has been focused on fire compliance and dog beaches with permanent staff focused on business-as-usual activities.<br><br>Contract staff for 2024/2025 will be rostered to work Fri – Sun, rotating their focus on education and management throughout the city on parking, dog management and camping. In addition, permanent staff have been allocated geographical areas of shared management responsibility to improve response times and proactive management of issues in identified areas. |
| Damage to vegetation                                       | Implementation of parking restrictions and controls.  | Restricting parking of vehicles on the edge of key roads/reserves the vegetation damage has previously be incurred at busy times will allow enforcement action.  | Council adopted parking changes. On track for implementation by 30 November 2023.  |

| Identified issue                                    | Proposed Action   | Justification   | Implementation Status  |
|---|---|---|--|
| Parking congestions/undersupply                     | Development of a local government parking strategy  | Through development of a parking strategy supply gaps, provision restraints, movement behaviours and underutilisation of existing parking can be measured and identified to identify locations for future growth and demands, implementation of restrictions and controls, determination of cost/benefit of parking sensors and alignment with future development and infrastructure planning.  | Project development underway, with intent to deliver before the end of the 2024/2025 financial year. |
| Supply of community infrastructure in coastal nodes | Development of coastal node master planning and revision of commercial and mobile trader permit locations | Many of the City's coastal nodes are naturally constrained in the ability to provide further parking or boat ramp infrastructure because of the coastline, topography, existing urban development and national park or vegetated reserve restraints. Through development of master plans that include assessment of patterns of use and issues in each location a structured management approach for future supply and/or improvements can be developed to the uniqueness of each area. | Project scoping underway. Likely to be multi-year delivery timeline for development of master plans. |

**Additional actions identified within workshop:**

In addition to the above actions previously identified with implementation steps underway, the following additional actions to be implemented for the 2024/2025 peak period were proposed through the workshop.

| Identified issue  | Proposed Action  | Justification  | Timeframe                     |
|---|--|--|-------------------------------|
| Misalignment of service provision with community expectations | Development of a proactive community engagement and education campaign | Improved communication with community in relation to the management actions and avenues for reporting concerns related to negative consequences will improve the trust between community and the City.   | To run throughout peak period |
| Community amenity impacts                                     | Development of a proactive community engagement and education campaign | Many of the community amenity impacts associated with peak period will by default be managed through the identified management controls being applied to address specific issues. In addition to focused controls improving education of community and visitors in expected behaviours and management actions will support understanding and clarification of City priorities and focuses. Improving the ability for community to raise issues in a streamlined manner will also support responsiveness. | To run throughout peak period |

| Identified issue           | Proposed Action  | Justification   | Timeframe   |
|----------------------------|--|---|---|
| Lack of visitor dispersion | Work with MRBTA to promote to visitors variety of attractions and features of the area | In some areas of the City social media influencers or campaigns have highlighted the natural features or beauty which has lead to the locations 'trending' on social media. Promotion of the many other unique natural wonders of the area could assist in dispersal of visitors across the broader local government area rather than congregation in a small number of areas | To be explored prior to 1 December 2024   |
| Parking congestion         | Explore feasibility of shuttle bus to key coastal nodes                                | Lack of public transport to many of the popular locations within the LGA mean there is a requirement of users to travel by car. Provision of alternative methods of access may have a positive effect on reducing associated parking congestion.  | Feasibility and cost/benefit analysis to be developed and presented to elected members for consideration prior to 1 December 2024 |

### **Future management strategies – is a Peak Period Council Policy required?**

Through the workshop, understanding was developed between City officers and elected members on the opportunities and challenges associated with peak periods. Agreement was reached between all participants that there is a need to reposition the management approach to responsibly balance the benefits of the visitor economy whilst minimising any impacts on meeting the needs of the resident community.

Balancing continued growth of the local population and annual visitation requires a planned, proactive and strategic approach due to the variety and complexity of the topic.

Within the workshop four alternative future management options were identified:

#### **Option 1: Development of a Peak Period Council Policy**

Through the workshop discussion and analysis of the existing legislative and governance framework in place, it was determined that the issues incurred in previous peak periods are unlikely be resolved through adoption of a new Council Policy. The complexity and diversity of the differing facets associated with peak periods constrain the effectiveness of a single generalised policy to provide sufficient direction to appropriately guide the management of each area.

#### **Option 2: Integration of a key statement in existing policies which overlap in governance of peak period issues**

Implementation of a key statement to existing Council Policies relevant to peak period issues could support transparency on the desire to ensure a harmonious balance between visitor economy benefits and community amenity impacts. However, most of the issues that have been identified and explored related to the peak period do not require Council Policies to identify the City's decision-making processes. Instead, management of many of the issues are addressed through the state's legislative framework, complemented by the City's Local Laws.

### **Option 3: Development of a sustainable visitation/destination management strategy**

Tourism Western Australia has recently been working with key regional stakeholders to develop a Southwest Destination Management Strategy. Once this document has been released, it will provide a guiding framework that could be used to inform priorities and partnerships needed to address and manage local destination management needs for the City of Busselton.

### **Option 4: No amendment to the existing governance framework, and continuation of the current methodologies being applied through annual budget and resource planning and operational practices to be flexibly adaptive to responding and addressing annually changing dynamics**

It is acknowledged that management controls are required to be implemented to reduce impacts that were incurred at certain points during the 2023/2024 peak period on residents. A significant review of operational processes and management controls has been undertaken since last summer by City officers, with substantive variances identified to be implemented to the operational resourcing, management controls and workload prioritisation approaches prior to the beginning of the 2024/2025 peak period. These variances are likely to improve the balance of the challenges and benefits associated with peak period population surges.

### **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:

[City of Busselton Community Infrastructure Plan 2022-2035](#)

Policy:

[Commercial Use of City Land and Facilities](#)

[Community Engagement](#)

[Community Hire of City Property](#)

[Environment](#)

[Events](#)

The Events Council Policy and Strategy was recently reviewed in 2023. The process involved business, industry, community and stakeholder consultation; however, it appears that even in this short time the Events Strategy requires a further review to support the direction of event sponsorship and attraction to periods when it is needed. The opening of Saltwater in 2025 will also fulfill the gap in sufficiently large enough indoor events venue and influence events strategies going forward.

The Commercial Use of City Land and Facilities Council Policy is currently under review to include commercial hire sites across the district, their location and purpose. This review will also inform the development of the Dunsborough Foreshore Masterplan and Busselton CBD to Foreshore Structure Plan.

### **Financial Implications**

Not Applicable

### **External Stakeholder Consultation**

As part of Tourism Western Australia’s SW Destination Management Strategy and Implementation Plan the City and other stakeholders had opportunity to raise impacts and opportunities of tourism to inform these documents. When released to Australia’s Southwest to implement they will be key to inform priorities and partnerships needed to address local destination management needs.

### **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 that the CEO implement one of the alternative future management options identified within the report.
2. Request that the CEO implement an alternative management option outside the solutions identified within the report.

### **CONCLUSION**

Balancing the economic benefits associated with tourism and preservation of community amenity requires continued proactive management controls to flexibly respond each year to changing dynamics of visitor behaviours and local population growth.

### **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> |
|---|------------------------|
| Continue to implement management controls in alignment with the defined timeframes within table 2     | 30 June 2025           |
| Information briefing with elected members with regards to the actions within part 3 of the resolution | 1 November 2024        |
| Information briefing with elected members with regards to the actions within part 4 of the resolution | 1 December 2024        |
| 2024/2025 Peak period review workshop held with elected members                                       | 31 March 2025          |

### 10.3 Council Policy Review: Art Collection - City of Busselton Art Gallery

|                                 |  |
|---------------------------------|--|
| <b>Strategic Theme:</b>         | Key Theme 2: Lifestyle<br>2.1 Recognise, respect and support community diversity and cultural heritage.<br>2.12 Provide well maintained community assets through robust asset management practices.  |
| <b>Directorate:</b>             | Economic and Business Development  |
| <b>Reporting Officer:</b>       | Manager Events and Culture – Maxine Palmer   |
| <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>             | <ol style="list-style-type: none"> <li>1. Council Policy: City of Busselton Art Collection [<b>10.3.1</b> - 2 pages]</li> <li>2. Council Policy: City of Busselton Art Collection - tracked changes [<b>10.3.2</b> - 2 pages]</li> <li>3. Council Policy: City of Busselton Art Collection - Committee Recommendation [<b>10.3.3</b> - 2 pages]</li> </ol> |

This item was considered at the Policy and Legislation Committee at its meeting held on 18 September 2024, the recommendations of which have been included in this report.

#### COMMITTEE RECOMMENDATION

That the Council adopts the amended Council Policy ‘City of Busselton Art Collection’ as per Attachment 1 to replace the current Council Policy ‘Art Collection – City of Busselton Art Gallery’, subject to amendments inclusive of committee amendment so that the following points read as follows:

- 5.1 The City’s art collection serves as a significant social and cultural asset, showcasing historical and contemporary Australian Art
- 5.2(c) Originates from the creative response to the South West environment, as well as works that respond to wider environmental issues; and
- 5.4 An annual acquisitive prize, judged by an appointed panel will be open to Western Australian artists and will form the main basis of growing the collection. All art media are eligible for consideration in this area.
- 5.12 The loan of pieces from the City of Busselton Art Collection may be loaned to other parties provided it is not for commercial purposes, for a finite period and with the approval and discretion of the CEO.

## **OFFICER RECOMMENDATION**

That the Council adopts the amended Council Policy 'City of Busselton Art Collection' as per Attachment 1 to replace the current Council Policy 'Art Collection – City of Busselton Art Gallery'.

## **EXECUTIVE SUMMARY**

This report presents for the Council's consideration a revised Council Policy for 'City of Busselton Art Collection' which incorporates key elements of the Council Policy 'Art Collection – City of Busselton Art Gallery' as part of the City's ongoing policy review process. The Policy has been renamed to broaden the scope to include displays of the City's art collection in buildings other than just the City of Busselton Art Gallery. It has also been amended with minor amendments and edits to improve readability.

## **STRATEGIC CONTEXT**

The City of Busselton Art Collection Policy provides strategic guidance for the development of the City's art collection, with a focus on enhancing the educational and cultural experience of community and visitors to the City of Busselton. 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 existing Council Policy 'Art Collection – City of Busselton Art Gallery' was adopted on 21 December 2022 (C2212/302) to provide guidance to Council and staff on the development of the City's art collection, including the acquisition, commissioning, and deaccession of artworks, and the criteria outlining the suitability of these. The policy also outlined the criteria around the City accepting pieces into the art collection via donations, gifts and bequests.

## **OFFICER COMMENT**

The purpose of the Policy is to assist Council and staff to appropriately deal with the development of the City's art collection.

The existing Policy only applied to movable artworks accessioned into the City of Busselton Art Gallery, and did not allow for the display of artworks from the collection in other City of Busselton public buildings or areas, or the loan of artworks to be displayed in other appropriate buildings. With the development of the Saltwater Art Gallery looking to attract high profile touring exhibitions, it is important that the Policy allows for the continued display of the City's art collection in Saltwater and other City managed venues such as the Old Courthouse Complex, City of Busselton Administration Building and libraries, as deemed appropriate.

The proposed amendments to the Policy are:

1. Renaming of the Policy from 'Art Collection – City of Busselton Art Gallery' to 'City of Busselton Art Collection' to better reflect the scope of the City's art collection and to allow for the display of pieces of the collection in more venues;



2. Updated information regarding the appropriate storage, maintenance and transport of the art collection pieces;
3. Addition of information regarding the approval process for the loaning of pieces from the art collection;
4. Addition of information regarding the valuation and insurance of the art collection; and
5. Minor edits to improve readability.

### **Statutory Environment**

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

### **Relevant Plans and Policies**

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

Plan:

Not applicable.

Policy:

[Art Collection – City of Busselton Art Gallery](#)

### **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. Choose not to adopt the amended Policy; or
2. Adopt the Policy with further amendments.

## CONCLUSION

This report recommends that Council adopt the amended Council Policy 'City of Busselton Art Collection', to replace the existing Policy 'Art Collection – City of Busselton Art Gallery'.

## 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              |
|--|------------------------------|
| Adopted Council Policy updated on the City's website | Within two weeks of adoption |

## 10.4 Council Policy Review: AASB 124 Related Party Disclosures

|                                 |   |
|---------------------------------|---|
| <b>Strategic Theme:</b>         | Key Theme 4: Leadership<br>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>     | 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 Policy: Related Party Disclosures [6.5.1 - 3 pages]</li> <li>2. Council Policy: Related Party Disclosures - track changes [6.5.2 - 3 pages]</li> </ol>            |

This item was considered at the Policy and Legislation Committee at its meeting held on 18 September 2024, the recommendations of which have been included in this report.

### COMMITTEE RECOMMENDATION

**That the Council adopt Council Policy ‘AASB 124 Related Party Disclosures’ (Attachment 1), to replace the current policy.**

### OFFICER RECOMMENDATION

That the Council adopt Council Policy ‘AASB 124 Related Party Disclosures’ (Attachment 1), to replace the current policy.

### **EXECUTIVE SUMMARY**

This report presents a revised Council Policy: ‘AASB 124 Related Party Disclosures’ (the Policy), with the Policy having been reviewed as part of the City’s ongoing review process. The Policy has been updated with additional information to guide Elected Members and key management personnel to meet their obligations.

### **STRATEGIC CONTEXT**

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

### **BACKGROUND**

AASB 124 related party disclosure requirements mandate the disclosure of the nature and extent of transactions with affiliated parties. The primary objective of AASB 124 is to ensure that an entity’s financial statements contain disclosures necessary to draw attention to the possibility that its

financial position and potential profit or loss (surplus or deficit) may have been affected by the existence of related parties and their transactions.

The Policy was initially adopted in September 2017 to provide guidance to all Key Management Personnel (KMP) with respect to related party disclosures. It is expected that in local government, KMP will include Elected Members, the Chief Executive Officer and the next level of management, which in the case of the City of Busselton are Director positions.

The Policy was last reviewed in March 2021 where it was refined to a statement of the need to comply with the accounting standard.

#### **OFFICER COMMENT**

Under the *Local Government Act 1995* (the Act) and the *Local Government (Financial Management) Regulations 1996*, all local governments in Western Australia must produce annual financial statements that comply with Australian Accounting Standards. As such the City is required to disclose Related Party Relationships and Key Management Personnel compensation in its Annual Financial Statements.

While legislation does not require a Policy in relation to AASB 124, the Department of Local Government and Communities, now the Department of Local Government, Sport and Cultural Industries, recommends that local government authorities adopt a policy. On review, and after looking at several other local government policies, officers have added some additional guidance information around who is a related party, related party transactions and ordinary citizen transactions (that do not need to be reported). These elements are covered in the standard, however inclusion in the Policy provides an easier reference point.

#### **Statutory Environment**

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

The *Local Government (Financial Management) Regulations 1996* requires all local governments to produce annual financial statements that comply with the Australian Accounting Standards. Australian Accounting Standard AASB 124 Related Party Disclosures applies to all government entities.

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

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

Plan:

Not applicable.

Policy:

[AASB 124 Related Party Disclosures](#)

#### **Financial Implications**

There are no direct financial implications associated with the Officer Recommendation.

### **External Stakeholder Consultation**

No external consultation has been undertaken as part of this current review of the Policy.

### **Risk Assessment**

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

### **Options**

As an alternative to the proposed recommendation the Council could decide to retain the Policy in its current form.

### **CONCLUSION**

This report recommends that Council Policy AASB 124 Related Party Disclosures is readopted following some minor amendments.

### **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 Council Policy updated on the City's website | Within two weeks of adoption |

## 10.5 Council Policy Review: Risk Management

|                                 |   |
|---------------------------------|---|
| <b>Strategic Theme:</b>         | Key Theme 4: Leadership<br>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>           | 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>     | 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 Policy: Risk Management [<b>10.5.1</b> - 2 pages]</li><li>2. Council Policy: Risk Management - tracked changes [<b>10.5.2</b> - 3 pages]</li><li>3. Council Policy: Risk Management - Committee recommendation [<b>10.5.3</b> - 2 pages]</li></ol> |

This item was considered at the Policy and Legislation Committee at its meeting held on 18 September 2024, the recommendations of which have been included in this report.

### COMMITTEE RECOMMENDATION

That the Council adopts the Risk Management Policy as per Attachment 1 to replace the current policy inclusive of the following Committee amendments:

- 5.2(f) Clarification to wording in point 5.2(f) to make clear that risk treatment refers to applying an appropriate management plan to reduce risk to an acceptable level (where the current level of risk is outside of tolerance).
- 5.5 Clarification to wording in point 5.5 to make clear that the Council has an established Audit and Risk Committee.

### OFFICER RECOMMENDATION

That the Council adopts the Risk Management Policy as per Attachment 1 to replace the current policy.

### EXECUTIVE SUMMARY

This report presents an amended Council Policy: 'Risk Management' (the Policy), with the Policy having been reviewed as part of the City's ongoing review process.

The Policy is recommended for re-adoption by the Council, with amendments made to better articulate the City's strategic approach to risk management.

## **STRATEGIC CONTEXT**

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

Risk Management is essential for organisations to make informed decisions and allocate resources effectively by the process of identification, assessment, prioritisation and development of strategies to manage and mitigate risks.

## **BACKGROUND**

The Policy, first adopted in May 2006, demonstrates the City's commitment to the development of a culture of risk-based decision making, aimed at the effective management of potential opportunities and the reduction of the potential impacts of risk.

