

Please note: These minutes are yet to be confirmed as a true record of proceedings

**CITY OF BUSSELTON**

**MINUTES FOR THE COUNCIL MEETING HELD ON 26 JUNE 2019**

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## MINUTES

MINUTES OF A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 26 JUNE 2019 AT 5.30PM.

1. DECLARATION OF OPENING ACKNOWLEDGEMENT OF COUNTRY / ACKNOWLEDGEMENT OF VISITORS / DISCLAIMER / NOTICE OF RECORDING OF PROCEEDINGS

The Presiding Member opened the meeting at 5.30pm.

2. ATTENDANCE

Presiding Member:

Cr Grant Henley Mayor

Members:

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

Officers:

Mr Mike Archer, Chief Executive Officer  
Mr Oliver Darby, Director, Engineering and Works Services  
Mr Paul Needham, Director, Planning and Development Services  
Mrs Naomi Searle, Director, Community and Commercial Services  
Mr Tony Nottle, Director, Finance and Corporate Services  
Ms Sarah Pierson, Manager, Governance and Corporate Services  
Mrs Emma Heys, Governance Coordinator

Apologies:

Nil

Approved Leave of Absence:

Cr Rob Bennett

Media:

“Busselton-Dunsborough Times”  
“Busselton-Dunsborough Mail”

Public:

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**3. PRAYER**

The prayer was delivered by Pastor Andy Pitt of the Down South Gospel Church.

**4. APPLICATION FOR LEAVE OF ABSENCE**

Nil

**5. DISCLOSURE OF INTERESTS**

The Mayor noted that a declaration of impartiality interest had been received from:

- Councillor Paul Carter in relation to Agenda Item 9.1 Petition received 12 June 2019 to cease the current use of Reserve 12493, Lot 4842 and revegetate.
- Councillor Coralie Tarbotton in relation to Agenda Item 14.1 Award of RFT 02-19 Provision of Cleaning Services to City Owned Facilities.

The Mayor noted that he had also made a declaration of financial interest:

- Mayor Henley in relation to Agenda Item 19.1 – Urgent Business – Proposed Australian Underwater Discovery Centre

The Mayor advised that in accordance with the Local Government (Rules of Conduct) Regulations 2007 these declarations would be read out immediately before the Items were discussed.

**6. ANNOUNCEMENTS WITHOUT DISCUSSION****Announcements by the Presiding Member**

Nil

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

Nil

## 8. CONFIRMATION AND RECEIPT OF MINUTES

### Previous Council Meetings

#### 8.1 Minutes of the Council Meeting held 12 June 2019

##### COUNCIL DECISION

**C1906/102**

Moved Councillor R Reekie, seconded Councillor C Tarbotton

That the Minutes of the Council Meeting held 12 June 2019 be confirmed as a true and correct record.

**CARRIED 8/0**

### Committee Meetings

#### 8.2 Minutes of the Policy and Legislation Committee meeting held 11 June 2019

##### COUNCIL DECISION

**C1906/103**

Moved Councillor K Hick, seconded Councillor C Tarbotton

That the Minutes of the Policy and Legislation Committee meeting held 11 June 2019 be noted.

**CARRIED 8/0**

#### 8.3 Minutes of the Finance Committee meeting held 20 June 2019

##### COUNCIL DECISION

**C1906/104**

Moved Councillor R Reekie, seconded Councillor J McCallum

That the Minutes of the Finance Committee meeting held 20 June 2019 be noted.

**CARRIED 8/0**

## 9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

### Petitions

DISCLOSURE OF INTEREST	
Date	26 June 2019
Meeting	Council
Name/Position	Paul Carter, Councillor
Item No./Subject	9.1
Type of Interest	Impartiality Interest
Nature of Interest	I declare an Impartiality Interest in relation to the Petition being presented to Council, as my Mother, Suzanne Carter of 486 Geographe Bay Road, Abbey, is a signatory on the Petition. As a consequence there may be a perception that my impartiality on the matter may be affected. I declare that I will consider the item solely on its merits and vote or act accordingly.

## 9.1 Petitions

A petition was received 12 June 2019, to cease the current use of Reserve 12493, Lot 4842 and revegetate, received from Mr Colin Fredrick Bussell, as the promoter of the petition containing 67 signatures.

Copies of the Petition received has been provided to all Councillors.

Council may vote to either receive the petition; reject the petition; receive and refer to the CEO to prepare a report; or receive and refer to the CEO for action.

### **COUNCIL DECISION**

**C1906/105** Moved Councillor J McCallum, seconded Councillor R Paine

That the Petition received 12 June 2019, to cease the current use of Reserve 12493, Lot 4842 (Yungarra Drive, Quedjinup) and revegetate, be received and referred to the CEO to prepare a report to the Council.

**CARRIED 8/0**

### **Presentations**

Nil

### **Deputations**

Nil

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

Nil

## **11. ITEMS BROUGHT FORWARD**

### **For the convenience of the Public**

Nil

### **Adoption by Exception Resolution**

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

**COUNCIL DECISION/ COMMITTEE RECOMMENDATION AND OFFICER  
RECOMMENDATION**

**C1906/106** Moved Councillor J McCallum, seconded Councillor C Tarbotton

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

- 12.1 Policy and Legislation Committee - 11/06/2019 - REVIEW OF COUNCIL POLICY - PRESENTATIONS ON TERMINATION
- 12.2 Policy and Legislation Committee - 11/06/2019 - NEW COUNCIL POLICY - AUDIO RECORDING OF COUNCIL MEETINGS
- 12.5 Finance Committee - 20/06/2019 - ACCOUNTING TREATMENT OF DEPOSITS AND BONDS
- 13.1 PROPOSED STRUCTURE PLANS FOR LOT 590 AND LOT 612 SPINNAKER BOULEVARD AND LOT 585 AND PT LOT 9501 PORT LAND, GEOGRAPHE; TOGETHER WITH ASSOCIATED MODIFICATIONS TO THE PORT GEOGRAPHE DEVELOPMENT PLAN AND VILLAGE CENTRE PRECINCT PLAN - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL
- 15.1 NAMING OF THE BUSSELTON TENNIS CENTRE
- 17.1 COUNCILLORS' INFORMATION BULLETIN