In 2018 the Policy was amended to incorporate the recommendations of a governance review conducted by Mr John Woodhouse. The Policy's reference to the relevant Australian Standard was also updated and the Policy renamed from 'Organisation Wide Risk Management' to simply 'Risk Management'.

In 2021 the Policy was further reviewed (C2109/197) and was considered to provide an important statement of commitment to the development and management of a risk management culture. It was therefore re-adopted.

## **OFFICER COMMENT**

The Policy remains of ongoing relevance and strategic importance, with the Council in March 2024 confirming its support for a planned program to uplift the City's risk management capability, including a review of the City's Risk Management Framework and implementation of regular risk reporting, as well as approval of a new risk resource (with funding allocated in the 2024/25 budget and recruitment in progress).

Amendments are proposed to the Policy to better articulate the City's strategic approach to risk management, based on the Australian Standard AS ISO 31000:2018, and the three lines of defence model. Council's establishment of an Audit and Risk Committee and, more recently, an Internal Audit function supports the third line of defence role of the Council.

It is recommended that the Council adopt the amended Council Policy: 'Risk Management'.

## **Statutory Environment**

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

## **Relevant Plans and Policies**

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

Plan:

Not applicable.

Policy:  
Not applicable.

### **Financial Implications**

There are no direct financial implications with the adoption of the Policy.

### **External Stakeholder Consultation**

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

### **Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's Risk Management Framework, with risks assessed considering any controls already in place. No risks of a medium or greater level have been identified.

### **Options**

As an alternative to the proposed recommendation the Council could:

1. Propose further revisions to the Policy; or
2. Choose not to adopt the Policy.

### **CONCLUSION**

A review of the Policy has been undertaken, with the Policy considered of ongoing strategic relevance. The Policy is therefore recommended for readoption by the Council, with some amendments.

### **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 two weeks of adoption |



## 10.6 Council Policy Review: Sponsorship Policy

|                                 |   |
|---------------------------------|---|
| <b>Strategic Theme:</b>         | Key Theme 3: Opportunity<br>3.1 Work with key partners to facilitate the activation of our town centres, creating vibrant destinations and consumer choice.<br>3.2 Facilitate an innovative and diversified economy that supports local enterprise, business, investment and employment growth.               |
| <b>Directorate:</b>             | Corporate Strategy and Performance  |
| <b>Reporting Officer:</b>       | Director Economic and Business Development - Maxine Palmer  |
| <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>             | <ol style="list-style-type: none"> <li>1. Council Policy: Sponsorship Arrangements [10.6.1 - 3 pages]</li> <li>2. Council Policy: Sponsorship Arrangements - tracked changes [10.6.2 - 4 pages]</li> <li>3. Council Policy: Sponsorship Arrangements - Committee Recommendation [10.6.3 - 3 pages]</li> </ol> |

This item was considered at the Policy and Legislation Committee at its meeting held on 18 September 2024, the recommendations of which have been included in this report.

### COMMITTEE RECOMMENDATION

**That the Council endorse the Council Policy ‘Sponsorship Arrangements’ (Attachment 1) to replace the current policy, inclusive of committee amendments so that the following points read as follows:**

- 5.2 **The primary benefits for the provision of City Sponsorships is to support community programs, to meet the City’s social responsibility goals and/or to benefit the City and the broader community. The City may have additional requirements, including:**
  - a. acknowledgement of the City’s Sponsorship;
  - b. reports and data related to the Sponsorship Activity.
- 5.3 **The primary benefits for Persons providing External Sponsorships is to reach key target audiences and/or meet corporate social responsibility goals. The City may provide such a Person additional benefits, including:...**
- 5.4 **A Sponsorship proposal should demonstrate:...**
- 5.5 **The City will not provide a City Sponsorship or agree to accept an External Sponsorship that:**
  - a. could reasonably compromise (perceived or actual) the City’s reputation;
  - b. requires the City’s endorsement of political parties, religious groups, commercial products, services, businesses or individuals;

## **OFFICER RECOMMENDATION**

That the Council endorse the Council Policy 'Sponsorship Arrangements' (Attachment 1) to replace the current policy.

## **EXECUTIVE SUMMARY**

This report presents a revised Council Policy: Sponsorship Arrangements (the Policy) (Attachment 1) to outline the circumstances in which the City will enter into sponsorship arrangements through the provision of a sponsorship to a person or organisation or through accepting sponsorship from external persons. The Policy establishes a policy framework for the establishment of Sponsorship arrangements that support achievement of strategic objectives.

## **STRATEGIC CONTEXT**

The provision of sponsorship supports Council's ability to maximise opportunities for collaboration with external persons or entities to meet objectives outlined in the City's strategic community planning. The policy ensures good governance regarding the provision and acceptance of sponsorship.

## **BACKGROUND**

The City has a current policy entitled Sponsorships Arrangements, last reviewed and adopted by the Council in 2020. This policy is focused on the City's various community and events funding rounds, where the City provides funding to an external person or organisation; currently facilitated through the following programs:

- Event Sponsorship – to assist in the funding and attraction of year-round events to the region. This is guided by the Council policy Events.
- Community Bids (inclusive You Choose) – to provide financial assistance to organisations that provide services or activities to the community, of a value greater than that provided under the Minor Donations program; and
- Minor Donations – to provide minor grants of financial assistance to eligible groups and individuals for the pursuit of personal endeavours which may have benefit to the broader community.

From time to time, the City is also presented with an opportunity to receive sponsorship from an external person or organisation. This could take the form of sponsorship of an event, a contribution to a capital works project or provision of in-kind services for the delivery of a program. In the absence of an endorsed policy covering this, officers do not have clear guidelines governing how to manage these opportunities.

Rather than create a new policy governing sponsorship received from external persons, given the synergies, officers are recommending that the current policy be amended / expanded to outline principles for both incoming and outgoing sponsorship arrangements. Given the extent of the changes a track changes version has not been provided.

## **OFFICER COMMENT**

The City does not currently have a policy governing the receipt of external sponsorship, but it does from time to time enter into sponsorship arrangements (for example with Rio Tinto). It would be better practice for the Council to have an endorsed policy that officers can consult prior to entering into sponsorship arrangements with external persons or groups.

The Policy sets out that a sponsorship proposal must, on balance, benefit the City, its ratepayers, residents, visitors and/or the community at large, and be consistent with the City's strategic objectives. It further sets out a range of circumstances under which the City will not enter into a sponsorship arrangement.

The Policy, with a broader principle-based focus, does not specifically reference the current programs under which City sponsorship is provided, however the various current guidelines for established programs are referenced.

### **Statutory Environment**

Pursuant to section 2.7 of the Act, the Council, as governing body, is to determine the City's policies. Council established pursuant to section 5.8 of the Act a Policy and Legislation Committee to make recommendations to Council in relation to the City's policies.

Officers have reviewed statutory requirements to ensure the policy aligns with the *Local Government Act 1995* (the Act).

### **Relevant Plans and Policies**

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

Plan:

[City of Busselton Community Development Plan 2022-2027](#)

Policy:

[Events](#)

### **Financial Implications**

Not Applicable

### **External Stakeholder Consultation**

Officers have reviewed the sponsorship policies of other local governments who provide and / or receive funding from sponsors to ensure alignment with industry peers.

### **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 changes to the Policy prior to endorsing it; or
2. Choose not to endorse the Policy.

### **CONCLUSION**

This report seeks endorsement of an amended Sponsorship Arrangements Council policy that governs both incoming and outgoing sponsorship arrangements.

### **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 City's website | Within two weeks of adoption |

## 11. COMMUNITY PLANNING REPORTS

### 11.1. Consent to advertise Local Planning Scheme No. 22

|                                 |   |
|---------------------------------|---|
| <b>Strategic Theme:</b>         | Key Theme 2: Lifestyle<br>2.8 Plan for and facilitate the development of neighbourhoods that are functional, green and provide for diverse and affordable housing choices.<br>Key Theme 3: Opportunity<br>3.1 Work with key partners to facilitate the activation of our town centres, creating vibrant destinations and consumer choice.           |
| <b>Directorate:</b>             | Community Planning  |
| <b>Reporting Officer:</b>       | Senior Strategic Planner – Justin Biggar  |
| <b>Authorised By:</b>           | Acting Director Community Planning – Dave Goodwin   |
| <b>Nature of Decision:</b>      | Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies.  |
| <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 - Local Planning Scheme No 22 - Confidential Summary of Changes [ <b>11.1.1</b> - 5 pages]<br>2. CONFIDENTIAL REDACTED - City of Busselton Local Planning Scheme No 22 [ <b>11.1.2</b> - 137 pages]<br>3. CONFIDENTIAL REDACTED - City of Busselton Local Planning Scheme No. 22 - Scheme Maps [ <b>11.1.3</b> - 43 pages] |

#### OFFICER RECOMMENDATION

That the Council:

1. Pursuant to Section 72 of the *Planning and Development Act 2005* (the Act) and Regulation 21 and 22 of the *Planning and Development (Local Planning Schemes) Regulations 2015* resolve to advertise the draft City of Busselton Local Planning Scheme No. 22 (LPS22 or the Scheme).
2. Prior to advertising and in accordance with regulation 21 of the *Planning and Development (Local Planning Schemes) Regulations 2015* resolve to –
  - a. Refer LPS22 to the Environmental Protection Authority (EPA) in accordance with section 81 of the Act to consider whether formal environmental assessment is required pursuant to section 48A of the *Environmental Protection Act 1986*;
  - b. Refer LPS22 to the Western Australian Planning Commission (WAPC) to seek approval from the Minister to advertise the proposed Scheme pursuant to section 83A of the Act;
  - c. Make any modifications as required by the Commission prior to commencement of advertising.

#### EXECUTIVE SUMMARY

This report has been amended and re-published since its original publication in the agenda for the 16 October 2024 Ordinary Council meeting, to include further information about land use terms (Chalet, Guesthouse, Rural Holiday Resort, Tourist Accommodation) that were inconsistent with

**the model scheme text and required removal. An updated version of the draft local planning scheme has also been attached.**

Following a directive issued by the Western Australian Planning Commission (WAPC) in 2019 and the subsequent resolution of Council in April 2023 (C2304/065), the City has finalised the preparation of a new local planning scheme to replace Local Planning Scheme No. 21 (LPS21).

Local Planning Scheme No. 22 (LPS22 or the Scheme) has been drafted to align with State direction and to establish a streamlined planning framework that best reflects modern practice and terminology. The draft Scheme is accordingly presented to Council for consent to advertise.

### **STRATEGIC CONTEXT**

LPS22 is a statutory document that guides and manages development across the entire local government area and accordingly aligns with all four of the key strategic themes. In particular, the planning scheme will facilitate open and transparent decision making (4.8), encourage an innovative and diversified economy (3.2), provide for diverse and affordable housing choices (2.8), and ensure the protection and enhancement of environmental values (1.1).

### **BACKGROUND**

LPS21 was gazetted on 15 October 2014 and applies to the whole district of the City of Busselton. Following enactment of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), elements of LPS21 became redundant as they were superseded by the state framework.

To address this issue, Council resolved in 2017 to progress a series of omnibus amendments to better align LPS21 with the new state planning framework, a decision further supported by the City's 2019 'Report of Review' which found the current Scheme was fit for purpose. However, the WAPC did not support the proposed approach and directed a new scheme be prepared to fully implement the state mandated framework. Since this time, officers have been engaged in the preparation of LPS22.

While a one-size-fits-all approach as adopted by the State is useful for consistency and simplicity, it can result in the loss of local nuance in addressing specific issues, particularly for a local government area as large and varied as the City. As such, the drafting of the new Scheme has been a complex and ongoing process that will require further input from Council and the local community through the consultation period prior to finalisation.

### **OFFICER COMMENT**

The current local planning scheme is approaching ten years of age and does not comply with the state planning framework which has sought to standardise planning schemes. These requirements are set out in the Regulations, which establishes a Model Scheme Text (MST) to be adopted by all new planning schemes.

LPS22 is not intended to be a root and branch reform document but to rather update existing provisions to reflect latest terminology and standards. Within this narrow scope, the City has also sought to simplify existing development requirements, delete redundant elements and streamline the approval process, with an overarching aim to simplify where possible and strengthen where necessary.

As the Scheme requires consent from the Minister for Planning prior to the commencement of formal advertising the Scheme documentation has been provided as a confidential attachment. Standard changes required by the MST are detailed in the body of the report while recommended Scheme provisions that are subject to further modification or potential deletion by the Minister have been detailed in the confidential attachment.

### Zoning changes

| Zones                                    | Commentary  |
|--|---|
| <b>Existing zones removed from LPS22</b> |   |
| Viticulture and Tourism                  | Inconsistent with MST standard zones, required to be removed.<br>All lots to be incorporated into 'Rural' zone.   |
| Bushland Protection                      | Inconsistent with MST standard zones, required to be removed.<br>All lots to be incorporated into 'Environmental Conservation' zone.  |
| Rural Landscape                          | Inconsistent with MST standard zones, required to be removed.<br>All lots to be incorporated into 'Environmental Conservation' zone.  |
| <b>New zones included in LPS22</b>       |   |
| Cultural and Natural Resource Use        | The intent of the zone is to accommodate land identified for the Noongar Land Estate through the native title settlement process. This is an ongoing process with only one land parcel identified for inclusion in the zone currently.<br><br>Once further properties are identified, these will be rezoned through a Scheme amendment process following gazettal of LPS22. |
| Private and Community Purpose            | The Private Community Purpose zone is to accommodate such sites as private schools, religious establishments, and community service providers (e.g. – Salvation Army).<br><br>The zone will predominantly be used to replace the 'Special Use' zone that currently applies to a number of these sites.  |

### Land use term changes

In aligning with the MST, the City has been required to delete and replace a number of existing land use terms. These are generally unproblematic and involve minor changes in land use titling and description or consolidation of land use terms. For example, 'art gallery' is deleted and incorporated into the 'exhibition centre' definition.

However, for several land uses, the standardisation process would result in potentially inappropriate land use outcomes that would impinge on existing amenity. As such, additional development standards have been drafted to address the unintended consequences of standardisation, as discussed below.

| Land Use Term | Commentary |
|---------------|------------|
|---------------|------------|

|   |   |
|---|---|
| <p>Aircraft landing area</p>  | <p>New definition proposed to be introduced to LPS22.</p> <p>To better manage the impacts of scenic flights operating from existing tourist businesses in the 'Rural' zone.</p> <p>The land use applies to commercial operations and is not intended to control the operation of personal aircraft, including where used for farming purposes.</p>  |
| <p>Brewery<br/>Winery</p>   | <p>Inconsistent with MST, required to be removed.</p> <p>Replaced with 'beverage production facility.'</p> <p>The consolidation of the different alcohol production types into one land use term is problematic, particularly as a brewery generates significant amounts of wastewater and is typically disconnected from any rural use of the subject land.</p> <p>Breweries built at scale for wholesale purposes in the Rural zone are generally inappropriate and more suitably located in the industrial zones in the City.</p> <p>Breweries with a tourism function (i.e. – restaurant, tavern) will still be permitted and encouraged in the Rural zone, subject to appropriate management of on-site impacts.</p> <p>Accordingly, additional development standards have been included for the 'beverage production facility' land use to guide scale and encourage relocation to the industrial zones over a certain threshold size.</p>  |
| <p>Chalet<br/>Guesthouse<br/>Rural Holiday Resort<br/>Tourist Accommodation</p> | <p>All land use terms are inconsistent with MST and required to be removed.</p> <p>Replaced with 'tourist and visitor accommodation.'</p> <p>Consolidation into one land use term is problematic as the City was previously able to utilise the zoning table to set appropriate levels of permissibility for the different accommodation types.</p> <p>For example, while a 'chalet' is permitted in the 'Environmental Conservation' zone, a larger scale 'rural holiday resort' is not. Of particular concern is that 'tourist accommodation,' which is typically an urban tourist offering provided for in the Centre zones, has been incorporated into a broad based land use. Such consolidation has implications for zoning table permissibility.</p> <p>Accordingly, additional development standards have been included for the 'tourist and visitor accommodation' land use to guide the appropriate scale and permissibility for the respective zones.</p> <p>The rural tourist accommodation framework provided for in the existing policy has been utilised to develop these standards, including guidance around minimum lot size, number of accommodation units permitted and protection of environmental values.</p> |



|   |  |
|---|--|
| <p>Lunch bar<br/>Takeaway food outlet</p> | <p>Both land use terms are inconsistent with MST and required to be removed.</p> <p>Replaced with ‘food outlet’ and ‘food outlet with drive through facility.’</p> <p>The introduction of ‘food outlet with drive through facility’ allows the City to remove the Drive Through Facility Special Control Area with permissibility now addressed through the zoning table.</p> <p>Noting there are only two distinct areas of ‘Service Commercial’ zoned land, it is intended to make ‘food outlet with drive through facility’ an X across all zones to prevent the current and future ‘Service Commercial’ zoned land along Commonage Road from becoming a car-centred urban corridor of low amenity.</p> <p>It is proposed to provide an Additional Use land right for the ‘Service Commercial’ zoned land along Bussell Highway and identified ‘Regional Centre’ zoned lots which currently accommodate several drive-through food outlets.</p> |
|---|--|

### Revised and new planning provisions

While the main purpose of the new Scheme is to align with State direction, it also provides an opportunity to update and/or introduce new standards where there is a demonstrated need to protect identified values.

Where new standards are proposed to be introduced, they adopt a ‘development management’ rather than ‘development control’ approach, with the aim of encouraging and incentivising positive development outcomes. The proposed changes are detailed in the confidential attachment.