**CARRIED 8/0**

**EN BLOC**

## ADOPTION BY EXCEPTION RESOLUTION

### 12. REPORTS OF COMMITTEE

#### 12.1 Policy and Legislation Committee - 11/06/2019 - REVIEW OF COUNCIL POLICY - PRESENTATIONS ON TERMINATION

<b>SUBJECT INDEX:</b>	Council Policies
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Governance
<b>REPORTING OFFICER:</b>	Manager Governance and Corporate Services - Sarah Pierson
<b>AUTHORISING OFFICER:</b>	Director Finance and Corporate Services - Tony Nottle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Proposed Policy - Payments and presentations on termination 
	Attachment B Current Policy - Presentations on Termination 

**This item was considered by the Policy and Legislation Committee at its meeting on 11 June 2019, the recommendations from which have been included in this report.**

#### PRÉCIS

This report presents a revised and expanded 'Presentations on Termination' Council Policy, proposed to be renamed 'Payments and presentations on termination' (Attachment A) (the Policy) for Council approval. The proposed changes are designed to ensure the Policy more fully responds to the requirements of Section 5.50 of the *Local Government Act 1995*, and that appropriate recognition of service is provided for employees leaving the organisation.

#### BACKGROUND

Section 5.50 of the *Local Government Act 1995* (the Act) requires the local government to have a policy in relation to payments that may be made to employees who are finishing employment which are in addition to entitlements under a contract of employment or industrial instrument, including an award or enterprise agreement. A policy in relation to the presentation of (or contribution to) a gift to an employee on termination has been in place for a long period of time, and was last reviewed in August 2017, where the method of determining the value of the contribution towards a gift was simplified.

The Local Government Amendment Bill 2019 currently before the Legislative Council, and expected to be given Royal Assent in the coming months, will result in an explicit requirement for all local governments to publish their policy in relation to Section 5.50 of the Act. The City has reviewed its current policy and recommends that it be expanded as outlined in the officer comment section of this report, improving overall governance in relation to payments made to employees on termination that are in addition to those made under the terms of a contract of employment or industrial instrument.

#### STATUTORY ENVIRONMENT

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



Section 5.50 (1) of the Act states:

- (1) A local government is to prepare a policy in relation to employees whose employment with the local government is finishing, setting out —
- (a) the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and
  - (b) the manner of assessment of the additional amount, and cause local public notice to be given in relation to the policy.

As per Section 5.50 (4) “a reference to a payment to a person includes a reference to the disposition of property in favour of, or the conferral of any other financial benefit on, the person” and hence includes the contribution to a gift.

The value of a payment made under this section is not to exceed the amount prescribed by Regulation 19A of the Local Government (Administration) Regulations 1996 (the Regulations), being:

- \$5,000 to a CEO or senior officer in all cases;
- 12 months’ pay for all other employees where the employment ends by way of the employee accepting voluntary severance by way of resignation; and
- \$5,000 for all other employees where the employment ended for other reasons.

Importantly, Section 5.50 and Regulation 19A only relate to payments that are made in addition to an amount which the employee is entitled to under their contract of employment or an industrial instrument. Further, regulation 18B of the Regulations provides that a contract of employment for a CEO or senior officer may include a term that the employee will (in certain circumstances) receive a payment on termination of up to 12 months’ remuneration, or the balance of their contract term. As this is a payment that the senior employee is entitled to under their contract, it is not captured by Section 5.50 or Regulation 19A, or therefore the Policy.

Section 5.50 and Regulation 19A also only deals with payments that are made in relation to an employee whose employment with the local government is finishing (i.e. a termination payment). A payment that is made to a terminated employee in settlement of a legal claim (e.g. an unfair dismissal claim) is not a payment made in relation to that employee’s employment finishing, and therefore would not fall within the scope of section 5.50 or the cap provided by Regulation 19A. A severance payment however made to an employee in settlement of a dispute where they have, or are reasonably likely to, make a claim would fall within the scope of the Policy.

## **RELEVANT PLANS AND POLICIES**

In August 2017 the CEO commissioned a high level independent review of the City’s governance systems – the Governance Systems Review (GSR). The GSR made a number of recommendations with respect to the City’s policy and procedure framework. In response the City developed a policy framework which sets out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures.

## **FINANCIAL IMPLICATIONS**

The provisions of the Policy are catered for within the City’s annual budget, with a current annual allocation of \$4,000 for recognition of service and the settlement of employment related claims funded where necessary through existing salaries and wages budget.

## **LONG-TERM FINANCIAL PLAN IMPLICATIONS**

Amending the Policy will have no long term financial plan implications.

## **STRATEGIC COMMUNITY OBJECTIVES**

The Policy, and specifically the proposed amendments, aim to improve transparency and governance in relation to payments of a type outlined in Section 5.50 of the Act, therefore supporting Key Goals Area 6 – Leadership and Community Objective 6.1 – Governance systems, processes and practices are responsible, ethical and transparent.

## **RISK ASSESSMENT**

There are no identified risks of a medium or greater level associated with the officer recommendation, with the amendments to the Policy improving overall governance and compliance with the Act.

## **CONSULTATION**

A review of other local government policies referencing Section 5.50 found a fair degree of diversity in terms of scope and content. The City of Joondalup's policy for instance, in addition to payments for the settlement of employment claims, provides for payments on redundancy (over and above entitlements) and in broad circumstances relating to a voluntary severance, based on the person having been employed for a continuous period of over ten years, and having demonstrated a commendable or outstanding level of performance. The City of Wanneroo's policy provides for a severance payment in circumstances relating to settlement of a claim, plus illness or impairment or poor performance / conduct. The City of Stirling provides a payment to employees on leaving based on their years of service.

The City of Busselton provides adequate redundancy entitlements under its contracts of employment / enterprise agreement and therefore we have limited the Policy to severance payments in settlement of a dispute where there is a reasonable risk of a legal claim. External legal advice about, and review of, the Policy was sought, with the inclusion of provisions relating to such payments recommended as best practice.