### Special Control Areas

The purpose of Special Control Areas (SCA’s) are to provide bespoke development controls to address a specific issue, such as flood mitigation, visual amenity or wetland protection. A number of changes are proposed to the SCA framework with the intent of both simplifying and to strengthen where required to protect identified values.

Several new or modified SCA’s are proposed in LPS22, each accompanied by a supporting local planning policy to provide additional guidance on implementation and use of discretion. These are discussed in the confidential attachment.

| Special Control Areas (SCA)              | Commentary  |
|--|---|
| <b>Existing SCA’s deleted from LPS22</b> |   |
| Designated Bushfire Prone Areas          | <p>SCA deleted.</p> <p>The controls set out in the SCA are contained in the Regulations and State Planning Policy 3.7 – Planning in Bushfire Prone Areas.</p>   |
| Development Investigation Area           | <p>SCA deleted.</p> <p>The purpose of the Development Investigation Area is to identify areas that require structure planning. This has been replaced by the ‘Urban Development’ zoning as per the Regulations.</p> |

|  |  |
|--|--|
| <p>Drive Through Facility Control Area</p> | <p>SCA deleted.</p> <p>As discussed previously in the report, due to the introduction of the 'food outlet with drive through facilities' land use, permissibility can be set through the zoning table.</p> <p>Deletion will remove an additional planning layer.</p>   |
| <p>Port Geographe Development Area</p>     | <p>SCA deleted.</p> <p>As the area is largely developed, the provisions are largely redundant. Built form requirements with an ongoing purpose and application (e.g. – canal wall setbacks) have been transferred to LPS22 at Schedule E.</p> <p>Deletion will remove an additional planning layer.</p>  |
| <p>Special Provision Area</p>              | <p>SCA deleted.</p> <p>The SCA is inconsistent with the Model Scheme Text with relevant provisions able to be addressed through a different mechanism in the updated planning framework.</p> <p>In removing the SCA and the related schedule, the City has undertaken a review of all existing Special Provisions with the majority being deleted. Where there are requirements with an ongoing purpose and application (e.g. – building height or setback requirements), these have been transferred to LPS22 at Schedule E or F.</p> <p>Deletion will remove an additional planning layer.</p> |

**General corrections**

Drafting of the new Scheme has provided the opportunity to correct irregularities in LPS21 that have occurred over time due to modifications to the state and local planning framework.

| Proposed Changes  | Commentary  |
|---|---|
| <p>Additional Uses<br/>Restricted Uses<br/>Special Uses</p> | <p>A comprehensive review has been undertaken of the respective schedules with provisions either being deleted or updated to reflect the current land use terminology and/or development standards.</p> <p>Entries in the respective schedules were deleted if addressed by another section of the planning framework. For example, several additional uses granted under TPS20 have since become broadly permissible under the current planning framework.</p> |

|  |   |
|--|---|
| <p>Development Guide Plans<br/>Structure Plans</p> | <p>All development guide plans (DGP's) and structure plans (SP's) approved prior to 2015 are due to expire in 2025. As part of the Scheme review process, the City undertook an audit of the 300+ existing DGP's and SP's to determine which were still relevant and required.</p> <p>Those with relevant and ongoing requirements, such as building height restrictions or setback controls, have been transferred to the new Scheme (e.g. – Enterprise Park, Dunsborough).</p> <p>Where development has occurred or the planning framework has since moved in an alternate direction, the SP or DGP will be allowed to lapse, and the general controls provided for in the Scheme to be applicable.</p> |
| <p>Reserves</p>                                    | <p>LPS21 only features two reserve types – Public Purpose and Recreation, while there are several specific reserve types as per the MST.</p> <p>All reserves currently identified in the Scheme (1200+) have been reviewed and updated to reflect the most appropriate reserve type as per the MST.</p> <p>Further, a significant number of reserves and publicly owned lots were incorrectly zoned under LPS21. These parcels have been identified and reserved under LPS22 to reflect the nature of their ongoing use.</p>  |
| <p>Urban development zone</p>                      | <p>'Urban Development' zoned lots where development has occurred will be rezoned through the Scheme review process.</p> <p>The 'Urban Development' zone is a transitional zoning used to identify land areas requiring additional planning prior to development. Once development has occurred, standard practice is for the transitional zoning to be replaced with a hard zoning through a basic scheme amendment. The Scheme review has been used to undertake this process rather than through separate scheme amendments.</p>  |
| <p>Zoning changes</p>                              | <p>Various zoning updates have been implemented either to correct mapping errors or for the zoning to better reflect the nature of the development and/or land use on a site, consistent with the MST.</p>  |

### Consolidation of local planning policies

Important development standards (e.g. setback requirements, built form and car parking) have been included in the Scheme to provide greater weight with supplementary and supporting provisions to be contained in the updated suite of local planning policies (LPP's).

The primary purpose of LPP's are to provide parameters for the exercise of discretion as well as providing guidance on meeting specific design outcomes identified for an area or type of development. To manage the scope and ensure the timely delivery of draft LPS22, a review and redrafting of relevant policies will be undertaken as LPS22 progresses through the consultation and review process in 2025.

The LPP review will be informed by submissions received during Scheme consultation with a suite of revised LPP's finalised at such time as there is a level of certainty around the final status and form of the Scheme provisions.

### **Statutory Environment**

The *Planning and Development Act 2005*, section 72, provides for a local government to prepare a local planning scheme with reference to any land within its district. Once a scheme has been prepared, regulation 21 of the Regulations requires the local government to either proceed to advertise the Scheme with or without modifications or to not advertise the scheme.

Following a resolution to advertise, the local government must seek the consent of the Minister to commence advertising, pursuant to section 83A of the Act. At this stage, the Minister may request modifications be made to the Scheme prior to consent being granted.

Once consent is granted, the Scheme will be advertised for a period of 90 days.

### **Relevant Plans and Policies**

The local government is required to prepare a new scheme that is consistent with the planning framework. Key elements of the framework include the following –

- Leeuwin-Naturaliste Sub Regional Strategy;
- City of Busselton Local Planning Strategy; and
- Suite of state planning policies.

### **Financial Implications**

There are no financial implications associated with the officer recommendation.

### **External Stakeholder Consultation**

Following Council decision for consent to advertise, the draft Scheme will be forwarded to the Commission and the Environmental Protection Authority (EPA) for review.

The Commission has 90 days, or a longer period if authorised by the Minister, to review the Scheme and provide a recommendation to the Minister. Following review, the Commission may require modifications to the Scheme prior to public consultation. Concurrently, the EPA will assess the Scheme within 28 days as required under section 48A of the *Environmental Protection Act 1986* to determine whether environmental assessment is required. It is noted that while the EPA has 28 days to issue a formal recommendation, the review process may take longer if the EPA requests further information to facilitate their assessment.

Pending an EPA decision and consent from the Minister to advertise, the City will commence formal consultation with the community and state agencies. An engagement plan is currently being finalised to support the roll-out of the consultation process which is envisaged to include the following –

- Your Say page containing all relevant documents, including draft Scheme and mapping;
- Notification via weekly newspaper advertisement;

- Notification via City’s newsletter and social media channels;
- Online mapping system with property search results to be hyperlinked to explanatory documents;
- General letters to all land-owners within the City advising of draft Scheme;
- Targeted letters to land-owners affected by specific changes (e.g. – change of zoning, removal of Additional Use land right);
- Suite of explanatory documents, including FAQ’s and infographics detailing key changes; and
- Several in-person community access sessions in key identified locations (e.g. – Vasse, Dunsborough and Busselton).

The engagement strategy will utilise several different channels and methods to broaden community outreach as effectively as possible.

**Risk Assessment**

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

| Reputational risk arises as landowners may object to changes in the planning framework that affect their property. Risk will be mitigated through an extensive consultation program advising owners of the proposed changes and the underlying rationale. The submission process will allow owners to raise issues of concern to be addressed by the City in the final formulation of the Scheme. |                  |                           |            |
|---|------------------|---------------------------|------------|
| Risk Category   | Risk Consequence | Likelihood of Consequence | Risk Level |
| Reputational  | Minor            | Possible                  | Medium     |

**Options**

As an alternative to the proposed recommendation the Council could:

1. Resolve to proceed to advertise the draft local planning scheme with modifications; or
2. Seek further information before making a decision.

**CONCLUSION**

Draft LPS22 is state planning framework compliant and will provide a modern and flexible planning document to guide the development of the City for the near future. As a regional local government of significant size, the preparation of the Scheme presents a complex challenge and the City welcomes the opportunity to engage with the community to produce a Scheme that both enables growth and best protects the values that make the City such a special place to live and work.

It is recommended that Council resolve to proceed to advertise draft LPS22.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Following resolution of Council in accordance with the officer recommendation, the Scheme documentation will be forwarded to the WAPC and EPA for review and consent to advertise.

The timeframe for WAPC review is 90 days, or longer where authorised by the Minister and 28 days for EPA review, though this may be longer subject to EPA request for further information. Based on statutory timeframes, it is anticipated the Scheme will be released for public consultation in February/March 2025 for a period of 3 months.

## 11.2. Local Heritage Survey and Heritage List following consultation

|                                 |  |
|---------------------------------|--|
| <b>Strategic Theme:</b>         | Key Theme 2: Lifestyle<br>2.1 Recognise, respect and support community diversity and cultural heritage.  |
| <b>Directorate:</b>             | Community Planning   |
| <b>Reporting Officer:</b>       | Senior Planner (Major Development) - Emma Craddock   |
| <b>Authorised By:</b>           | Acting Director Community Planning – Dave Goodwin  |
| <b>Nature of Decision:</b>      | Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies.   |
| <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. Attachment 1 - Heritage List [<b>11.2.1</b> - 10 pages]</li> <li>2. Attachment 2 - Local Heritage Survey [<b>11.2.2</b> - 531 pages]</li> <li>3. Attachment 3 - Schedule of Submissions [<b>11.2.3</b> - 33 pages]</li> <li>4. Attachment 4 - Heritage Framework [<b>11.2.4</b> - 1 page]</li> </ol> |

### OFFICER RECOMMENDATION

#### That the Council:

1. **Adopt the Heritage List, with modifications as per Attachment 1, pursuant to Part 8 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*;**
2. **Forwards a copy of the Heritage list to the Heritage Council of Western Australia pursuant to Part 8, clause 4(b) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*;**
3. **Endorse the Local Heritage Survey as per Attachment 2, with modifications, following advertising; and**
4. **Acknowledges that the Thematic History included within the Local Heritage Survey will be updated by the City following endorsement.**

### **EXECUTIVE SUMMARY**

The *Heritage Act 2018* (the Act) requires that local governments prepare a Local Heritage Survey (LHS). A LHS informs the preparation of a Heritage List, for places identified as having cultural heritage significance within the scheme area, as required under the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

The LHS and Heritage List was last reviewed and adopted by Council at its meeting of 13 August 2014 (C1408/200 refers). Following a detailed review and analysis, the City prepared a draft LHS and draft Heritage List. At its meeting held on 31 July 2024 (C2407/190 refers), Council resolved to approve the public advertising of the draft LHS and draft Heritage List for a period of 21 days.

A total of 40 submissions were received providing comments and additional information on several different places. Following advertising, minor modifications are proposed to both the draft LHS and draft Heritage List in response to submissions provided. It is recommended that Council endorses the modified draft LHS and adopts the modified draft Heritage List.

## STRATEGIC CONTEXT

In accordance with the City's Strategic Community Plan, the LHS and Heritage List is considered in the context of recognising and respecting the City's cultural heritage whilst providing opportunities for the community to engage and contribute to transparent decision making.

## BACKGROUND

The City has successfully secured a matched funding grant from the Department of Planning, Lands and Heritage (DPLH) to review the current LHS and Heritage List, enabling the City to engage Hocking Heritage Architects to undertake a detailed analysis of the current Municipal Heritage Inventory (MHI) (now referred to as the LHS) and new place nominations. A six-week nomination period was completed by the City between 4 March 2024 and 15 April 2024 seeking new place nominations from the public. A total of 22 submissions were received.

The draft Local Heritage Survey and draft Heritage List were presented to the Council meeting of 31 July 2024 (C2407/190 refers) where Council resolved to advertise both documents, in conjunction with the revised draft *Local Planning Policy 4.3 Heritage Conservation* for a period of 21 days. Public advertising was undertaken from 7 August to the 28 August 2024. The inter-relationship of the heritage framework is outlined in Attachment 4.

## OFFICER COMMENT

### Draft Local Heritage Survey

The LHS has been developed to align with the Heritage Council of Western Australia (HCWA) Guidelines for Local Heritage Surveys. The key changes from the current LHS are:

- A review and update of the allocated Management Categories to reflect current HCWA guidelines.
- New photographs for all places.
- Revision of Place Record Forms in accordance with the HCWA guidelines.
- Updates to place record forms to reflect the status of demolished places and include in a separate appendix.
- Review of text for grammar and flow and updates where appropriate.
- Update of physical descriptions with reference to the new photographs.
- Inclusion of Aboriginal Sites where applicable (where a place has Aboriginal significance as well as European Heritage significance).
- Management category 5 sites will form an Appendix to the draft LHS. These will have a place record and be included within a separate 'Heritage Interest Sites' document.

The LHS will require a further update following endorsement, to allow for a detailed review of the thematic history as an administrative process. Place record forms or the Heritage List will not be amended because of this update.

Hocking Heritage, in conjunction with the City have undertaken an assessment on each existing and proposed place. The assessment process included site visits to new sites or places where substantial changes were made since the LHS was last reviewed, a review of existing place records, and/or information provided with nominations and desktop analysis.



Place records have been prepared for each place on the LHS and include:

- Site information.
- Construction details.
- Historical information.
- Statement of significance.
- Photographs, including archival images.

Each place on the LHS is classified based on the contribution of a place to local cultural heritage, recognising the varying degrees of importance, consistent with the HCWA Guidelines. An exception to this is the inclusion of management category 5 – Place of Interest. This has been recommended by Hocking Heritage to identify sites which may no longer have formal structures, but their heritage contributes in some way to the history of Busselton and should be recognised. The 5 management categories are:

| Category | Level of Significance   | Description  | Expectations  |
|----------|---|--|---|
| 1        | Exceptional<br><br>(Heritage List and State Heritage Listed places) | Essential to the heritage of the area.<br><br>Rare or outstanding example.   | The place should be retained and conserved. Any alterations or extensions should reinforce the significance of the place and be in accordance with a Conservation Plan if one is in place.<br><br>Consider for nomination for State Heritage Listed places if not already included. |
| 2        | Considerable<br><br>(Heritage List)                                 | Very important to the heritage of the locality.<br><br>High degree of integrity/ authenticity  | Conservation of the place is highly desirable. Any alterations or extensions should minimise impacts on the original site or building and reinforce the significance of the place.  |
| 3        | Moderate<br><br>Local Heritage Survey                               | Contributes to the heritage of the locality.<br><br>May have some altered or modified elements, not necessarily detracting from the overall significance; contributes to the heritage of the locality. | Conservation of the place is desirable.<br><br>Any alterations or extensions should reinforce the significance of the place and retain original fabric where feasible.  |
| 4        | Some<br><br>Local Heritage Survey                                   | Some significance<br><br>Lower degree of integrity/authenticity but contributes to the heritage of the locality.   | Retain elements of the place where feasible.<br><br>Photographically record prior to major development or demolition.   |

|   |   |  |  |
|---|---|--|--|
| 5 | Place of Interest<br><br>Local Heritage Survey -<br>Heritage Interest Sites<br>(Appendix 1) | Historic Site<br><br>Site relevant to a past<br>event, group or individual<br>which contributes to the<br>understanding of the<br>history of the City of<br>Busselton. | Recognise and interpret the site if<br>possible. |
|---|---|--|--|

A substantial number of management category 5 sites have been identified as part of the detailed analysis of the LHS. It is recommended that all management category 5 places be included as a list within an appendix to the LHS. Place records will be prepared at a later date for all management category 5 sites and will form part of a separate “Heritage Interest Sites” document, ensuring that the history of these sites will not be lost in the future.

### **Nominations**

The City invited nominations from the community for new places to be included on the LHS over a six-week period from 4 March 2024 to 15 April 2024. A total of 22 new nominations were received and can be summarised as:

| Type of Nomination  |                               |
|---|-------------------------------|
| Requests for places that are already included on the current Local Heritage Survey. | 7 requests                    |
| Places subject to a Heritage Agreement between the City and a third party.          | 2 requests<br>(2 new places)  |
| Requests for new places for inclusion.  | 13 requests<br>(8 new places) |
| <b>Total</b>  | <b>22</b>                     |

Several heritage agreements have been entered into as a condition of subdivision of a heritage property. Under the *Heritage Act 2018*, a heritage agreement primarily may relate to land constituting the whole or any part of a place included in a heritage list or a heritage area. It may also include places of special interest relevant to the cultural heritage a place possesses; the relationship of the place to a registered place; or the nature of, or the potential relationship of a place to a particular environment meriting conservation. Department of Planning, Lands and Heritage have advised that those properties with a heritage agreement must be included on the Heritage List to ensure their protection.

Following a detailed analysis and assessment of the 8 new nominated places, 10 places, including those the subject of a heritage agreement were reviewed and recommended for inclusion in the draft LHS by Hocking Heritage. These places were included in the advertised draft LHS and outlined in the report presented to the Council meeting of 31 July 2024 (C2407/190 refers).