## **OFFICER COMMENT**

The current 'Presentations on Termination' policy deals solely with Council's contribution (payment) in relation to a farewell gift and function for an employee on termination. Three changes are proposed in relation to this aspect of the Policy.

One, it is recommended that the threshold for eligibility be reduced from two years' of service to a minimum of one year. An employee will generally, after a year of employment, have contributed to the achievements of their team and established good working relationships with their colleagues. A farewell function in particular is considered important as it plays a role in creating positive employee relations and branding.

Secondly a change is recommended in relation to the Council contribution value for a gift where between 10 and 15 years of service has been completed. It is recommended that this be increased from \$100 to \$150. This provides for a more even increment in the contribution value with an increase of \$50 every 5 years until 20 years of service, where it then increases more significantly.

And finally it is recommended that the maximum amount for a farewell function (for those situations where the CEO feels exceptional circumstances apply) be reduced from \$400 to \$300. This is based on analysis of spend in this area.

With respect to the inclusion of provisions relating to payments made on termination, it is recommended that the Chief Executive Officer be authorised to make a severance payment in settlement of a dispute where an employee has, or is reasonably likely to, take action or make a claim under any relevant industrial relations legislation. In determining an appropriate settlement amount the Policy sets out the following factors:

- a. the amount recommended by industrial legal advisors, a court or industrial tribunal to settle the matter;
- b. the exposure or potential exposure to litigation and the strength of the respective cases;
- c. the cost or potential cost of legal services in relation to the matter; and
- d. the disruption to operations and cost to the organisation of the dispute ongoing.

Unfortunately not all employment relationships end amicably and disputes can arise that give cause for a mutual separation to be considered, generally in circumstances where the cost to the City of a matter proceeding through a court or industrial tribunal is likely to be high, or where the operational cost of a dispute ongoing is considered significant. These are enacted through a voluntary resignation and severance payment. The City's current policy does not contain specific provision for this. As a result mutual separations are required to be structured within the terms and conditions of a contract of employment. The recommended provisions will provide for improved transparency and clarity in these situations.

## **CONCLUSION**

It is recommended that the Policy be adopted as a revised and renamed Council policy 'Payments and presentations on termination', maintaining and slightly improving the current recognition of service provisions, and ensuring that the City has clear and accountable governance structures in place for the settling of employment related disputes in accordance with Section 5.50 of the *Local Government Act 1995*.

## **OPTIONS**

The Council could:

1. decide to retain the Policy in its current form.
2. decide to make additional amendments.

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

The Policy will be implemented immediately on adoption.

## **OFFICER RECOMMENDATION**

That the Council adopts the Council Policy 'Payments and presentations on termination' as per Attachment A, to replace the current Council policy entitled 'Presentations on Termination' (Attachment B).

**COUNCIL DECISION AND COMMITTEE RECOMMENDATION****C1906/107**

Moved Councillor J McCallum, seconded Councillor C Tarbotton


That the Council adopts the Council Policy 'Payments and presentations on termination' as per Attachment A, to replace the current Council policy entitled 'Presentations on Termination' (Attachment B), inclusive of the following Committee changes:

- i. Reorder paragraphs 1.1 and 1.2;
- ii. Amend the wording in paragraphs 1.1 and 1.2 respectively to the following:
  - "1.1 This Policy provides a framework for recognising, where relevant, the contribution of employees when they voluntarily leave the employment of the City.
  - 1.2 This Policy additionally sets out the circumstances in which the City of Busselton will pay an employee who is leaving the employment of the City a severance payment in addition to any amount the employee is entitled to under their contract of employment, Industrial Instrument or order of a court or industrial tribunal, in accordance with Section 5.50 of the *Local Government Act 1995 (WA)*";
- iii. Reorder Paragraph 5. Policy Statement:
  - a. Move paragraphs 5.5, 5.6 and 5.7 up to commence at 5.1 (now reading 5.1 through to 5.3).
  - b. Move paragraphs 5.1, 5.2, 5.3 and 5.4 down to commence at 5.4 (now reading 5.4 through to 5.7);
- iv. Remove 'industrial' from paragraph 5.3 (a); and
- v. Remove symbols from the 'Years of Service' column within the table in paragraph 5.5 and replace with 1 to 5 years; 5 to 10 years, 10 to 15 years, and so forth.

**CARRIED 8/0****EN BLOC**

Reason: The Committee felt that the amendments to the wording would improve readability of the policy and the reordering of paragraph 5 would provide for the more positive aspects of recognition to be considered first.

## 12.2 Policy and Legislation Committee - 11/06/2019 - NEW COUNCIL POLICY - AUDIO RECORDING OF COUNCIL MEETINGS

<b>SUBJECT INDEX:</b>	Council Meetings
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Governance
<b>REPORTING OFFICER:</b>	Manager Governance and Corporate Services - Sarah Pierson
<b>AUTHORISING OFFICER:</b>	Director Finance and Corporate Services - Tony Nottle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Proposed Council Policy - Audio Recording of Council Meetings 

**This item was considered by the Policy and Legislation Committee at its meeting on 11 June 2019, the recommendations from which have been included in this report.**

### PRÉCIS

This report presents a new policy 'Audio Recording of Council Meetings' (Attachment A) (the Policy) for Council approval. The Policy has been developed following a request from a member of the public for a copy of a recording of an Ordinary Council Meeting taken under the City's Standing Orders Local Law 2018 for minute purposes, and following advice from the Western Australian Local Government Association (WALGA) and a review of other local government policies relating to the topic. The Policy is recommended for Council approval.

### BACKGROUND

Clause 6.14 of the City of Busselton Standing Orders Local Law 2018 provides for the proceedings of a meeting to be recorded by or at the discretion of the CEO for the purpose of taking minutes, subject to the meeting being advised that the meeting is being recorded for that purpose. For approximately the last six months Ordinary Council Meetings have been recorded for the purposes of taking minutes.