### **Changes in Management Categories**

The following table summarises those places which, following a detailed analysis, were proposed to change management categories as part of the draft LHS and those annotated bold were **new**

recommended inclusions on the Heritage List as advertised. The table identifies where a submission has been received during public advertising in relation to that place:

| Place Number | Place Name  | Previous Category | Proposed Category | Comment   | Submission received Y/N |
|--------------|---|-------------------|-------------------|---|-------------------------|
| PN064        | Acton Park Hall and First Settlers Memorial – Lot 30 (No.804) Acton Park Road, Acton Park | 4                 | 2                 | Upgraded due to importance of the building to the history of the region and high degree of integrity.   | N                       |
| PN065        | Ambergate Hall – Lot 4455 (No.573) Queen Elizabeth Street, Ambergate                      | 4                 | 2                 | Upgraded due to importance of the building to the heritage of the locality and high degree of integrity.  | N                       |
| PN172        | Drive-in Cinema – Lot 3 (No.500) Bussell Highway, Broadwater                              | 3                 | 4                 | Downgraded as no longer functioning but still retains some elements. Lower degree of integrity/authenticity but contributes to the heritage of the locality.      | N                       |
| PN001        | Agricultural Bank of Western Australia – Lot 468 (No.7) Queen Street, Busselton           | 4                 | 1                 | Upgraded. State Heritage Listed. Essential to the heritage of the area and a rare or outstanding example.   | Y                       |
| PN012        | Busselton Jetty – Lot 350 (No.2) Queen Street, Busselton                                  | 4                 | 1                 | Upgraded. State Heritage Listed. Essential to the heritage of the area and a rare or outstanding example.   | N                       |
| PN013        | Busselton Post Office – Lot 19 (No.70) Prince Street, Busselton                           | 4                 | 3                 | Upgraded due to continuity of function and widespread use.  | N                       |
| PN157        | A.R. Bovell & Son – Lot 13 (No.42) Queen Street, Busselton                                | 2                 | 4                 | Downgraded due to major alterations and additions.  | N                       |
| PN015        | Churchill Park – Lot 410 (No.78) Adelaide Street, Busselton                               | 4                 | 3                 | Upgraded as it contributes to the heritage of the locality. May have some altered or modified elements, not necessarily detracting from the overall significance. | N                       |
| PN022        | Esplanade Hotel – Lot 20 (No.30-38) Marine Terrace, Busselton                             | 1                 | 2                 | Downgraded due to lack of original fabric.  | Y                       |
| PN028        | Yoonderup – Lot 1 (No.71) Kent Street, Busselton  | 1                 | 2                 | Downgraded due to lack of original fabric.  | N                       |

|                |   |   |   |  |   |
|----------------|---|---|---|--|---|
| PN032          | Old Busselton Cemetery – Lot 413 Stanley Street, Busselton                        | 4 | 1 | Upgraded as essential to the heritage of the area and a rare or outstanding example.   | N |
| PN033          | Post Box – corner of Queen Street and Adelaide Street, Busselton                  | 4 | 2 | Upgraded as essential to the heritage of the area and a rare or outstanding example.   | N |
| PN034          | Old Butter Factory – Lots 1, 2, 328, 500 & 501 (No.76) Peel Terrace, Busselton    | 4 | 1 | Upgraded. State Heritage Listed. Essential to the heritage of the area. Rare or outstanding example.   | Y |
| PN035          | Busselton Court House and Police Complex – Lot 364 (No.4) Queen Street, Busselton | 4 | 1 | Upgraded. State Heritage listed. Essential to the heritage of the area. Rare or outstanding example.   | Y |
| PN036          | Busselton Fire Station (former) - Lot 425 (No.68) Queen Street, Busselton         | 4 | 2 | Upgraded due to importance of the building to the heritage of the locality. High degree of integrity/authenticity.   | N |
| PN043<br>PN044 | Ship Hotel and Stables – Lot 6 (No.8) Albert Street, Busselton                    | 1 | 2 | Downgraded due to lack of original fabric.   | N |
| PN054          | Sun Dial at Signal Park - Lot 400 Marine Terrace, Busselton                       | 4 | 2 | Although a small element, upgraded due to long presence in the streetscape at this site.   | Y |
| PN058          | Vasse Hotel – Lot 20 (No.38) Duchess Street, Busselton                            | 3 | 2 | Upgraded as very important to the heritage of the locality. High degree of integrity/authenticity.   | N |
| PN060          | Weld Hall Theatre – Lot 310 (No.13) Queen Street, Busselton                       | 4 | 1 | Upgraded. State Heritage Listed. Essential to the heritage of the area. Rare or outstanding example.   | Y |
| PN156          | Busselton War Memorial – Lot 229 Peel Terrace, Busselton                          | 4 | 2 | Upgraded. Very important to the heritage of the locality. High degree of integrity / authenticity.   | Y |
| PN161          | Dr Yates' House – Lot 45301 (No.15) Albert Street, Busselton                      | 1 | 2 | Downgraded as not considered worthy of State Heritage Registration.  | N |
| PN194          | Waljin Aboriginal Garden – Lot 73 (No.22-38) Peel Terrace, Busselton              | 4 | 3 | Upgraded as contributes to the heritage of the locality. May have some altered or modified elements, not necessarily detracting from the overall significance. | N |

|       |   |   |   |   |   |
|-------|---|---|---|---|---|
| PN072 | Cape Naturaliste Light House and quarters – Various lots, Cape Naturaliste Road, Cape Naturaliste | 4 | 1 | Upgraded. State Heritage Listed. Essential to the heritage of the area. Rare or outstanding example.  | N |
| PN073 | Carbanup Hall – Lot 71 (No.3) Wildwood Road, Carbanup River                                       | 4 | 2 | Upgraded due to importance of the building to the history of the region.  | N |
| PN203 | Old Dunsborough Hall – Lot 183 (No.44) Gifford Road, Dunsborough                                  | 4 | 2 | Upgraded as it contributes to the heritage of the locality. May have some altered or modified elements, not necessarily detracting from the overall significance. | N |
| PN080 | St George’s Anglican Church - Lot 105 (No.50) Gibney Street, Dunsborough                          | 3 | 2 | Upgraded due to importance to the heritage of the locality. High degree of integrity/authenticity.  | N |
| PN091 | Jindong Hall – Lot 1663 (No.335) Payne Rd, Jindong  | 4 | 2 | Upgraded due to importance of the building to the history of the region.  | N |
| PN196 | Locke Swamp Floodgates – Lot 45 (No.407) Caves Road, Kealy  | 4 | 2 | Upgraded due to the significance of the place to the history of the region.   | N |
| PN097 | Marybrook Farmhouse – Lot 61 (No.197) Chain Avenue, Marybrook                                     | 2 | 4 | Downgraded as there is a lower degree of integrity/authenticity but contributes to the heritage of the locality.  | Y |
| PN195 | Lennox River Channel Weir – Lot 4794 (Reserve 40676) Caves Road, Marybrook                        | 4 | 2 | Upgraded due to the importance to the heritage of the locality. High degree of integrity/authenticity.  | N |
| PN128 | Sugar Loaf Rock - Sugar Loaf Road, Cape Naturaliste   | 4 | 3 | Upgraded due to importance to the heritage of the locality. High degree of integrity/authenticity.  | N |
| PN190 | Point Picquet and Anse Depuch – Lot 4970, Eagle Bay – Meelup Road, Naturaliste                    | 4 | 3 | Upgraded due to importance to the heritage of the locality. High degree of integrity/authenticity.  | N |

|       |  |   |   |   |   |
|-------|--|---|---|---|---|
| PN155 | Youth Hostel – 3 <sup>rd</sup> Quindalup School House – Lot 42 (No.201) Geographie Bay Road, Quindalup | 4 | 3 | Upgraded due to importance of the building to the heritage of the locality. May have some altered or modified elements, not necessarily detracting from the overall significance. | N |
| PN109 | <b>Newtown Hall (Vasse Hall) - Lot 366 (No.8) Kaloorup Road, Vasse</b>                                 | 4 | 2 | <b>Upgraded due to importance of to the heritage of the locality. High degree of integrity / authenticity.</b>  | N |
| PN137 | <b>Vasse School (fmr) - Lot 4711 (No.17) Kaloorup Road, Vasse</b>                                      | 4 | 1 | <b>Upgraded due to inclusion on State Heritage Register. Essential to the heritage of the area. Rare or outstanding example.</b>  | Y |
| PN009 | Busselton High School – Lot 5308 (No.136-156) Busselton Highway, West Busselton                        | 4 | 3 | Upgraded due to importance of the building to the history of the region.  | N |
| PN056 | Sussex Masonic Lodge and Hall – Lot 42 (No.60) West Street, Busselton                                  | 1 | 2 | Downgraded as not considered worthy of State Heritage registration  | N |
| PN011 | Busselton Hospital Nurses Quarters (former) - Lot 500 (No.18-20) West Street, West Busselton           | 4 | 3 | Upgraded as contributes to the heritage of the locality. May have some altered or modified elements, not necessarily detracting from the overall significance.                    | N |
| PN019 | <b>Sussex Road Office Board – Lot 61 (No.47) Bussell Highway, West Busselton</b>                       | 4 | 2 | <b>Upgraded due to importance of the building to the history of the region.</b>   | N |
| PN142 | Wilyabrup Hall – Lot 503 (No.697) Puzey Road, Wilyabrup  | 4 | 2 | Upgraded due to importance of the building to the history of the region.  | Y |
| PN096 | <b>Ludlow Forestry Mill &amp; Settlement – Lot 303,304,305 Bussell Highway, Wonnerup</b>               | 4 | 1 | <b>Upgraded. State Heritage Listed. Essential to the heritage of the area. Rare or outstanding example.</b>   | N |
| PN088 | Injidup Springs – Lot 302 Injidup Spring Road, Yallingup   | 4 | 3 | Upgraded due to importance to the heritage of the locality. High degree of integrity/authenticity.  | N |
| PN095 | <b>Lucy Isaacs Graveyard – Yallingup-Siding</b>  | 4 | 2 | <b>Upgraded due to significance of this site to history of the region.</b>  | Y |

|       |   |   |   |   |   |
|-------|---|---|---|---|---|
| PN149 | Yallingup Hall – Lot 1178 (No.2305)<br>Caves Road,<br>Yallingup             | 4 | 2 | Upgraded due to importance to the heritage of the locality. High degree of integrity/authenticity.                      | N |
| PN130 | Residence (fmr) – Lot 10 (No.2) Canal<br>Rocks Road,<br>Yallingup           | 3 | 2 | Upgraded due to Heritage Agreement requirements. On current Heritage List.  | N |
| PN082 | Curtis Bay – Curtis Bay,<br>Yallingup                                       | 4 | 3 | Upgraded due to importance of the early settlement and heritage of the locality. High degree of integrity/authenticity. | N |
| PN105 | Mullgarnup Aboriginal Mission – Site – Lot 8<br>Wonnerup South,<br>Yalyalup | 2 | 4 | Downgraded due to the lack of original fabric/buildings but contributes to the heritage of the locality.                | N |
| PN191 | Group 52 Lennox Hall – Lot 884 (No.3)<br>Yoongarillup Road,<br>Yoongarillup | 4 | 2 | Upgraded due to importance of the building to the history of the region.  | N |

Submissions received and indicated in relation to the above-mentioned places are included within the schedule of submissions and discussed below where applicable. (Attachment 3 refers).

### Local Heritage Survey – Post consultation modifications

#### *New inclusion*

Submissions received during consultation identified one additional site for inclusion within the LHS as follows:

| Place Number | Place Name  | Previous Category | Proposed Category | Comment  |
|--------------|---|-------------------|-------------------|--|
| PN217        | Busselton Aerodrome – various lots, Bovell and Ambergate. | N/A               | 4                 | Notable legacy of the area as an operational base unit during World War Two. |

The submission outlined the significance of the aerodrome as an Operations Base Unit during World War Two. The City also identified several correspondences received since the MHI was last reviewed requesting the City's consideration of the aerodrome within the LHS. A place record has subsequently been completed and a management category of 4 is proposed, ensuring that the place is included within the Local Heritage Survey.

#### *Sites to be downgraded*

#### Country Womens Association (CWA) Building at Lot 312 (No.48) Stanley Place, Busselton

A total of 14 submissions were received during consultation opposing the proposed management category. The following key concerns were raised by submitters:

- The building has a number of structural issues which have been identified by a structural engineering consultant.
- The building lacks functionality and purpose as a community space.
- The building has a number of ongoing maintenance costs, including plumbing, asbestos, electrical upgrading, floor and roofing issues.
- The CWA of WA Busselton is an integral part of the region's rich historical narrative and not the building itself.
- A new building in this space, with a plaque to commemorate the history would be more appropriate and useful for not only the CWA, but other community organisations.

Following the close of consultation, the City has subsequently completed a ground truth assessment, including undertaking a site visit with the CWA where it was identified that there was no significant interior within the building and substantial structural damage throughout. This site visit has enabled Hocking Heritage and the City to consider the site in greater detail and a modification is proposed to the place record to amend this to a management category 3. Whilst the site will remain on the LHS, it will no longer be included within the Heritage List.

“Wilyabrup Hall” Lot 503 (No. 697) Puzey Road, Wilyabrup (PN142)

The City was provided with a submission during consultation in relation to “Wilyabrup Hall”. Comments indicated concern with the ongoing requirements and restrictions in relation to having the hall on the Heritage List and associated costs. Hocking Heritage have subsequently reviewed the place in greater detail and agreed that the level of integrity and authenticity is minimal. It is recommended that Wilyabrup Hall be downgraded to a management category 4. The place will remain on the Local Heritage Survey but will not be included on the Heritage List.

“Ambergate Hall” Lot 4455 (No.573) Queen Elizabeth Street, Ambergate (PN065)

Following the above submission, the City undertook a review of all halls proposed to move onto the Heritage List as a management category 2. Internal consultation with the City’s property management team, has determined that “Ambergate Hall” should be downgraded to a management category 3 given that there is no significant interior and conservation of the place is not desirable. Ambergate Hall will remain on the Local Heritage Survey but will not be included within the Heritage List. All other halls will remain as management category 2.

“St Mary’s Church Hall” Lot 60 (No.12) Lockville Road, Wonnerup (PN213)

One submission was additionally received in relation to St Mary’s Church Hall which was captured within the current MHI as “Lockville Farmhouse and Outbuildings and St Mary’s Church Hall” (PN094). The advertised draft LHS, created a separate place record for “St Mary’s Church Hall” as a management category 1 following reconstruction and subdivision. Comments within the submission suggested that this would be more appropriately classified as a management category 2. Hocking Heritage have assessed the place record and information provided within the submission, resulting in the building being downgraded to management category 2 due to its reconstruction. Despite this, the building warrants significant recognition as part of the City of Busselton's heritage and should be afforded the necessary protection.

*Management category 5 additions*

A total of 54 sites are currently recommended for inclusion as management category 5 in the LHS, which includes several sites that are identified as management category 4 in the current MHI. A detailed review of the new management criteria indicated that these are more appropriately



captured as management category 5 'sites' that require recognition as they have some cultural heritage significance.

The schedule of submissions (Attachment 3 refers) identifies several new sites for nomination and as potential additions to the LHS. These sites require further investigation and a detailed review of their heritage significance which may include further consultation with the submitters and landowners. Should they be identified as potential sites worthy of recognition, they will be categorised under the management category 5 criteria. Following a review, a full list of these sites will be provided as an Appendix to the LHS and included within a separate document called 'Heritage Interest Sites'.

#### *Other submissions*

Other submissions received during consultation provided additional historical information on heritage places and identified grammar or formatting changes. The submissions have been reviewed and where information can be verified, place records have been updated.

#### Busselton War Memorial at Lot 229 Peel Terrace, Busselton (PN156)

Five submissions were received during consultation regarding the upgrade of the Busselton War Memorial from a management category 4 to a management category 2. All five submissions identified the importance of this place and requested that this be further upgraded to management category 1. HCWA at its meeting of 28 February 2020 confirmed that the place did not warrant assessment for the State Register of Heritage Places. Advice from Hocking Heritage is that the Busselton War Memorial holds considerable significance for the City, though its importance may not extend as prominently to the State level. With the construction of the new memorial in Rotary Park in 2024, the current site will see a reduction in services, but it will continue to serve as a place for commemoration and reflection.

#### Wildcroft Cottage at Lot 70 (No.1970) Caves Road, Naturaliste (PN140)

Three submissions received in relation to Wildcroft Cottage requested that the place record be updated to include the barn given the considerable heritage significance of the building. The place record has been updated accordingly to explicitly reference the barn to ensure a clear distinction between the buildings on site.

#### Phoebe Abbey House at Lot 151 (No.42) Seymour Street, West Busselton (PN038)

Four general submissions were received regarding Phoebe Abbey House which remains as management category 1 as the property is under assessment to be State Heritage Listed. Comments received sought clarification to ensure it was included and general commentary around the importance of this building. The City is currently liaising with the landowner regarding conservation of this place, recognising the importance of Phoebe Abbey House to the history of the area and to the community.

The Heritage and Property Services team at DPLH additionally provided comment in relation to the draft LHS suggesting minor text modifications to ensure clarity and distinction around heritage terminology. Text updates have been made to the modified draft LHS in line with the suggested updates.

#### Peppermint Tree (No.64) Dunn Bay Road, Dunsborough (PN212)

One submission was received during consultation in relation to the Peppermint Tree within the road reserve on Dunn Bay Road, Dunsborough providing comment that the tree should be on the Heritage List and a significant tree register should be created to complement the Heritage List. The City is currently reviewing controls around protection of trees within the City, however it is identified

that the subject tree is located on road reserve and under the control and management of the City. It is considered that the management category 4 proposed is appropriate in this instance and that other mechanisms are in place to ensure the protection of the tree.

### Draft Heritage List – Post consultation modifications

Part 8, section 104 of the *Heritage Act 2018* states that the purposes of a LHS for local governments includes, among others, assistance in preparing a heritage list or list of heritage areas under a local planning scheme. Whilst a LHS is important in identifying heritage places it can only provide guidance in the assessment of development applications for places on the Heritage List established and maintained within the Local Planning Scheme under the *Regulations*.

The HCWA guidelines for establishing a heritage list additionally recommend that a local planning policy be adopted to support the development provisions of such places. A separate report is included within this agenda for Council’s adoption of *Local Planning Policy 4.3 - Heritage Conservation* (item 11.3 refers).

Following advertising, properties identified as having a management category 1 or 2 within the draft LHS are recommended for inclusion on the Heritage List. A total of 33 new places proposed for inclusion, as indicated in bold within the “Change in Management Categories” table within this report. Of these, 24 are owned by the City of Busselton or the State Government.

The detailed analysis undertaken by Hocking Heritage identified ten places proposed for removal from the Heritage List. Whilst these places are proposed to be either downgraded or removed from the Heritage List they will remain on the LHS. Due to the change in management category matrix, management category 3 are no longer included on the Heritage List, with those considered to be worthy of retention on the Heritage List being upgraded to management category 1 or 2. Only one submission was received during public advertising in relation to the below list of places to be removed, being from the owners of Marybrook Farmhouse at Lot 61 (No.197) Chain Avenue, Marybrook (PN097), who were supportive of the change in management category and the ability to be able to restore the character of the cottage with modern building materials.

See table below for the full list of places recommended for removal from the Heritage List:

| Place Number | Place Name   | Previous Category | Proposed Category | Comment  |
|--------------|--|-------------------|-------------------|--|
| PN172        | Drive-In Cinema – Lot 3 (No.500) Bussell highway, Broadwater | 3                 | 4                 | Downgraded as no longer functioning but still retains some elements. Lower degree of integrity/authenticity but contributes to the heritage of the locality.               |
| PN157        | A. R. Bovell & Son – Lot (No.42) Queen Street, Busselton     | 2                 | 4                 | Downgraded due to major alterations and additions that are not considered to be sympathetic/compatible to the traditional building styles of the Heritage Protected Place. |

|       |   |   |   |  |
|-------|---|---|---|--|
| PN049 | St Joseph's Church – Lot 19 (No.69) Prince Street, Busselton    | 3 | 3 | Remaining as a category 3 due to the change from its original use and additions/alterations to the building.   |
| PN162 | House – Lot 3 (No.35-39) Kent Street, Busselton                 | 3 | 5 | Building demolished. Reclassified to a category 5 and recognised as a site.  |
| PN173 | Bryant Memorial Hall – Lot 19 (No.47) Kent Street, Busselton    | 3 | 3 | Remaining as a category 3 due to the volume of remnants from the original fabric that remain.  |
| PN074 | Carbunup Shop – Lot 8 (No.6672) Bussell Highway, Carbunup River | 3 | 3 | Remaining as a category 3 due to the major additions and alterations that have been undertaken. The original use and value to the community still remain.                    |
| PN087 | Harris Residence – Lot 501 (No.8) Newberry Street, Dunsborough  | 3 | 3 | Major alterations and additions have been undertaken and are not considered to be sympathetic/compatible to the traditional building styles of the Heritage Protected Place. |
| PN197 | Old Railway Goods Shed – Lot 3120 (No.308) Payne Road, Kaloorup | 3 | 3 | Major alterations and additions have been undertaken and are not considered to be sympathetic/compatible to the traditional building styles of the Heritage Protected Place. |
| PN097 | Marybrook Farmhouse – Lot 61 (No.197) Chain Avenue, Marybrook   | 2 | 4 | Downgraded due to major deterioration, it can no longer be restored.   |
| PN182 | Rushleigh Homestead – Lot 52 (No.46) Rushleigh Road, Reinscourt | 3 | 3 | Major alterations and additions have been undertaken and are not considered to be sympathetic/compatible to the traditional building styles of the Heritage Protected Place. |

The Heritage and Property Services team at Department of Planning, Lands and Heritage (DPLH) in reviewing the Heritage List as advertised, provided the following comments for the City's consideration:

- Include a description of each place and the reason for its entry in the heritage list in the table as per Part 3 Clause 8(2)(a) of the deemed provisions.
- Identify in the table as to whether the building has a significant interior, as the new provisions require planning approvals for interior works only where a place has been designated as having a significant interior.

The Heritage List has been modified, with additional columns included addressing the above. (Attachment 1 refers).

## **Statutory Environment**

### **Legislation**

*Heritage Act 2018.*

*Heritage Regulations 2019.*

*Planning and Development Act 2005.*

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

*Local Planning Scheme No. 21.*

### **State Government Policies**

*State Planning Policy 3.5 Historic Heritage Conservation.*

## **Relevant Plans and Policies**

*Local Planning Policy 4.3 Heritage Conservation* provides guidelines for the City and landowners in achieving the conservation of significant heritage places. A review of this LPP has been undertaken concurrently with a review of the LHS to ensure consistency between all documents and legislative requirements. The City's review of this policy and report to Council seeking consent to advertise is included as item 11.3 of this agenda.

## **Financial Implications**

The 2023/24 Community Planning budget accounted for the preparation of a local heritage survey and heritage list. In addition, the City has received a matched 50:50 funding grant of \$20,000 from the Department of Planning, Lands and Heritage, which is to be used towards meeting the costs of engaging a heritage consultant to prepare the local heritage survey and Heritage List.

## **External Stakeholder Consultation**

The Regulations require that a local government must not enter a place in, or remove a place from, the Heritage List or modify the entry of a place in the Heritage List unless the local government has advertised the place to each owner and occupier of the place for a period of 21 days. There is no legislative requirement to advertise an LHS.

Notwithstanding, both the draft LHS and draft Heritage List were advertised concurrently with the revised draft LPP4.3 (item 11.3 of this agenda) for a period of 21 days from 7 August 2024 to the 28 August 2024 by way of:

- Letters to all owners and occupiers of places on the draft Heritage List.
- Letters to all owners of places on the draft Local Heritage Survey.
- Letters to known local heritage interest groups and persons.
- A notice on the City's 'Your Say' Busselton website and Bay to Bay newsletter.
- A notice within the local community newspaper.
- Notices on the City's social media platforms.
- Notices at the City's administration building and libraries.

A total of 40 submissions were received in relation to the draft LHS and draft Heritage List. Key submissions received have been discussed within this report and a full schedule of submissions is provided. (Attachment 3 refers)

### **Risk Assessment**

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

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

### **Options**

As an alternative to the proposed recommendation the Council could not endorse the Local Heritage Survey or adopt the Heritage List.

### **CONCLUSION**

The draft Local Heritage Survey will fulfil the City's requirements under the *Heritage Act 2018* and will provide an updated Heritage List identifying places worthy of protection under the Regulations and LPS21.

### **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>           |
|--|----------------------------------|
| Formal publication of the Local Heritage Survey and Heritage List.                                 | Within one month of decision.    |
| Give notice of the modifications to the Heritage List to the Heritage Council of Western Australia | Within one month of the decision |
| Notify all owners and occupiers of each place on the Heritage List                                 | Within one month of the decision |

### 11.3. Review of Heritage LPP - following consultation

|                                 |   |
|---------------------------------|---|
| <b>Strategic Theme:</b>         | Key Theme 2: Lifestyle<br>2.1 Recognise, respect and support community diversity and cultural heritage.<br>2.8 Plan for and facilitate the development of neighbourhoods that are functional, green and provide for diverse and affordable housing choices.   |
|                                 | Key Theme 4: Leadership<br>4.1 Provide opportunities for the community to engage with Council and contribute to decision making.<br>4.3 Make decisions that respect our strategic vision for the District.  |
| <b>Directorate:</b>             | Community Planning  |
| <b>Reporting Officer:</b>       | Senior Planner (Major Development) - Emma Craddock  |
| <b>Authorised By:</b>           | Acting Director Community Planning – Dave Goodwin   |
| <b>Nature of Decision:</b>      | Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies.  |
| <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. Draft Local Planning Policy 4.3 - Heritage Conservation - modified [11.3.1 - 13 pages]</li> <li>2. Draft Local Planning Policy 4.3 - Heritage Conservation - as advertised [11.3.2 - 11 pages]</li> <li>3. Local Planning Policy No. 4.3 - Heritage Conservation - current [11.3.3 - 15 pages]</li> <li>4. Schedule of Submissions [11.3.4 - 3 pages]</li> <li>5. Heritage Framework [11.3.5 - 1 page]</li> </ol> |

#### OFFICER RECOMMENDATION

**That the Council, pursuant to clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts the revised Local Planning Policy 4.3 Heritage Conservation, as modified (Attachment 1 refers).**

#### **EXECUTIVE SUMMARY**

The Council is asked to consider adopting for final approval, *Local Planning Policy 4.3 Heritage Conservation* (LPP4.3) following public advertising. LPP4.3 has been reviewed to align with the City’s review of the Local Heritage Survey (LHS) and Heritage List which form Item 11.2 of this agenda.

LPP4.3 provides development guidance for heritage listed properties identified within the City’s Heritage List. It supports the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations* (the Regulations) which are included within *Local Planning Scheme No. 21* (LPS21). The current version of LPP4.3 is provided at Attachment 3.

At its meeting held on 31 July 2024 (C2407/189 refers), Council resolved to proceed to advertise the draft revised LPP4.3 for a period of 21 days. Public consultation concluded on 28 August 2024, with two submissions received, being comment-only submissions. In response to the submissions received, further minor modifications are proposed to the policy, to reinsert provisions from the current LPP4.3 around amendments to the Heritage List, additional non-residential development

provisions and other minor terminology corrections. It is therefore recommended that Council proceeds with the revised LPP4.3, as modified following advertising.

## **STRATEGIC CONTEXT**

In accordance with the City's Strategic Community Plan, the draft LHS, draft Heritage List and revised LPP4.3 is considered in the context of recognising and respecting the City's cultural heritage whilst providing opportunities for the community to engage and contribute to transparent decision making.

## **BACKGROUND**

The City's former Heritage Conservation Policy was adopted in 2000 with a major review undertaken and adopted by Council at its meeting of 14 October 2009. The purpose was to rename the policy, align it with *State Planning Policy 3.5 Historic Heritage Conservation* and to ensure that development provisions were in place for properties identified as having a management category 1-3 in the City's previous Municipal Heritage Inventory (MHI) (C0910/354 refers).

The City has undertaken a review of its LHS and Heritage List following the gazettal of the *Heritage Act 2018* which requires that local governments prepare and review a LHS to identify places of cultural heritage significance. The draft LHS includes a detailed assessment of each place, allocating each a management category of 1-5. Places assessed as having a management category 1 or 2 are recognised as having significant cultural heritage significance and recommended for inclusion on the City's Heritage List. The City's current LHS (MHI) and Heritage List were last reviewed and adopted by Council at its meeting of 13 August 2014 (C1408/200 refers).

The Regulations require that a development application must be submitted for any development proposed for a place included on the Heritage List or within Heritage Areas. LPP4.3 supplements the provisions within LPS21, providing an additional framework for development of properties on the Heritage List. The inter-relationship of the heritage framework is outlined (Attachment 5 refers).

At its meeting held on 31 July 2024 (C2407/189 refers), Council resolved to proceed to advertise the draft revised LPP4.3 (Attachment 2 refers) for a period of 21 days.

## **OFFICER COMMENT**

LPP4.3 has been prepared to assist and guide the City and landowners in achieving the conservation of significant heritage places. It supports the provisions within LPS21 which guide the identification, conservation and protection of such assets and as such only applies to places on the City's Heritage List.

There is no requirement under the Regulations for a development application, for works to a place on the City's LHS, that meet all other planning criteria. Should a development application be submitted for other planning criteria, the properties on the LHS will only be required to have due regard to the heritage matters of clause 67 of the Regulations. The Regulations require local governments to have due regard to the built heritage conservation of any place that is of cultural heritage significance.

To support the provisions of the *Heritage Act 2018*, The Heritage Council of Western Australia (HCWA) have prepared Guidelines for Preparing a Local Planning Policy for Local Heritage. The guidelines provide sample text and a Development Impact Matrix which have been included within the revised LPP4.3, to provide guidance on the requirements for submission of a development



application for works to a property on the Heritage List. Several other amendments were proposed to the revised LPP4.3 including the following as advertised modifications:

- The introduction of clear policy objectives.
- Updates to legislative references and removal of outdated requirements.
- Amendments to interpretations (definitions) to align with legislative references and removal of superfluous details.
- Updates to the formatting and layout to provide clear headings and requirements.
- Updates to the management categories in line with the City's draft LHS.
- Removal of development provisions for management categories 3-5.

Two submissions were received during community consultation, including one submission from Department of Planning, Lands and Heritage (DPLH). Key comments received are discussed below:

### **Removal of adoptions and modifications to the Heritage List and MHI**

DPLH identified that the current LPP3.4 contains sections on adopting and amending the Heritage List and adopting a Heritage Area which were not proposed to be included in the revised local planning policy, given that the requirements are set out in the Regulations. However, it is noted that the current LPP4.3 clearly states the City's process for considering such amendments to the Heritage List.

Based on the advice from the DPLH, it is recommended that the wording within the current LPP4.3 be reincluded in the revised LPP4.3 with minor text and formatting updates to ensure the City's process remains clear.

### **Terminology**

It was noted by DPLH that the term 'heritage-protected place' was predominately used within the revised draft LPP4.3. Furthermore, it clarified that this terminology is a collective term that is defined in the deemed provisions of the Regulations as being inclusive of other types of heritage places with statutory protections. DPLH suggested the City consider more specific terminology such as 'place on the Heritage List' which would be better understood. The revised LPP has been updated accordingly with 'Heritage-protected place' replaced throughout with 'place on the Heritage List'. It is considered that this amendment will provide clearer direction on how the local planning policy applies in the local context.

Both submissions also raised concern with the removal of the definition of the 'Burra Charter' which was included as a related document, but not defined. A minor modification has been made to define the 'Burra Charter' within the 'Interpretation' section of the revised LPP4.3.

### **Non-residential development**

DPLH identified in their submission that the development controls and diagrams appear tailored to residential heritage places and that separate controls should be considered for non-residential and commercial buildings. The provisions within the revised LPP4.3 are considered to broadly capture both residential and non-residential development and could be easily applied to both typologies.

The following additional provision however has been recommended for inclusion to provide additional clarification on how to address commercial shop fronts where applicable:



*“New work should not eliminate or hide original shopfront details (where applicable) and must not distort the original design’s intent.”*

The other submission received also commented that the diagrams were confusing and provided another possible scenario that the drawings fail to capture. The drawings within the policy are indicative only, with it not possible to capture every scenario. Additional photographs have been included providing other examples of work completed that meets the key elements of the policy. Local planning policies are guidelines used to assist local governments in making decisions under the local planning scheme. The provisions contained within should be considered when determining an application but provide for a flexible approach reflecting the wide range of variables that may arise.

### **Other modifications**

All further comments raised in the submissions are outlined and addressed in the summary of submissions (Attachment 4 refers). In response to the submissions received, further minor modifications are proposed to the Policy including:

- Re-inclusion of wording from current LPP4.3 to address referrals to HCWA for State Heritage Listed places.
- Insertion of additional heading “Applications for development approval – accompanying material” to better reflect development provisions around submission of applications.
- Updating “Local Heritage List” to “Heritage List” to ensure no confusion between the Heritage List and Local Heritage Survey documents.
- Inserting an additional development provision to ensure proponents apply and give due regard to the development control principles of State Planning Policy 3.5 Heritage Conservation.
- Updates to ensure consistent reference to HCWA.
- General number formatting updates.

The revised LPP4.3 as modified in accordance with the above, is provided as Attachment 1. All changes proposed within the revised policy following public advertising have been highlighted.

### **Statutory Environment**

#### **Legislation**

Heritage Act 2018.

Heritage Regulations 2019.

Planning and Development Act 2005.

Planning and Development (Local Planning Schemes) Regulations 2015.

Local Planning Scheme No. 21.

#### **State Government Policies**

State Planning Policy 3.5 Historic Heritage Conservation.

### **Relevant Plans and Policies**

Not Applicable

### **Financial Implications**

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

### **External Stakeholder Consultation**

The draft policy was advertised concurrently with the draft LHS and Heritage List included within item 11.2 of this agenda, for a period of 21 days closing on 28 August 2024. Public advertising was undertaken by way of:

- Letters to all owners and occupiers of places on the draft Heritage List.
- Letters to all owners of places on the draft LHS.
- Letters to known local heritage interest groups and persons.
- A notice on the City's 'Your Say' Busselton website.
- A notice within the local community newspaper.
- Notices on the City's social media platforms.
- Notices at the City's administration building and libraries

Two submissions were received in relation to the draft LPP4.3 being comment only submissions. A summary of the submissions and the City's comment is included as Attachment 4 to this report.

### **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. Adopt LPP4.3 without the modifications.
2. Advertise the revised LPP4.3 with further modifications.
3. Not proceed with revised LPP4.3.

### **CONCLUSION**

It is considered that LPP4.3, if adopted, will support the planning framework for places on the City's Heritage List. It provides clear guidance and direction in line with current legislative requirements and, as such, it is recommended that the Council adopt the Policy.