In April the City received a request from a member of the public for a copy of the recording of a Council meeting. In the absence of a clear policy position regarding public access to the recordings taken, the City declined the request, resulting in a request for the same being made under the Freedom of Information (FOI) Act 1992. Advice from the City's FOI officer indicated that the recording would likely be released (subject to the consideration of personal information) under the FOI Act, however it was in absence of a policy determined as the most appropriate channel for the request to be considered.

In the interim the City contacted WALGA for advice who recommended that a policy be put in place governing the recording of meetings and access to such recordings. A number of other local governments were also contacted, with the following table summarising the various policy positions:

City of Cockburn	<ul style="list-style-type: none"> <li>• Tape recordings or transcripts not made available to members of the public outside of Freedom of Information legislation.</li> </ul>
City of Kalgoorlie Boulder	<ul style="list-style-type: none"> <li>• Policy states applications must be made to the CEO, and provide details of the item concerned and a reason for the request.</li> <li>• CEO position is generally that the recordings are for minute taking only and so are not available to anyone, including elected members</li> </ul>

City of Kalamunda	<ul style="list-style-type: none"> <li>• Provide copies of recordings on a disk for a \$15 fee.</li> <li>• Understand that recordings, even though generally for minute taking purposes, are still available under FOI, hence provide them for a fee.</li> </ul>
City of Wanneroo	<ul style="list-style-type: none"> <li>• Public may purchase a copy of recorded proceedings or alternatively listen to recorded proceedings with the supervision of a City Officer.</li> <li>• Costs charged as per fees and charges</li> </ul>
City of South Perth	<ul style="list-style-type: none"> <li>• Public may purchase a copy of the recorded proceedings upon written request to the CEO and the payment of the prescribed fee.</li> </ul>
City of Albany	<ul style="list-style-type: none"> <li>• Provide word for word transcripts of recordings to members of the public.</li> <li>• Do not provide a media file (audio).</li> </ul>
City of Swan	<ul style="list-style-type: none"> <li>• Recordings available on website following meeting free of charge.</li> <li>• For the purposes of transparency and increased participation in decision-making.</li> <li>• Also considered a record under FOI Act</li> </ul>
City of Vic Park	<ul style="list-style-type: none"> <li>• Provide recording on website free of charge.</li> <li>• Pending approval for live audio/video streaming of council meetings.</li> </ul>

All of the policies reviewed considered the recordings a record retainable under the State Records Act 2000. In light of this, and the ability for them to be accessed under FOI legislation, officers have developed a policy position similar to that of the City of Wanneroo, South Perth and Kalamunda, with the recordings available to purchase for a fee.

### 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 the recommendation of a Committee it has established in accordance with Section 5.8 of the Act.

As outlined in the background section of this report the *City of Busselton Standing Orders Local Law 2018* provides for the Chief Executive Officer to audio record meetings for the purpose of taking minutes. Any such recordings are considered a record under the *State Records Act 2000* and are required under the General Disposal Authority for Local Government to be retained for 1 year after the minutes are confirmed. It is our general understanding that they are therefore also available under FOI legislation.

### RELEVANT PLANS AND POLICIES

In August 2017 the CEO commissioned a high level independent review of the City's governance systems – the Governance Systems Review (GSR). The GSR made a number of recommendations with respect to the City's policy and procedure framework. In response the City developed a policy framework which sets out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures.

### FINANCIAL IMPLICATIONS

Adoption of the Policy will require a fee to be set for the purchase of a copy of each recording. It is recommended that this fee be set at \$15 per copy, taking into account the cost of the USB and the resourcing costs associated with the conversion of the audio file.

## **LONG-TERM FINANCIAL PLAN IMPLICATIONS**

Adoption of the Policy is not expected to have any long term financial plan implications.

## **STRATEGIC COMMUNITY OBJECTIVES**

The officer recommendation primarily aligns with the following Key Goal Area/s and Community Objective/s of the City of Busselton's Strategic Community Plan 2017:

Key Goal Area 6 - LEADERSHIP: Visionary, collaborative, accountable

6.1 Governance systems, process and practices are responsible, ethical and transparent.

## **RISK ASSESSMENT**

There are some low level risks associated with providing a copy of the recorded proceedings, mainly that the recording could be altered or that it could be used to try and cause reputational damage. The Policy makes it clear that the official record of the meeting will be the written minutes and additionally the City will retain the recorded proceedings as the official recorded proceedings. Council meetings are of course public meetings and so it is not expected that anything recorded would be of a high risk in terms of reputation. On balance it is felt that the interests of transparency and administrative efficiencies in not requiring requests to be considered under FOI legislation outweigh these risks.

## **CONSULTATION**

As outlined in the background section of this report consultation has been undertaken with a number of other local governments and with WALGA.

## **OFFICER COMMENT**

The purpose of the Policy is to outline the City's position with respect to the audio recording of Council meetings (both Ordinary and Special Council meetings) and access to the recorded proceedings.

The Policy sets out a clear position with respect to the recording of Council meetings, stating that all Ordinary and Special Council meetings will be recorded by the City, including where Council has resolved to close the meeting to members of the public in accordance with Section 5.23 of the *Local Government Act 1995* (the Act).

The Policy also makes it clear however that the official record of the meeting will be the written minutes prepared in accordance with the requirements of the Act and the Local Government (Administration) Regulations 1996.

Officers considered two options for providing public access to the recorded proceedings; allowing members of the public to, on written request, purchase of a copy of the recording, or for the recording to be placed on the City's website. While both options achieve the intended outcome officers felt that providing a copy of the recording on request and for a fee allowed for more oversight (accepting the risk noted above) and enabled recovery of associated costs. It was also considered a good starting point and something Council could potentially build on.

With respect to Elected Members the Policy provides for recorded proceedings to be provided to Elected Members on request from the CEO at no charge. All Elected Members will be notified of such requests.

With respect to the transcribing of recorded proceedings officers have recommended that this not be offered by the City, with the risk of error being high and it being resource intensive.

## **CONCLUSION**

The Policy provides for a clear and transparent position with respect to the audio recording of Council meetings and ensures that requests for the same are dealt with in a consistent fashion.

## **OPTIONS**

Council could instead decide:

1. not to adopt the Policy, with requests for access to the recorded proceedings to be managed at the discretion of the CEO.
2. to amend the Policy to provide the recorded proceedings on the City's website free of charge.
3. to require further amendments to the Policy.