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

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

| <b>Milestone</b>  | <b>Completion Date</b>        |
|---|-------------------------------|
| Publication of the final adopted Local Planning Policy 4.3 - Heritage Conservation. | Within one month of decision. |

## **12. INFRASTRUCTURE AND ENVIRONMENT REPORTS**

NIL

## 13. ECONOMIC AND BUSINESS DEVELOPMENT REPORTS

### 13.1. Hireable e-scooters - Improvement Measures

|                                 |   |
|---------------------------------|---|
| <b>Strategic Theme:</b>         | Key Theme 2: Lifestyle<br>2.11 Advocate for improved public transport services that allow for the convenient movement of people to and from local destinations.<br>Key Theme 3: Opportunity<br>3.2 Facilitate an innovative and diversified economy that supports local enterprise, business, investment and employment growth.   |
| <b>Directorate:</b>             | Economic and Business Development   |
| <b>Reporting Officer:</b>       | Manager Economic Development and Property - Trevor Ayers  |
| <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>             | <ol style="list-style-type: none"> <li>1. CONFIDENTIAL REDACTED - Neuron Mobility _ City of Busselton E-Scooter Program Summary Report _ Updated October 2024 [ <b>CONF</b> [13.1.1 - 27 pages]</li> <li>2. Hireable e-scooter improvement responses (Your Say) Sept 2024 [13.1.2 - 24 pages]</li> <li>3. Hireable e-scooter improvement responses (individual) Sept 2024 [13.1.3 - 4 pages]</li> </ol> |

### OFFICER RECOMMENDATION

That the Council:

1. **Confirms that the hireable e-scooter trial period has been completed in accordance with requirements; and**
2. **Authorises the CEO to negotiate license agreements, at an appropriate fee, for the provision of hireable e-scooters within the City of Busselton and includes greater responsibilities for resetting of littered e-scooters and helmets in any agreements.**

### EXECUTIVE SUMMARY

This report provides the Council with the results from the measures undertaken since March 2024 by Neuron Mobility to address matters of concern raised by the community regarding the trial of hireable e-scooters in the City of Busselton. Based on further community and business feedback, the increasing reliance on e-scooters as an alternative mode of transport and the demonstrated improvements that Neuron have established, officers are recommending the provision of hireable e-scooter services is continued and managed through a license agreement at an appropriate fee. The license agreement should also be negotiated to and include greater responsibilities for resetting of littered e-scooters and helmets.

## STRATEGIC CONTEXT

This report is consistent with the City's Economic Development Strategy 2022-2027 key objectives to advance transport connectivity and activate the town centres. It aligns to themes Leadership 4.1, Environment 1.6, Opportunity 3.1 and Lifestyle 2.11 as contained within the Strategic Community Plan 2021-2031.

## BACKGROUND

Neuron Mobility has been operating hire e-scooters in Busselton on a trial basis since December 2022. The trial was extended as per the Council decision (below) made at the Ordinary Council meeting of 20 March 2024.

*That the Council*

- 1) *Extends the current trial agreement with Neuron Mobility (Australia) Pty Ltd to 30 November 2024 subject to:*
  - a) *the provision of optimal designated parking locations across the City that do not block thoroughfares and are not of a visual nuisance;*
  - b) *the identification of single use, narrow paths adjacent to the coast and the appropriate application of speed restrictions to these areas.*
- 2) *Notes the results of the community survey undertaken through Your Say, "Hireable e-scooters in the City of Busselton", that 62.4% of local residents to the Your Say survey are opposed to continuing the trial of hireable e-scooters in the City of Busselton and that approximately 50% of those opposing would change their mind if improvements were made, potentially shifting the results to approximately 65% in favour.*
- 3) *Require the CEO to gauge the effectiveness of the improvement measures to address matters of concern raised by the community as a result of the survey, and provide a report to the Council reassessing the trial agreement prior to the peak summer season November 2024 to April 2025.*

Neuron have undertaken a range of activities in order to address the concerns of community members that were raised prior to the trial extension. This includes placing decals to clearly identify parking areas in high traffic areas, increasing the number of local ground staff employed to provide a higher level of service (including tidier parking areas and relocating inappropriately parked scooters and loose helmets) and undertaking a review of the path network to identify additional areas that justified slower speed restrictions.

A public comment period was run throughout September 2024 to provide community members the opportunity to comment on the outcome of the improvement measures since they were initiated in May. A total of 185 responses were received, compared to 1,226 when the community was surveyed previously prior to the trial being extended. This reduction could be seen as an indication the community has become more accepting of the service and concerns are being addressed. However, of these responses the largest were still from people who just don't want e-scooters of any kind and don't believe the improvement measures have worked. It is important to note surveys are just one of a number of tools that aid decision making and are usually weighted towards respondents who have a keen interest in seeing an outcome as opposed to gathering general feedback from people who are more passive about an issue.

Around a third of negative responses appear to relate to all e-scooter use within the City, rather than the hireable e-scooters specifically, with a large portion of these raising concerns with speed and danger to pedestrians. There were also a significant number of comments regarding the lack of policing of e-scooters.

The following summarises the main themes contained within the responses, in order of most commented to least commented. A full list of responses is attached to enable review of the individual comments received. It is also important to note that many of the responses commented on more than one theme.

- Don't want scooters (no reference to improvement measures).
- Don't believe improvement measures have worked.
- Should stay, great for tourism and locals.
- Hazard when they are used illegally
- Improvement measures are working.
- Would be better if they were also available across more areas (Busselton LIA, Dunsborough Lakes, Old Broadwater Farm, Vasse)

Usage information provided by Neuron within their reporting shows a 7% increase in the number of trips taken on the hireable e-scooters during May-August 2024 versus May-August 2023. Reports also show an increasing demand through the quieter winter season. An average of 130 trips were taken per day across these months this year.

#### **OFFICER COMMENT**

Since the trial extension, Neuron Mobility have been working with City officers to implement improvement measures for their hireable e-scooters. Additionally, Neuron have proven responses to requests from residents and officers and have proactively undertaken a number of improvement measures in addition to those requested by the Council. Details of improvements are as follows:

#### **Helmet Litter**

In response to community feedback regarding abandoned helmets, Neuron has made a concerted effort to reduce the number of abandoned helmets by reinforcing to riders before they commence their ride the legal requirement to wear a helmet. Fines have also been issued to riders who fail to replace helmets at the end of a trip. Local Neuron grounds staff have been more diligent in the collection of abandoned helmets and report on the numbers they collect on a daily basis. The tally has decreased over the past few months, but it is not possible to gauge if this is due to better rider education and behaviour, or simply because of a decline in e-scooter hire over the winter season.

Additionally, Neuron has recently concluded another Helmet Safety Awareness week campaign in conjunction with the [Australian Road Safety Foundation \(ARSF\)](#). The campaign reinforces that wearing a helmet when riding an e-scooter is mandatory in Australia and those that break the rules risk police prosecution and heavy fines. As part of Helmet Safety Awareness Week, Neuron is committing up to \$100,000 globally for rider education and incentives to reinforce the importance of helmets, which are the single most important piece of safety equipment. Scoot Safe Workshops were conducted in the school holidays in Busselton on the 27th of September and in Dunsborough on the 28th of September, focusing on Helmet Safety Awareness Week.

## Parking Stations

Neuron has also removed parking stations from locations where residents have requested this, as well as relocating parking stations where local residents have requested them to make it more convenient for commuting. A number of local businesses have also requested additional parking stations be located at their premises, such as Timothee Resort and Amalfi.

It should be noted that on the ground parking decals have not been installed at every Neuron e-scooter parking location. City Officers worked with Neuron on an initial limited number of high use and prominent locations for Neuron to install e-scooter parking decals. These initial locations were chosen due to having a minimal impact on surrounding users, and in places where it is safe to do so. Several e-scooter parking stations are actually positioned on turf or sand so they are off the paths and out of the way of pedestrians, cyclists and other users. It is not possible to install the decals at parking stations on turf or sand, however the Neuron App advises riders where these stations are. Neuron is enthusiastic for a further roll out of parking decals, however Officers are first assessing the effectiveness of the initial sites and awaiting a decision on the future of hireable e-scooters within the district.

## Speed Limits and No Go Zones

While all hire e-scooters are speed limited in line with State legislation, there are a number of areas that have additional speed limits imposed for safety reasons. To assist City Officers to review maximum speed limits, Neuron Mobility has provided City Officers access to their interactive Google Map which details locations where speed restrictions and no riding zones for their fleet are easily monitored and managed by Neuron by way of “geofence” technology.



Figure 1: Extract from Neuron Mobility shared map

In response to the March 2024 Council resolution and community feedback received in the lead up to that decision, Officers identified several locations to decrease the maximum allowable speed for hireable e-scooters, these included:

- entrances to several resorts along the coastal path network;
- areas where the coastal path is narrow and winding;
- the stretch of footpath adjacent to Bussell Highway in proximity to Busselton Senior High School and aged care facilities.

Anecdotal feedback from local businesses has suggested that e-scooters are being used as a mode of transport for aged care workers, therefore a total ban around aged care facilities would disadvantage those workers who are reliant on them, in particular the international workers who have been brought in to fill critical gaps in the sector. A recent article in the Busselton-Dunsborough Times reported Shelter Brewing’s statements that there are positive implications from the hireable e-scooters for hospitality businesses, as well as ongoing utilisation by their own staff.



In addition to the initial review of geofenced speed limits throughout the district, City Officers can now review speed restrictions, no go zones and parking locations for hireable e-scooters when necessary and can request Neuron to implement further changes and restrictions as they are identified. These restrictions are unfortunately not able to be applied to privately owned e-scooters.

Neuron has committed to work with police and WA Leavers to put in place the same successful restriction as last year for Leaver's Week 2024 and to conduct Scoot Safe workshops for the Leavers cohort.

### **Rider and Community Safety**

Neuron has continued to conduct "Scoot Safe" workshops within both Dunsborough and Busselton. These ongoing safety sessions provide users and the community to engage with representatives from Neuron to better understand the laws regarding age limits, one rider per e-scooter and compliance for riding e-scooters. The software installed on Neuron e-scooters allows them to be slowed down or prohibited completely through GPS positioning and there are currently slow-speed zones, no-ride zones, and no-start zones active to improve safety and discourage anti-social behaviour.

Neuron also continues to have riders pass a "Drink Riding Test". At designated times, riders have to complete cognitive testing and if they fail, are locked out of hiring for three hours.

Neuron provides a local support service either via email or phone and encourage members of the community to report any incidents. Individuals not following the relevant rules can be issued with a warning, suspension or ban through the Neuron app.

### **Reporting and Response Times**

Neuron provides a regular report to the City, capturing data and statistics which include the number of unique users, estimated car trips replaced, number of reported incidents, number of misparked or toppled e-scooters and average time taken to respond. Neuron continues to meet or exceed timeframes within their service level agreement. Neuron currently employ several local operations staff and a full-time supervisor within Busselton. Several senior staff who are based throughout Australia have visited Busselton and maintain regular contact with City Officers to ensure operational standards are being met. A summary report of hireable e-scooter use over the trial period has been provided by Neuron and is attached.

A noticeable change in neatness has been identified by Officers in some areas since these new initiatives have been put in place, although it hasn't eliminated the ongoing issues of discarded helmets and toppled or illegally parked e-scooters throughout the City.

### **Non hireable (privately owned) e-scooters**

Concerns relating to illegal parking, helmet litter and toppled e-scooters are issues that relate directly to the hireable e-scooters, however privately owned scooters are rarely creating these same issues.

With geofencing and capped speed limits for hireable e-scooters, it may be considered that a number of the comments relating to speed limits not being followed and non-riders not being covered by insurance will be specific to private e-scooters. Obviously some members of the public



feel that the general speed of e-scooters is still too fast in general, especially in pedestrian areas, but the speed limits for hireable e-scooters can be continuously reviewed and adjusted, especially in busy areas. Neuron has insurance in place to protect non-riders in the event that they are involved in an accident relating to a Neuron e-scooter and the hireable e-scooters are speed limited to no more than the State legislated speed limit with slower speeds and no-go areas.

Concerns around helmets, multiple riders, under-age riders, use in foreshore and CBD locations and use of CBD paths are common to all e-scooters (and a range of other personal mobility devices). This usage is largely governed via State legislation. The City and Police have a greater ability to influence rider compliance through hireable e-scooters than private usage through a service agreement, no-go zones and slower speed areas as mentioned previously. These can't be applied to private devices.

Unfortunately, issues regarding behaviour and rule breaking i.e. not wearing helmets relates to the behaviour of the riders, but these behaviours are not limited to hireable e-scooters. Until there is a greater focus on the enforcement of helmet laws in general, there is unlikely to be a change in behaviour within the community. This is similar to the requirement to wear a seatbelt or not use a mobile phone in a car - the initiation of a law alone isn't enough to change community behaviour, and enforcement action is required to ensure compliance.

### **Alternative transport service**

The City of Busselton Strategic Community Plan 2021-2031 has a strategic priority to *advocate for improved public transport services that allow for the convenient movement of people to and from local destinations*. It is important to note that the hireable e-scooters are the most readily available form of public transport within Busselton and Dunsborough. While their presence does have a visual impact and at times results in these e-scooters being left in a manner that inconveniences others, this is offset by the availability of transport for those that would not otherwise be able to travel via other means. E-scooters also help to reduce the number of cars on local roads and reduce the number of people seeking parking in some of the City's busiest zones.

The importance of e-scooters in the Busselton transport mix is demonstrated not only by the growing use of the hireable e-scooters, but also the increasing number of private e-scooters being seen on the roads and paths.

### **Statutory Environment**

To keep eRiders and other Western Australian road users safe, the WA Road Safety Commission introduced new eRideables legislation on 4 December 2021. The Road Safety Commission publishes guidelines on the use of e-scooters which are regularly updated and are available on their website: <https://www.wa.gov.au/organisation/road-safety-commission/erideables>

### **Relevant Plans and Policies**

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

Plan:

Not applicable.

Policy:

### Commercial Use of City Land and Facilities

The objectives of this Policy are to set out a framework for managing the commercial use of City Land and Community Facilities which:

- a. encourages innovation, business development, and overall economic growth;
- b. provides diversified goods and services to residents and visitors;
- c. value adds to the overall resident and visitor experience; and
- d. enhances the vibrancy and activation of public spaces.

### Financial Implications

All costs associated with the e-scooter program are borne by the operator, Neuron Mobility.

The City currently derives no commercial return through the current trial agreement with Neuron Mobility because it is still only a trial period. Other local governments consulted throughout the trial have commercial agreements with e-scooter hire companies generating between \$2,000 to \$5,000 per annum. Should Council endorse the Officer Recommendation, the City will proceed to negotiate an agreement that realises a commercial return in line with other commercially licensed and permitted activities within the City.

### External Stakeholder Consultation

#### **Feedback from other Local Governments**

Several local governments were contacted about the ongoing provision of hireable e-scooter service for their community. Responses were varied, with the level of public transport, nature of the urban e-scooter operating environment and population density having a significant impact on both whether they have been supported by the local community and the type of agreements that have been negotiated with hire companies.

#### **Community Comment**

Prior to Council resolving to extend the e-scooter trial in March 2024, a comprehensive community survey was conducted, receiving 1,226 responses. The majority of locals who responded indicated they did not support hireable e-scooters operating within the City of Busselton, citing reasons of untidy parking, safety concerns around speed, antisocial behaviour, drink riding, underage riding and helmet litter.

There was a level of dissatisfaction expressed by some members of the public on the City's facebook page and via email following the announcement that the trial would be extended in March 2024. Many comments suggested that the decision made in March 2024 did not reflect the community expressed through the survey conducted following the 12 month trial.

However, the number of unsolicited comments coming into the City regarding e-scooters has declined significantly compared to when the trial first commenced. Neuron Mobility has also reported a limited amount of feedback coming through their email and web-based contact page.

Over the course of the trial extension, several strategies have been implemented in conjunction with Neuron to attempt to address issues raised by the community. In September 2024, the community

was invited to comment on improvement measures undertaken since the extension of the trial, noting that the required improvements had been implemented from May 2024. This new survey was advertised in the local paper, on the City social media channels and via both the City's Bay to Bay and the Business in the Bay e-newsletters. These are all the same tools and channels used from when the initial survey following the 12 months trial was advertised.

Given that the Council had received extensive information regarding community sentiment from the previous survey, this current opportunity for comment was not a replication of the previous survey, but instead focussed specifically on the effectiveness or not of improvement measures. A total of 185 submissions were 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 select one of the following:

1. Authorises the CEO to negotiate a contract with more than one e-scooter provider.

There are currently two major e-scooter operators in Western Australia - Beam and Neuron Mobility. Consultation undertaken with other local governments indicates that the services being provided to the City of Busselton appear to be on par or a higher standard than that provided elsewhere.

The City has now trialed hireable e-scooters with Neuron Mobility for almost 2 years. In that time, Neuron has responded to community and Council concerns and invested in a local operational premises, staff and fleet. Their local grounds team has built rapport with local businesses and the community and understand the challenges presented by peak season visitation swells and how to implement a response to that. Seeking services from another operator would require the same levels of service and local understanding to be negotiated and implemented.

Disadvantages of permitting multiple operators include queries and complaints being more difficult to address, the need for users to set up different accounts, a potential increase in parking areas and the likelihood of negative community feedback from seeing an increase in the number of hireable e-scooters operating in the community.

2. Cease offering hireable e-scooters as a mode of transport within the City of Busselton.

Hireable e-scooters have proven to be a popular and readily available form of public transport for many people living or visiting the City, however there is significant negative community sentiment from many people that either don't use them or believe they are unsafe and poorly managed.