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

The Policy will be implemented immediately on adoption.

## **OFFICER RECOMMENDATION**

1. That the Council adopts the Council Policy 'Audio Recording of Council Meetings' as per Attachment A.
2. That a fee of \$15.00 be included in the City's 2019/2020 schedule of fees and charges.

## **COUNCIL DECISION AND COMMITTEE RECOMMENDATION**

**C1906/108**

Moved Councillor J McCallum, seconded Councillor C Tarbotton

The Committee recommends:

1. That the Council adopts the Council policy 'Audio Recording of Council Meetings' as per Attachment A, inclusive of the following amendments:
  - i. Paragraph 5.8 to now read "Elected Members may request from the CEO a copy of the recorded proceedings at no charge."; and
  - ii. Add new paragraph 5.9 – "All Elected Members are to be notified when requests for recordings have been received."
  - iii. Paragraph 5.9 now becomes paragraph 5.10; and
  - iv. Paragraph 5.10 now becomes paragraph 5.11.
2. That a fee of \$15.00 be included in the City's 2019/2020 schedule of fees and charges

**CARRIED 8/0**

**EN BLOC**

Reason: The Committee felt that Elected Members should be notified of all requests for recording and the additional wording reflects this request.



## 12.5 Finance Committee - 20/06/2019 - ACCOUNTING TREATMENT OF DEPOSITS AND BONDS

<b>SUBJECT INDEX:</b>	Budget Planning and Reporting
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Financial Services
<b>REPORTING OFFICER:</b>	Acting Manager Financial Services - Jeffrey Corker
<b>AUTHORISING OFFICER:</b>	Director Finance and Corporate Services - Tony Nottle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

**This item was considered by the Finance Committee at its meeting on 20 June 2019, the recommendations from which have been included in this report.**

### **PRÉCIS**

As a result of the interim audit of the City's affairs recently conducted by the Office of the Auditor General (OAG), it has been identified in the draft Interim Audit Report that in their opinion the City is accounting for the receipt of funds for deposits and bonds incorrectly.

The City's current treatment is in accordance with Council resolution C1004/115 from April 2010 and is so disclosed in the City's stated significant Accounting Policies contained within the Annual Financial Report. This resolution required that the funds were to be held in the City's Municipal Account. As a result, the City earned interest from the funds.

The OAG Interim Audit report identifies that in their opinion these funds are to be held in Trust, and if interest is earned that it be paid to the person/persons who lodged the payment. If enacted, this change will result in the loss of interest earnings to the City on an ongoing annual basis. Based upon the balance of funds held as at 31 May, this annual loss is in the region of \$70K per annum.

As the current treatment is in accordance with a prior Council resolution, Council will be required to review its previous decision as to the Accounting treatment of these funds into the future. As any changes need to be effective 30 June for Accounting and Budgetary purposes, this guidance is sought as soon as practicable.

### **BACKGROUND**

At the Council meeting of 14 April 2010, via the Audit Committee meeting held 11 March 2010; the issue of the treatment of Deposits and Bonds paid to the City was considered.

At the time staff had identified that the existing treatment of Deposits and Bonds as part of the City's Municipal Funds was no longer appropriate. This was supported in writing by the City's then Auditor. Accordingly it was recommended by staff that the City's accounting treatment of deposits and bonds should be amended so that all existing, and any new deposits and bonds; were to be recognised as part of the City's Trust Fund.

After discussions with staff and the Auditor at the March 2010 Audit Committee meeting, in due course and contrary to the staff recommendation, Resolution C1004/115 was passed that stated:

1. That Council continues the accounting treatment for deposits and bonds as part of the Shire's Municipal Fund, subject to 2 and 3 below.

2. The deposits and bonds be brought to account as part of the restricted funds in the Municipal Fund.
3. In the Annual Financial Report the deposits and bonds are disclosed as being restricted and additional commentary provided in Note 1A indicating that the Council considers the requirement of control to have been met by the accounting treatment described.
4. That Council notes the requirement for monies held as cash in lieu of public open space to be recognised and reported as part of the Shire's Trust Fund.

As a result of the Interim Audit conducted in May 2019, the Officer of Auditor General (OAG) has found that the City's treatment of deposits and bonds remains inappropriate. In their draft Interim Management Letter, which has only been informally received by email at this point in time; the OAG found that:

*We noted that the City has been holding Bond and Security deposit monies within its municipal fund and recognising an asset on the Statement of Financial Position along with a corresponding liability. Interest earned on these funds has been retained by the City.*

*The City has no control of these funds until a damage event occurs. Consequently, they do not meet the definition of an asset in accordance with Australian Accounting Standards, and should not be reflected on the City's Statement of Financial Position. Any interest earned on these funds also should not be reflected in the City's accounts.*

*The Local Government Act 1995 (Act) requires:*

*Where money or other property is held in the trust fund, the local government is to — in the case of money, pay it to the person entitled to it together with, if the money has been invested, any interest earned from that investment;*

This finding is rated as significant by the OAG, and as per their advice has the following implication:

*Assets and Liabilities are both overstated by the value of Bond and Security deposits. In retaining interest earned on invested trust fund moneys, the City is keeping and utilising moneys that it is not entitled to under the Act.*

*As a further consequence, the recognition of trust moneys on the Statement of Financial Position is not compliant with Australian Accounting Standards.*

The OAG makes the following Recommendation:

*To facilitate accurate reporting for 30 June 2019 the City should:*

- *report bond/security monies as trust funds in the Notes to the financial report*
- *reliably estimate past interest earned that is payable to persons entitled to receive it.*

*The Local Government Act 1995 (Act) states:*

*Where money has been held in the trust fund for 10 years it may be transferred by the local government to the municipal fund but the local government is required to repay the money, together with any interest earned from its investment, from that fund to a person claiming and establishing a right to the repayment.*

*The City needs to account and manage trust fund moneys in accordance with the Act.*

*The City should undertake the necessary steps to identify any obligations it has to return moneys that it has incorrectly retained from the current and previous years.*

Accordingly, the issue of the treatment of Deposits and Bonds is once again tabled with Council to seek guidance as a result of the OAG finding.