## CONCLUSION

Over the course of the trial of hireable e-scooters with the City of Busselton, several strategies have been implemented in conjunction with Neuron Mobility to improve operations, with Officers observing a noticeable improvement. Hireable e-scooters have proven to be a popular and readily available form of public transport for many people living or visiting the City. E-scooters support the City's Strategic Priority 2.11 *Advocate for improved public transport services that allow for the convenient movement of people to and from local destinations*. Hireable e-scooters are at present one of the most readily available forms of public transport within Busselton and Dunsborough, however littering of e-scooters and helmets continues to be an issue across a number of areas on a daily basis, especially outside town centres.

While their presence does have a visual impact and at times they are left in an untidy manner or a manner that inconveniences others (e.g. left lying on footpaths or in the bush), there appears to be a growing number of people who are choosing to use e-scooters, some of whom may potentially not otherwise be able to travel the same distances via other means as easily. E-scooters also help to reduce the number of cars on the road and reduces the number of people seeking parking spaces in some of our busiest zones.

Officers recommend the CEO is authorised to negotiate license agreements, at an appropriate fee, for the continued provision of hireable e-scooters within the City of Busselton and these agreements include greater responsibilities for resetting of littered e-scooters and helmets. Enforcing standards relating to addressing littering (as a requirement of any new agreement) would ensure that the operator is required to take action to address the issues. For example, they could reset the positions of e-scooters once a day to ensure footpaths are clear, and that littering of e-scooters and helmets tipped over or dumped outside defined parking areas is addressed in a far shorter period of time than it is currently.

## 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  |
|---|------------------|
| Advise Neuron Mobility of the outcome of the Council decision and commence drafting of an updated licence agreement                       | 20 October 2024  |
| Execute updated licence agreement with Neuron Mobility for provision of hireable e-scooters throughout district of the City of Busselton. | 30 November 2024 |

**13.2. RFT09/24 Provision of Security Screening Services at Busselton Margaret River Airport**

|                                 |   |
|---------------------------------|---|
| <b>Strategic Theme:</b>         | Key Theme 3: Opportunity<br>3.4 Develop aviation opportunities at the Busselton Margaret River Airport. |
| <b>Directorate:</b>             | Business and Economic Development   |
| <b>Reporting Officer:</b>       | Manager Airport – Jenny May   |
| <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>             | 1. CONFIDENTIAL REDACTED - Attachment 1 RFT 09-24 Tender Evaluation Report [13.2.1 - 26 pages]          |

**OFFICER RECOMMENDATION**

**That the Council endorses the outcome of the evaluation panel’s assessment of the tender submissions received in response to RFT09/24 Provision of Security Screening Services at Busselton Margaret River Airport and accepts the tender submission from MSS Security Pty Ltd (ACN 100 573 966) as the most advantageous to the City.**

**EXECUTIVE SUMMARY**

The City invited tenders under RFT 09/24 Provision of Security Screening Services at Busselton Margaret River Airport (the RFT) for the supply of security screening services. This report recommends that the Council endorse the outcome of the evaluation panel’s assessment and accept the tender submission from MSS Security Pty Ltd (ACN 100 573 966) as most advantageous to the City.

**STRATEGIC CONTEXT**

Busselton Margaret River Airport has been identified in the City of Busselton’s Strategic Community Plan (2021-2031) as one of the top five strategic priorities. The provision of security screening services is aligned with the City’s strategic theme of developing aviation opportunities at Busselton Margaret River Airport (BMRA).

**BACKGROUND**

BMRA is a security-controlled Tier 2 airport in accordance with the *Aviation Transport Security Act 2004* and *Aviation Transport Security Regulations 2005*, owned and operated by the City of Busselton. The City of Busselton is the approved Screening Authority for the Airport. BMRA currently services six Regular Passenger Transport (RPT) services and conducts passenger and Checked Baggage Screening (CBS) for these services. The City currently engages Aerodrome Management Services Pty Ltd to provide security screening services at BMRA under a contract which expires on 5 April 2025.

**OFFICER COMMENT**

On Wednesday 19 June 2024, tenders were invited via VendorPanel and advertised in ‘The West Australian’ newspaper and on the City of Busselton website. A total of 104 potential respondents viewed the proposed request for tender which closed at 2.00pm (AWST) on Wednesday 17 July 2024. The City received five tender submissions from the following tenderers:

- Aerodrome Management Services Pty Ltd (AMS)
- Iconic Security Services Pty Ltd (Iconic)
- M.A. Services Group Pty Ltd T/a MA Services Group (MAS Group)
- MSS Security Pty Ltd (MSS)
- Regional Airport Management Services Pty Ltd (RAMS)

**Assessment Process**

In accordance with the City’s procurement practices and procedures, tender assessments were carried out by a tender evaluation panel comprising City officers with relevant skills and experience.

The tender assessment process included:

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

| <b>Criteria</b>                     | <b>Weighting</b> |
|-------------------------------------|------------------|
| Relevant Experience                 | 20%              |
| Local Benefit                       | 5%               |
| Key Personnel Skills and Experience | 20%              |
| Tenderer’s Resources                | 10%              |
| Demonstrated Understanding          | 20%              |

The qualitative criteria were scored depending on the extent to which the respondent was able to appropriately satisfy each criterion, and the tenders scored and ranked to determine the most advantageous outcome to the City, based on principles of best value for money. That is, although price was a consideration, the tender containing the lowest price will not necessarily be accepted by the City and nor will the tender rank the highest on the qualitative criteria.

**Summary of Assessment Outcomes**

The evaluation panel assessed the tenders which resulted in MSS Security Pty Ltd being ranked first in relation to the qualitative criteria, third in relation to price, and being ranked first overall. MSS Security Pty Ltd.'s tender submission was very thorough detailing their extensive relevant experience with security screening in numerous West Australian airports and throughout Australia, including many regional airports. MSS Security also provided detail on their organisational management

reporting, training and continuous testing systems demonstrating industry best practice, proven business processes and support mechanism in place for their screening teams and clients.

The Evaluation Panel recommends that MSS Security Pty Ltd represents the most advantageous tenderer to the City for the Provision of Security Services at BMRA.

The outcomes of the evaluation panel's assessment are further outlined in the Confidential Evaluation Report (Attachment 1). Based on the combination of price and the qualitative criteria it is recommended the tender submission from MSS Security Pty Ltd be accepted.

### **Statutory Environment**

In accordance with section 3.57 of the Act, a local government is required to invite tenders before it enters into a contract of prescribed kind under which another person is to supply goods and services. Part 4 of the *Local Government (Functions and General) Regulations 1996*:

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

The officer recommendation complies with the above-mentioned legislative requirements.

As the contract value is greater than \$500,000, and in accordance with section 5.43(b) of the Act and Council delegation DA 1-04, Council endorsement of the successful tenderer is required.

### **Relevant Plans and Policies**

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

Plan: BMRA Master Plan 2016-2036

Policy:

[Asset Management](#)

[Regional Price Preference](#)

[Work Health & Safety](#)

### **Financial Implications**

Assuming the current flight schedule is maintained the estimated total value of the requirements over the full five-year contract term (including extensions) is estimated as \$2,877,651.

The expenditure incurred by the City for the provision of the security screening services is "passed" through to the airlines in full.

### **External Stakeholder Consultation**

Not Applicable

### **Risk Assessment**

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

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

### **Options**

As an alternative to the proposed recommendation the Council could:

1. Award the tender to an alternative tenderer. In the view of the Officers this could result in the tender being awarded that is not most advantageous to the City.
2. Decline to accept any tender. Officers do not consider that this will represent the most advantageous outcome for the City. It will result in significant delays to the contract award or the City having to recruit and employ staff to deliver the security screening services.

### **CONCLUSION**

It is recommended that the Council accept the tender submission from MSS Security Pty Ltd (ACN 100 573 966) for the provision of security screening services at Busselton Margaret River Airport.

### **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> |
|---|------------------------|
| Contract Award                                    | 1 November 2024        |
| Date of commencement of transitional plan         | 3 February 2025        |
| Commence provision of security screening services | 6 April 2025           |



## 14. CORPORATE STRATEGY AND PERFORMANCE REPORTS

### 14.1. Local Government Elections - Advocacy Position

|                                 |  |
|---------------------------------|--|
| <b>Strategic Theme:</b>         | Key Theme 4: Leadership<br>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>      | Advocacy: to advocate on its own behalf or on behalf of its community to another level of government/body/agency.        |
| <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 There are no confidential attachments  |

#### OFFICER RECOMMENDATION

That the Council recommends that WALGA adopt the following Local Government Election Advocacy Positions:

1. **PARTICIPATION** – Council supports the advocacy position that the sector supports compulsory voting at Local Governments elections.
2. **TERMS OF OFFICE** - Council supports the advocacy position that the sector supports four-year terms on an all in/all out basis.
3. **VOTING METHODS** - Council supports the advocacy position that the sector supports Optional Preferential Voting (OPV) as the preferred voting method for general elections.
4. **INTERNAL ELECTIONS** - Council supports the advocacy position that the sector supports Optional Preferential Voting (OPV) as the preferred voting method for all internal elections.
5. **VOTING ACCESSIBILITY** - Council supports the advocacy position that the sector supports the option to hold general elections through postal voting and In-Person voting.
6. **METHOD OF ELECTION OF MAYOR** - Council supports the advocacy position that the sector supports the return to previous legislated provisions – all classes of local governments can decide, by absolute majority, the method for electing their Mayor or President.

#### **EXECUTIVE SUMMARY**

The Western Australian Local Government Association (WALGA) is seeking Council decisions to inform the sector position on local government elections. This report sets out the current WALGA advocacy position, the specific advocacy positions WALGA is seeking direction on, and an officer recommendation on which advocacy positions the City of Busselton should support.

## STRATEGIC CONTEXT

Local Government elections are an important democratic process that determine the membership of the Council. A Council that is representative of its community and their views is important to ensure that decision making meets the needs of the community.

## BACKGROUND

The *Local Government Amendment Act 2023* introduced a range of electoral reforms that came into effect prior to the 2023 Local Government ordinary elections including:

- the introduction of Optional Preferential Voting (OPV);
- extending the election period to account for delays in postal services;
- changes to the publication of information about candidates;
- backfilling provisions for extraordinary vacancies after the 2023 election;
- public election of the Mayor or President for larger Local Governments;
- abolishing wards for smaller Local Governments; and
- aligning the size of councils with the size of populations of each Local Government (change to representation).

Following requests from several Zone's, WALGA undertook a comprehensive review and analysis of 5 ordinary election cycles up to and including the 2023 Local Government election against the backdrop of these legislative reforms.

The review and report focused on postal elections conducted exclusively by the Western Australian Electoral Commission (WAEC), with the analysis finding evidence of the rising cost and a reduction in service of conducting Local Government elections in Western Australia.

The Elections Analysis Review and Report was presented to State Council 4 September 2024, with State Council supporting a review of WALGA's Local Government Elections Advocacy Positions. A summary of WALGA's current advocacy positions for Local Government Elections is provided below:

| <b>ELECTIONS</b>   |  |
|--------------------|--|
| Position Statement | <p>The Local Government sector supports:</p> <ol style="list-style-type: none"> <li>1. Four year terms with a two year spill</li> <li>2. Greater participation in Local Government elections</li> <li>3. The option to hold elections through: <ul style="list-style-type: none"> <li>• Online voting</li> <li>• Postal voting, and</li> <li>• In-person voting</li> </ul> </li> <li>4. Voting at Local Government elections to be voluntary</li> <li>5. The first past the post method of counting votes</li> </ol> <p>The Local Government sector opposes the introduction of preferential voting, however if 'first past the post' voting is not retained then optional preferential voting is preferred.</p> |
| Background         | <p>The first past the post (FPTP) method is simple, allows an expression of the electorate's wishes and does not encourage tickets and alliances to be formed to allocate preferences.</p>   |

|                                    |   |
|------------------------------------|---|
| State Council Resolution           | February 2022 – 312.1/2022<br>December 2020 – 142.6/2020<br>March 2019 – 06.3/2019<br>December 2017 – 121.6/2017<br>October 2008 – 427.5/2008   |
| Supporting Documents               | <a href="#">Advocacy Positions for a New Local Government Act WALGA submission: Local Government Reform Proposal (February 2022)</a>  |
| <b>METHOD OF ELECTION MAYOR</b>    |   |
| Position Statement                 | Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.   |
| State Council Resolution           | February 2022 – 312.1/2022<br>March 2019 – 06.3/2019<br>December 2017 – 121.6/2017  |
| <b>CONDUCT OF POSTAL ELECTIONS</b> |   |
| Position Statement                 | The <i>Local Government Act 1995</i> should be amended to allow the Australian Electoral Commission (AEC) and any other third party provider including Local Governments to conduct postal elections. |
| Background                         | Currently, the WAEC has a legislatively enshrined monopoly on the conduct of postal elections that has not been tested by the market.   |
| State Council Resolution           | May 2023 – 452.2/2023<br>March 2019 – 06.3/2019<br>December 2017 – 121.6/2017<br>March 2012 – 24.2/2012   |

All Western Australian Local Governments are being asked to provide a Council decision on WALGA’s advocacy positions as they relate to Local Government Elections, to see if those positions are still current. WALGA is requesting a response so that an item can be considered at the December 2024 State Council meeting.

**OFFICER COMMENT**

WALGA has requested that the following advocacy positions be considered by Councils:

| ADVOCACY AREA        | ADVOCACY POSITION OPTIONS  |
|----------------------|--|
| <b>Participation</b> | (a) The sector continues to support voluntary voting at Local Government elections.<br><br>OR<br>(b) The sector supports compulsory voting at Local Governments elections. |

|                                    |   |
|------------------------------------|---|
| <b>Terms of office</b>             | (a) The sector continues to support four-year terms with a two-year spill;<br><br>OR<br>(b) The sector supports four-year terms on an all in/all out basis.   |
| <b>Voting methods</b>              | (a) The sector supports First Past the Post (FPTP) as the preferred voting method for general elections. If Optional Preferential Voting (OPV) remains as the primary method of voting, the sector supports the removal of the 'proportional' part of the voting method for general elections<br><br>OR<br>(b) The sector supports Optional Preferential Voting (OPV) as the preferred voting method for general elections.   |
| <b>Internal elections</b>          | (a) The sector supports First Past the Post (FPTP) as the preferred voting method for all internal elections.<br><br>OR<br>(b) The sector supports Optional Preferential Voting (OPV) as the preferred voting method for all internal elections.  |
| <b>Voting accessibility</b>        | The sector supports the option to hold general elections through:<br>(a) Electronic voting; and/or<br>(b) Postal voting; and/or<br>(c) In-Person voting.  |
| <b>Method of election of mayor</b> | The sector supports:<br>(a) As per the current legislation with no change – Class 1 and 2 local governments directly elect the Mayor or President (election by electors method), with regulations preventing a change in this method.<br><br>OR<br>(b) Return to previous legislated provisions – all classes of local governments can decide, by absolute majority, the method for electing their Mayor or President.<br><br>OR<br>(c) Apply current provisions to all Bands of Local Governments – apply the election by electors method to all classes of local governments. |

Officers recommend that the WALGA advocacy positions should be targeted at increasing participation and engagement, increasing the overall representativeness of the elected member body of the community, increasing stability and minimising costs. Officers have provided recommendations for each of the WALGA advocacy areas below and justification for that position.

### **Participation**

In Australia, voting is compulsory at state and federal elections and in local government elections for all jurisdictions except South Australia and Western Australia. Voter turnout at the previous two City of Busselton local government elections was 34.34% (2021) and 35.13% (2023) reflecting relatively low levels of participation and engagement. This compares to 85.46% turnout at the last state government election (2021) and 90.47% at the last federal election (2022).

Decisions made by democratically elected governments are more likely to be considered legitimate and representative when higher proportions of the population participate in the process to elect their representatives. Compulsory voting can also have an educational effect on electors by providing a reason for them to become informed and engaged on matters affecting them and their

community. Arguments against compulsory voting tend to focus on the idea that compulsory voting infringes on individual liberty.

Officers recommend that the Council support an advocacy position for compulsory voting at local government elections to improve participation and engagement at the local government level and to align with the majority of other Australian jurisdictions.

### **Terms of office**

Officers believe there are benefits of moving to a four year all in/all out election cycle which include reducing election costs (fewer elections), reducing voter election fatigue (fewer elections), and reducing the proportion of a Council term that is subject to caretaker periods. In addition, four-year terms allow time for a Council to form, develop strategy, policy and plans and follow through with the implementation of those strategies, policies and plans without being destabilised by elections and changes in membership. A four-year election cycle is consistent with state government and other eastern state local governments.

The contrary view is that the current two-year election cycle supports continuity of knowledge and experience of the Local Government and identifies key risk of a proposal for an all in/all out as the loss of knowledge and the influence of a Council. It is however, unlikely that no standing elected members would be re-elected.

For the reasons outlined above officers recommend that WALGA take an advocacy position of supporting a four year all in/all out election cycle.

### **Voting methods**

Whilst acknowledging the simplicity of the first past the post system of voting, the use of preferential and proportional systems of voting provide a more representative view of the populations overall preferences. The reform has brought local government in line with state and federal voting systems. Officers support Optional Preferential Voting (OPV) as the preferred voting method for general elections.

### **Internal elections**

For consistency with the election voting methods, officers recommend that the same optional preferential voting method be used for internal elections (such as election of deputy mayor).

### **Voting accessibility**

Officers recommend supporting postal and in person elections in line with current practices. Whilst online voting is widely used in the corporate world and could be seen as a way increase voter participation it has not been adopted for the election of governments in Australia.

### **Method of election of mayor**

Officers recommend that the WALGA advocacy position be to return to the previous legislated provisions that all classes of local governments can decide, by absolute majority, the method for electing their Mayor or President.