### **STATUTORY ENVIRONMENT**

The Local Government Act includes reference to Financial Reports (Section 6.4), Municipal Funds (Section 6.7) and also Trust Funds (Section 6.9). However, the Act and associated Regulations are not specific in respect of the accounting treatment for deposits and bonds.

Previously, the Shire's Auditor has clarified that whilst Australian Accounting Standard AASB1004 (Contributions) does not specifically relate to deposits and bonds, it does provide commentary and guidance on the concept of "control" (a determinant in assessing whether funds are to be held in trust or otherwise).

### **RELEVANT PLANS AND POLICIES**

The City's Long Term Financial Plan will be impacted as identified in the relevant section following.

### **FINANCIAL IMPLICATIONS**

As the change will be effective 30 June it will have Nil impact upon the 2018/19 budget, other than that, funds will be accounted for in a different section of the accounts in the year end reports. As at 31 May the balance of the applicable funds was \$2.851M. This pool of funds is cash backed in its entirety, with the majority being Roadworks Bonds (\$1.916M) and Town Planning Bonds (\$697K). Other categories of bonds held include Building Bonds, Crossover Deposits, Hall Deposits, Kerb & Verge Deposits, Key Deposits, Sundry Liabilities and Unclaimed Monies; which together total \$238K.

The change will however have effect upon the 2019/20 Budget and those into the future, as outlined in the following section relating to Long-Term Financial Plan (LTFP) Implications. Additionally, as interest may need to be paid retrospectively on currently held deposits and bonds, a further expense may be incurred. Initial calculations suggest this liability could be in the region of \$250K.

### **LONG-TERM FINANCIAL PLAN IMPLICATIONS**

The current adopted LTFP includes income from the interest earned on the deposit and bonds funds. If the funds are relocated to trust as per the OAG report, then based upon the balance as at 31 May of \$2.851M the City's interest earnings will reduce by approx. \$70K per annum (based upon a notional interest rate of 2.5%). When adopted, the current draft LTFP will need to be adjusted to allow for this reduction in income.

### **STRATEGIC COMMUNITY OBJECTIVES**

This matter principally aligns with Key Goal Area 6 – 'Leadership' and more specifically Community Objective 6.1 - 'Governance systems, process and practices are responsible, ethical and transparent'. The achievement of the above is underpinned by the Council strategy to 'ensure the long term financial sustainability of Council through effective financial management'.

### **RISK ASSESSMENT**

A formal risk assessment of the proposal has not been conducted at this time. If Council chooses to not agree to the change in accounting treatment the City will risk receiving further negative audit findings. Additionally the City will risk having the payee of a bond or deposit that is currently held take action against the City to recover their funds and interest. Accepting the recommended change that is in accordance with the OAG finding will result in the loss of income as detailed.

**CONSULTATION**

Consultation is not applicable in relation to this matter.

**OFFICER COMMENT**

Once finalised and formally received, the complete OAG Interim Management Letter will be tabled with the City's Audit Committee at the next available opportunity. However, in order to enact the change effective June 30 staff are tabling this report directly with Council (via the Finance Committee) so as to be in the position to make the required changes in a timely manner.

As acknowledged by the OAG in writing to the reporting Officer, the treatment of deposits and bonds across the Local Government industry has not been consistent, and through their auditing regime it was apparent that many Local Governments were accounting for the monies differently. The OAG did approach the Department of Local Government for their input, however they were unable to make a decision on this. Therefore the Auditor General has now stated her position in how she believes these monies should be accounted for, and the wording in the City's draft Interim Audit report is the standardised wording they are now utilising.

As such the City is not alone with this finding. The resolution of Council in 2010 was made contrary to staff and Auditor recommendation at the time, however it was not invalid due to the lack of clarity on the proper treatment available at the time.

As the OAG is now responsible for the audit of all Local Government authorities across the State, standardisation of accounting principles can be enacted. Whilst it must be acknowledged that the City will see a reduction in annual interest earning income, failure to apply their findings will result in ongoing negative Audit Reports which may impact Council.

**CONCLUSION**

The finding of the OAG is significant. Whilst acknowledging the City will forgo interest earnings as a result of altering its accounting treatment of the funds, refusal to do so will likely result in further negative findings from the OAG. In the opinion of staff, the City must change its accounting treatment of deposits of bonds to align with the requirements of the Office of the Auditor General, and therefore with current Industry practice. Therefore, the City's accounting treatment of deposits and bonds should be altered so that they are included in Trust.

**OPTIONS**

Council may not agree with the findings of the OAG and therefore not agree to change the accounting treatment of funds held for Deposits and Bonds.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

If a change to the Accounting treatment of the funds held in the City's accounts for deposits and bonds is approved, the funds will be relocated to Trust effective 30 June 2019.

**OFFICER RECOMMENDATION**

That the Council:

1. Endorses an amendment to the current accounting treatment for deposits and bonds such that all existing, and any new, deposits and bonds are recognised and reported as part of the City's Trust fund;
2. Continue to liaise and negotiate with the Officer of the Auditor General in relation to the treatment of interest earnings on funds held; and

Agree that in a timely manner, a systematic review be undertaken of all deposits and bonds held, ensuring that where the conditions for the return of a bond have been met that they be duly refunded

**COUNCIL DECISION AND COMMITTEE RECOMMENDATION****C1906/109**

Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council:

1. Advise the Officer of the Auditor General that based on peer legal advice the Council believes that no fiduciary relationship exists in respect of bond payments in the context within which they are collected by the City.
2. Agree that the CEO will liaise and negotiate with the Office of the Auditor General in relation to the treatment of interest earnings and the holding of deposits and bonds within the City's Municipal Fund as a result of receiving peer legal advice; and
3. Agree to amend the current treatment for deposits and bonds from the 1<sup>st</sup> July 2019 so that the deposits and bonds are reported as part of the City's Trust fund until a final outcome is determined between the Officer of the Auditor General and the City of Busselton.
4. Amend the Timeline for Implementation of Officer Recommendation from 30<sup>th</sup> June 2019 to the 1<sup>st</sup> July 2019.

**CARRIED 8/0****EN BLOC**

Reason: Officers believe that a fiduciary relationship is non-existent; Officers agree to the suggested treatment in the interim until clarification is sought; and negotiation and discussion should occur between the OAG and the City.

13.1 PROPOSED STRUCTURE PLANS FOR LOT 590 AND LOT 612 SPINNAKER BOULEVARD AND LOT 585 AND PT LOT 9501 PORT LAND, GEOGRAPHE; TOGETHER WITH ASSOCIATED MODIFICATIONS TO THE PORT GEOGRAPHE DEVELOPMENT PLAN AND VILLAGE CENTRE PRECINCT PLAN - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL

<b>SUBJECT INDEX:</b>	Structure Plans, Local Development Plans and Activity Centre Plans
<b>STRATEGIC OBJECTIVE:</b>	Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
<b>BUSINESS UNIT:</b>	Strategic Planning
<b>ACTIVITY UNIT:</b>	Strategic Planning
<b>REPORTING OFFICER:</b>	Senior Strategic Planner - Helen Foulds
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Location Plan 
	Attachment B Aerial Photograph - Lot 590 and Lot 612 
	Attachment C Aerial Photograph - Port Lane 
	Attachment D Port Geographe Development Plan & Village Centre Precinct Plan (Current Adopted Structure Plans) 
	Attachment E Proposed Structure Plan Report Part 1 - Lot 590 
	Attachment F Development Concept Plan - Lot 590 
	Attachment G Proposed Structure Plan Report Part 1 - Lot 612 
	Attachment H Development Concept Plan - Lot 612 
	Attachment I Proposed Structure Plan Report Part 1 - Port Lane 
	Attachment J Development Concept Plan - Port Lane 
	Attachment K Proposed Modified Port Geographe Development Plan 
	Attachment L Proposed Modified Village Centre Precinct Plan 
	Attachment M Schedule of Submissions 
	Attachment N Schedule of Modifications 

## PRÉCIS

The Council is requested to consider adopting for final approval proposed Structure Plans for Lot 590 and Lot 612 Spinnaker Boulevard and for Lot 585 and Pt Lot 9501 Port Lane, Geographe; and incorporating required modifications to the existing Port Geographe Development Plan (PGDP) and Village Centre Precinct Plan (VCP) in relation to these lots.

The proposals aim to guide the future subdivision and development of the subject properties by providing for predominantly residential development, whilst also recognising the changing nature of tourist accommodation within the District and South-West more generally. The applicants are seeking to rationalise landholdings, development opportunities and outcomes to stimulate development within and around the Port Geographe Village Centre precinct.

The purpose of this report is to recommend to the Council that the subject proposals be adopted for final approval (in accordance with recommended modifications) and forwarded to the Western Australian Planning Commission (WAPC).

## BACKGROUND

Three new Structure Plans are proposed: two separate Structure Plans for Lots 590 and 612 Spinnaker Boulevard, and one Structure Plan for both Lot 585 and Pt Lot 9501 Port Lane, Geographe (these being the last remaining large undeveloped parcels in the Port Geographe Village Centre precinct). Location Plans and Aerial Photographs for each parcel are provided at Attachments A, B and C, respectively.

The Spinnaker Boulevard Lots are zoned 'Tourism' in Local Planning Scheme No. 21 (the Scheme) and identified on the Port Geographe Development Plan (PGDP) as 'Tourist Accommodation'. Both sites are significant in the context of Port Geographe, being classified as 'landmark' sites; however, the 'Tourism' zone covering them is considered by officers to be too restrictive with respect to the range of permissible land uses. The zoning has effectively prevented any coordinated and commercially viable development proposals being proposed and submitted by the landowner for the two sites in the past 20 years.

The Port Lane parcels are zoned 'Local Centre' in the Scheme (previously titled the 'Business' zone). The land parcels form part of the Port Geographe Village Centre precinct on the PGDP, with respective land use designations of 'Residential R60' (including mixed use retail and commercial) for Lot 9501 and 'Shopping/Tourist Carpark' for Lot 585, which is owned by the City in freehold. The applicant is seeking to rationalise and optimise planning outcomes over the land holdings to stimulate development within and around the 'Village Centre'.

Amendment No. 28 to the Scheme, which was approved by the Council for initiation for public consultation at the meeting of 13 April 2018 (and, having taken an extended period to receive Environmental Protection Authority agreement, is now awaiting WAPC approval for advertising), proposes to include all of the subject parcels of land in an 'Urban Development' zone. The intent of Amendment 28 is, in part, to provide greater planning and development flexibility than the current zoning allows, with detailed zoning and land use outcomes to be updated through structure plans. Amendment 28 is expected to be formally advertised in the coming months.

The PGDP and Port Geographe Village Centre Precinct Plan (VCPP) were included in original rezoning documentation for Port Geographe (gazetted in 1996) to guide subdivision and development. A number of modifications to the PGDP and VCPP have been made since then, with the current versions being endorsed by the WAPC on 19 December 2008 (see Attachment D).

The WAPC resolved in August 2018 that structure plans for each of the lots would be required for the purposes of orderly and proper planning. Furthermore, WAPC advised that an amendment to the PGDP, identifying these sites as requiring separate structure plans, would be expected to be undertaken prior to, or concurrently with, the structure plans for the abovementioned sites.

### **Lot 590 Spinnaker Boulevard Structure Plan**

Lot 590 Spinnaker Boulevard is 1.3 ha in area and located at the western-most end of Spinnaker Boulevard. The lot contains two grouped dwellings built in 2004 and the remainder of the land is vacant. This property was identified on the early Development Plan as "Hotel and Harbour Apartments", and later as a landmark development site, being situated close to the seaward entrance into the marina. However, substantial development of this site for tourist-related purposes has not occurred.