Local governments should be able to decide whether they think it is appropriate to have a popularly elected mayor for their district. There are risks associated with the popular election of the Mayor which can include having a Mayor whose planning and policy directions may not have the support of the majority of elected members. Furthermore, popular elections are more likely to benefit financially resourced candidates. The primary argument for popularly elected mayors is that for larger local governments, it is appropriate that they be elected by and accountable to the electors of the entire local government district. However this is somewhat contrary to the position at state and federal level where the people do not elect the premier or prime minister, rather that decision is made by the members of the party who control the lower house of the parliament.

For the reasons outlined it is recommended that all classes of local governments be able to decide, by absolute majority, the method for electing their Mayor or President (whether by popular election or by election from amongst the elected members).

### **Statutory Environment**

Local government elections are dealt with in the *Local Government Act 1995* and *Local Government (Elections) Regulations 1997*.

### **Relevant Plans and Policies**

Not Applicable

### **Financial Implications**

Not Applicable

### **External Stakeholder Consultation**

Not Applicable

### **Risk Assessment**

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

### **Options**

As an alternative to the proposed recommendation the Council could recommend different advocacy options.

### **CONCLUSION**

All Western Australian Local Governments are being asked to provide a Council decision on WALGA's advocacy positions as they relate to Local Government Elections. Officers have provided recommendations for the Council to consider.

**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> |
|-------------------------------|------------------------|
| Communicate decision to WALGA | Mid-October            |

## 15. CHIEF EXECUTIVE OFFICER REPORTS

### 15.1. Elected Member Information Bulletin

|                                 |  |
|---------------------------------|--|
| <b>Strategic Theme:</b>         | Key Theme 4: Leadership<br>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 Status Update Report September 2024 [<b>15.1.1</b> - 2 pages]</li> <li>2. Current Running SAT Reviews [<b>15.1.2</b> - 2 pages]</li> <li>3. Council Resolution Status Update - September 2024 [<b>15.1.3</b> - 57 pages]</li> <li>4. Civil Litigation Report September 2024 [<b>15.1.4</b> - 1 page]</li> </ol> |

### 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

*\*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:

| Committee                        | Meeting Date      | Minutes                 |
|----------------------------------|-------------------|-------------------------|
| Finance Committee                | 4 September 2024  | <a href="#">Minutes</a> |
| Policy and Legislation Committee | 18 September 2024 | <a href="#">Minutes</a> |

### Minor Donations Program – September 2024

The Council allocates an annual budget allowance to the Minor Donations Program. This is provided such that eligible groups and individuals can apply for and receive sponsorship to assist them in the pursuit of endeavours that bring direct benefit to the broader community. Allocation of funds is delegated to the Chief Executive Officer, in accordance with the published guidelines and funding availability.

6 applications were approved in September 2024 totalling \$2,250, as outlined below.

| Recipient   | Purpose  | Amount            |
|---|--|-------------------|
| Mr Asher Bourke                                     | Representing Western Australia in Cross Country Nationals in Tasmania.                 | \$250.00          |
| Mrs Jessica Troode                                  | To participate in AFL National Masters Carnival representing Western Australia.        | \$250.00          |
| Ms Ayla McKenzie                                    | Representing Western Australia in Gymnastics National Championships in Tasmania.       | \$250.00          |
| Miss Saskia Louw                                    | Representing Western Australia in Gymnastics National Championships in Tasmania.       | \$250.00          |
| Busselton Margaret River Junior Cricket Association | Donation towards coloured kit and equipment for compliance with new WACCB regulations. | \$1,000.00        |
| Mr Finn Olney                                       | Participation in Western Australian Premier Cricket.                                   | \$250.00          |
| <b>TOTAL</b>  |  | <b>\$2,250.00</b> |

### Current Active Tenders

The Tender update for September 2024 is provided at Attachment 1

### State Administrative Tribunal Reviews Update

Current State Administrative Tribunal reviews are provided at Attachment 2.

### Council Resolution Status Update

The Council Resolution Status update is provided at Attachment 3.

### **Civil Litigation Update**

The Civil Litigation Update is provided at Attachment 4.

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

### 16.1. Notice of Motion - New CEO Performance Review Committee

#### MOTION

The Council resolves to:

1. **Thank the members of the CEO Performance Review Committee (PRC) for its contribution to the CEO's 2023/4 annual performance review.**
2. **Disband the existing CEO PRC.**
3. **Establish a new CEO PRC with Terms of Reference as per attachment 1 that allow a membership of 9 elected members.**

#### **NOTICE OF MOTION**

Cr Andrew Macnish has given notice that at the meeting on 16 October 2024, he will move the above motion.

#### **REASONS**

One week prior to the election of the current Council, a CEO Performance Review Committee and Terms of Reference (C2310/147) was established. Earlier that year a CEO Performance Review Policy (C2301/010) was also resolved. The new Council resolved to change the mechanics implicit in the above and the process for the CEO's recent successful annual performance review was completed last month. Hence the PRC established under the ToR prior to the existence of the current Council has completed its role.

The Council supported an upgrade to the previously proposed process which involved all elected members. This facilitated and encouraged a range of inputs to ensure a robust and inclusive discussion that also (maturely) involved the CEO directly. It also ushered in successful contract element negotiations – again, directly with the CEO.

All EMs have now sampled the value to be had by being included (and seeing to have been included), in representing the 'employer' in overseeing its single employee's annual performance. Accordingly, this governance improvement should now be reinforced through the amending of the ToR particularly offering PRC places to all EMs.

The Council would be encouraged to consider the logistical benefits of this (full EM complement) PRC given it can be scheduled outside Council meeting dates (and thus not mixing the typical workshop type discussion of confidential matter/s with otherwise mainstream/open OCM content).

#### **OFFICER COMMENT**

Officers feel that current membership of the CEO Performance Review Committee consisting of the Mayor plus 3 elected members is effective and appropriate, and do not support disbanding of the current committee in favour of a new committee, noting that the objectives of the proposed new committee are the same as the current committee.

Officers acknowledge the previous administrative error in relation to the appointment of an additional member to the CEO Performance Review Committee, over and above the membership in the terms of reference; with the Mayor plus 3 elected members – Councillors Cox, Lee and Kaigg – currently appointed to the committee. Officers have previously recommended to the Council that the terms of reference be amended to reflect this increased membership.

Officers do not believe that a committee of all elected members is efficient or necessary; items could instead go direct to the Council and / or be discussed with all elected members through existing workshop / forum mechanisms.

If the Council was of a mind to add more members to the committee it could do this by simply amending the current terms of reference to increase the membership and appointing additional members (who have nominated) as members. There is no need to disband the current committee.

## 16.2. Notice of Motion - Local Government Act

### MOTION

That the CEO write to the Minister for Local Government, the Hon Hannah Beazley, requesting that impending Bill 181<sup>[1]</sup> (changes to the Local Government Act) respectfully be withdrawn from Parliament sitting schedule until such time as:

1. The Bill has been formally put out for public comment and time allowed for elected members, and/or councils, and the community at large to submit comments about the raft of proposed changes;
2. A parliamentary committee has considered those changes; and
3. The proposed changes to Local Government regulations, model charters, guidelines, templates and any other legislation change supported or required by the Bill are identified.

<sup>[1]</sup> *Local Government Amendment Act 2024*

[https://parliament.wa.gov.au/Parliament/Bills.nsf/E89C0023410BDDCF48258B790032ADCF/\\$File/Bill%2B181-1.pdf](https://parliament.wa.gov.au/Parliament/Bills.nsf/E89C0023410BDDCF48258B790032ADCF/$File/Bill%2B181-1.pdf)

### **NOTICE OF MOTION**

Cr Anne Ryan has given notice that at the meeting on 16 October 2024, she will move the above motion.

### **REASONS**

The first tranche of amendments to the Local Government Act were widely publicised and gave opportunity for elected members/council's and the community's input. It is alarming to find out the second tranche has had its second reading in the Lower House but little was/is known about the secretive changes until they were tabled in the parliament.

In 2020 the "*Local Government Review Panel Final Report Recommendations for a new Local Government Act for Western Australia*"<sup>[1]</sup> made 65 recommendations, of which some have been added to the impending legislation and many have been ignored. Why some recommendations have been accepted and others ignored is unclear as no formal consultation (or indeed public knowledge of the secretive Bill) had been forthcoming.

It is insulting that under the Act, specifically 2.10, that the current role of councillors in part is to (c) facilitate communication between the community has been overridden. The *Local Government Reform – Summary of Proposed Reforms*<sup>[2]</sup> suggested the following:

*"Local government benefits all Western Australians. It is critical that local government works with:*

- *a culture of openness to innovation and change*
- *continuous focus on the effective delivery of services*
- *respectful and constructive policy debate and democratic decision-making*

- *an environment of transparency and accountability to ensure effective public engagement on important community decisions”.*

Why then is it incumbent on local government, but not on the State Government to be open, transparent, accountable, and engage the community on important decisions? How will we explain to the community these changes that will affect them, and who will pay from the municipal funds for the additional roles of inspector and inspectorate officers who will just delegate their roles to the very DLGSC officers who undertake the role already? Cost shifting with no real oversight gain is again levelled against local government.

You will make the work of elected members much harder to achieve and their workplace less safe by:

- denying them paid legal representation against frivolous and vexatious claims made against them including by their employees;
- punishing them financially for not attending training sessions when it could simply be required that the training not paid for until after the Elected Member has attended the training;
- giving DLGSC employees police powers to investigate elected members without adequately dealing with inherent conflicts of interest that currently beset the Elected Member conduct complaints system;
- requiring elected members to consider the interests of visitors and tourists to their district;
- doubling of fines and penalties that apply to elected members;
- continuing the secrecy of the outcomes of the multiple failed minor breach complaints by employees against elected members;
- only pay elected members for each meeting they attend and not an averaged amount;
- not requiring serious breach complaints to be sent to the SAT;
- not requiring CEOs to act in good faith as recommended by the parliamentary committee report into serious misconduct.

Employees of Local Government are also implicated in this impending legislation and should also be given time to explore the good, bad, and ugly.

Little will change from the current broken system and indeed it may be worse for elected members. While some of the impending changes to the Act are progressive, some are very concerning, and some simply do not make sense. Considering the many disputed meanings of many provision of the current Local Government Act, at what point will the Regulations, model charters, guidelines, and templates be forthcoming to show that the impending changes have not enabled further harm to elected members and similar confusion. Considering the Panel recommendation 4, a simplified, less prescriptive version of the Act, I do not believe that has been achieved.

<sup>[1]</sup> [https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-review-panel-final-report.pdf?sfvrsn=acefce14\\_1](https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-review-panel-final-report.pdf?sfvrsn=acefce14_1)

<sup>[2]</sup> [https://prod.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-reform/local-government-act-reform-submissions/government/shire-of-manjimup-full.pdf?sfvrsn=aa489769\\_6#:~:text=Minister%20for%20Local%20Government%20has%20now](https://prod.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-reform/local-government-act-reform-submissions/government/shire-of-manjimup-full.pdf?sfvrsn=aa489769_6#:~:text=Minister%20for%20Local%20Government%20has%20now)

## OFFICER COMMENT

The process for Local Government Reform commenced in 2017 when the State Government announced a review of the *Local Government Act 1995*.

A timeline of events is outlined in the table below to assist the Council understand the reform process and consultation that has occurred prior to deciding whether to send a letter to the Minister for Local Government requesting in the terms set out in the notice of motion.

| Date                          | Detail of Reform/Consultation   |
|-------------------------------|---|
| 2017                          | <p>The McGowan Government announces a review of the <i>Local Government Act 1995</i>.</p> <p>The objective of the review was for Western Australia to have a new, modern Act that empowers local governments to better deliver for the community. The vision was for local governments to be agile, smart and inclusive.</p>  |
| September 2018 - March 2019   | <p>State-wide community consultation conducted including workshops with local governments and communities.</p> <p>More than 3000 survey responses and written submissions (including a submission from the City) were received from community members, ratepayer associations, industry groups, local governments, council members, and peak bodies.</p>  |
| 27 June 2019                  | <p><i>Local Government Legislation Amendment Act 2019</i> was passed including priority reforms to gifts, mandatory training and access to information.</p>   |
| 2019                          | <p>The Legislative Council established Select Committee into Local Government.</p>  |
| 2019                          | <p>The Local Government Review Panel (<b>Panel</b>) was also established in 2019 to consider complex reform proposals.</p>  |
| May 2020                      | <p>The Panel provided its final report with recommendations to the Minister for Local Government in May 2020.</p>   |
| November 2021 – February 2022 | <p>The Department of Local Government, Sport and Cultural Industries (<b>DLGSC</b>) developed proposals for reform. The DLGSC summary of the existing position, original reform proposals and amended proposals can be found <a href="#">here</a>.</p> <p>DLGSC invited comments from local governments and the wider community to inform implementation of the proposed reforms with the consultation period running from 10 November 2021 to 25 February 2022.</p> <p>More than 200 submissions were received from local governments, peak bodies, advocacy groups and members of the public.</p> <p>Submissions in response to the reform proposals (including the City of Busselton’s submission) can be found on the consultation page of the <a href="#">DLGSC website</a>.</p> |

|                       |  |
|-----------------------|--|
| <p>3 July 2022</p>    | <p>The Minister for Local Government, announced the final package of reforms to the <i>Local Government Act 1995</i>, following a review of the public submissions.</p> <p>State Government Media Statement: <a href="#">Tougher penalties on the way for bad behaving councillors with major local government reforms finalised   Western Australian Government (www.wa.gov.au)</a></p> <p>To ensure that key election related reforms were in place before the 2023 local government elections, the amendments to the Local Government Act were divided into two tranches.</p> |
| <p>11 May 2023</p>    | <p>The first tranche was passed by Parliament on 11 May 2023, and focused on electoral reform ahead of the 2023 Local Government Elections.</p> <p>State Government Media Statement: <a href="#">Local government reform bill passes through Parliament   Western Australian Government (www.wa.gov.au)</a></p>  |
| <p>15 August 2024</p> | <p>The second tranche of local government reforms were introduced to Parliament as the <i>Local Government Amendment Bill 2024</i>.</p> <p>State Government Media Statement: <a href="#">Laws to establish Local Government Inspector before Parliament   Western Australian Government (www.wa.gov.au)</a></p>  |

In respect to the specific requests set out in the notice of motion officers observe that:

1. The Local Government Act reforms have been subject to the consultation set out in the table above. Elected members should consider the past consultation when determining whether to request that the *Local Government Amendment Bill 2024* be put out for public comment.
2. While the Council can request that the changes be considered by a Parliamentary Committee, it will ultimately be up to Parliament to decide whether to establish a select committee or refer the matter to a committee.
3. It is usual for regulations to be developed after the passing of legislation. The *Local Government Amendment Bill 2024* identifies where regulations may be made. Review of regulations is undertaken by the Joint Standing Committee on Delegated Legislation to ensure compliance with the empowering act. That committee can recommend that the Parliament disallow delegated legislation.



### **16.3. Notice of Motion - Budget Amendments**

#### **MOTION**

**That the Council:**

- 1. Transfer from the Sport and Recreation Facility Reserve to the 2024/25 budget (account 11128-1010-3260-0000) funding of \$150,000 to facilitate the necessary sport and recreation planning to achieve the CEO Performance Criteria #4 and delivery of broader sport and recreation planning to help finalise the City's sport and recreation facility strategy; and**
- 2. Transfer from the Airport Reserve to the 2024/25 budget (account 10594-1007-3260-0000) funding of \$150,000 to facilitate Airport planning to achieve the CEO Performance Criteria #5.**

#### **NOTICE OF MOTION**

Cr Andrew Macnish has given notice that at the meeting on 16 October 2024, he will move the above motion.

#### **REASONS**

The Council has recently established a new set of annual KPIs which did not have specific funding attached and thus the CEO's ability to attain them could be compromised. The annual budget had already been set.

Significant projects commence with an idea but cannot be discussed sensibly without first ascertaining if they are conceptually feasible and not fatally flawed. Whilst the CEO and his team may have the necessary range of skills, they are already committed to a busy program of operations and compliance.

It is good governance to ensure the CEO is adequately resourced to perform his contractual and statutory role and also to conceptually explore matters to a certain degree before being able to inform the elected member group of what might be feasible, an order of magnitude of cost, logistical implications, timeframes, inputs from contributing parties and generally under what circumstances the project would have to be further progressed (and formally considered in the Council planning and budgeting process).

The reserve funds that might well be required already exist and arguably, have already been identified for related purpose/s.

#### **OFFICER COMMENT**

Several of the additional performance criteria (PC) set by the Council for the 24/25 period can be achieved within internal or current budgeted resourcing, noting that the outcomes may be a requirement for additional funding in future budgets (to be communicated as the PC are delivered on).

The exception is PC # 4 in relation to the development of a funding strategy for the future provision of a district sport and recreation facility and PC # 5 in relation to a strategy for the short, mid and

long term future development of the Airport. Funding is required to deliver on these PC and can be drawn from the Sport and Recreation Reserve and Airport Reserve respectively.

As such it is recommended that the NoM is supported.

## 17. URGENT BUSINESS

## 18. CONFIDENTIAL MATTERS

### OFFICER RECOMMENDATION

**That the Council close the meeting to consider an item which is confidential under section 5.32(2)(c) of the *Local Government Act 1995*.**

#### **18.1. Saltwater Project Review**

This report contains information of a confidential nature in accordance with section 5.23(2)(c) of the *Local Government Act 1995*, as it contains information relating to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

## 19. CLOSURE