The proposed Structure Plan, provided at Attachment E, identifies Lot 590 as largely for 'Residential' development, with land set aside for a small scale commercial development (such as a Restaurant/Café) overlooking the Marina entrance. A range of densities (R30, R40 and R60) are proposed to provide for a variety of housing choices, and the ability for both short-stay and long-stay residential options will be retained. The applicant has estimated that 30-40 residential dwellings could be accommodated under the proposed Structure Plan.

An extension of Spinnaker Boulevard is proposed to enable vehicle access to both existing and future dwellings on the site. The site-specific Development Concept Plan is provided at Attachment F.

The current site levels for Lot 590 range from between 3.2m and 3.5m AHD and, as such, compliance with the finished floor level (FFL) of 3.8m AHD required by the Department of Planning, Lands and Heritage (DPLH) is expected to be achieved.

### **Lot 612 Spinnaker Boulevard Structure Plan**

Lot 612 Spinnaker Boulevard is 2.6 ha in area and located to the north-west of the Spinnaker Boulevard and Layman Road intersection. The parcel is undeveloped and vacant, with a current lot level of between approximately 3.2m – 3.6m AHD. A narrow pedestrian access way (PAW) of 0.1m in width runs along the length of the Layman Road frontage (with the exception of a 10m section approximately half way along) which would restrict vehicular access onto Layman Road.

The applicant estimates approximately 45 to 55 residential dwellings will be accommodated via a medium density range of R30 to R40, enabling both short- and long-stay residential options, and with the higher density concentrated along Layman Road and Spinnaker Boulevard. The provision of an area zoned for 'Business'/'Local Centre' enables a potential local convenience store development option, for the benefit of the local community, without compromising the broader objectives for commercial centres. A road network is identified to access both Layman Road and Spinnaker Boulevard, along with further minor laneways within the development area. A legible pedestrian network will also be provided, to ensure public access to the foreshore can be gained through the site.

The proposed Structure Plan for Lot 612 is provided at Attachment G and the accompanying Development Concept Plan is provided at Attachment H.

### **Lot 585 & Pt Lot 9501 Port Lane Structure Plan**

Lot 585 and Pt Lot 9501 Port Lane have long been identified for commercial purposes, being the centre of the original 'Port Geographe Village' precinct. Lot 9501 is the balance of the 'Village Centre' subdivision, with two portions being located on the mainland and the two southern-most portions that, by virtue of the lot design, are commonly called 'The Islands'.

Lot 585 is a 5,456m<sup>2</sup> parcel of land, which has been in the unencumbered, freehold title ownership of the City since 1999. The original intentions for this land were for the provision of car parking associated with the commercial component of the former 'Village Centre'. However, with the proposed conversion of this area to 'Residential' (for reasons stated within this report) the additional parking within this site would no longer be necessary. The car park associated with the adjacent boat launching facilities has undergone a recent expansion and will not require a further increase unless an extension to the boat launching facilities were to take place, which is not possible due to site constraints.

The Port Lane parcels are currently zoned 'Local Centre' under the Scheme, despite the 'Residential' zoning identified on the PGDP (which initially identified the area as a mix of R40 and R60 and was subsequently modified to increase these densities to R60). Lot 585 is identified as 'Shopping/Tourist Carpark' on both the PGDP and VCPP.

This land area within the 'Village Centre' was constructed around 2006 but has never been formally subdivided from the balance lot. Canal walls largely surround three of the main areas of land the subject of the proposed Structure Plan. The subject sites are generally cleared with a current lot level of approximately 2.2 – 2.4m AHD.

For a variety of reasons, the commercial development of the land has not proceeded, and given the location of the land, such development is seen as unlikely to be viable in future. As such, the Structure Plan proposal identifies the land for medium-density residential development, delivering a greater range of housing choices into the precinct known as the 'Port Geographe Village Centre'. An estimated 60 to 75 residential dwellings will be delivered within R30 and R60 density codes, providing a variety



of housing options; from smaller rear-loaded lots, to townhouse-style dwellings, contemporary single housing lots and a possible grouped or multiple dwelling site, depending on market demands. The applicant has indicated that minimum two storey building heights will be a requirement for this residential development within the structure plan area, although this has not been indicated on the draft Structure Plan. It is possible that the applicant intends to establish and enforce developer covenants over the future individual housing lots to require this.

The area covered by the proposed Structure Plan also includes a portion of the Port Lane road reserve. The intention in incorporating this portion of road reserve is that this will enable the realignment of cadastral boundaries more in keeping with the existing constructed road pavement and necessary road reserve width, and will improve the overall efficiency of the development footprint. A separate process under the *Land Administration Act 1997* would need to be followed in relation to this matter.

The proposed Port Lane Structure Plan is provided at Attachment I and accompanying Development Concept Plan is provided at Attachment J.

### **Proposed Modifications to the Port Geographe Development Plan and Village Centre Precinct Plan**

Consistent with the WAPC's resolution of 28 August 2018, the PGDP and VCPP are proposed to be modified such that the subject land parcels will be identified as being excluded from those plans and subject to separate structure plans (as proposed herein).

Further modifications to the PGDP and the VCPP include the removal of Planning Policy Statements related to commercial and community floor space, public boardwalks and cycle racks in the originally proposed but now redundant shopping centre car park.

The subject PGDP and VCPP have been updated accordingly (see Attachment K and L, respectively) and those modifications are recommended to be assessed and determined alongside the three current Structure Plan proposals.

### **Supporting Technical Assessments**

Technical reports provided in support of the Spinnaker Boulevard proposals, discussed in further detail in this report, include:

- Coastal Hazard Assessment
- Engineering Services Report

The following report was provided with the Port Lane proposal:

- Geotechnical Note on Proposed Infill

Each of these technical reports is outlined below.

#### ***Coastal Hazard Assessment (Spinnaker Boulevard)***

A Coastal Hazard Assessment by MP Rogers & Associates was provided in support of the proposed Structure Plans for both Lot 590 and Lot 612 Spinnaker Boulevard. The report found that the reconfiguration of the Port Geographe coastal protection structures in 2014 provides adequate protection of these lots from coastal erosion. Further, that the coastal protection works included an increased height to the sea wall adjacent to Lot 612 to provide protection against wave overtopping during severe weather events. Lot 590 is considered to have sufficient protection from wave overtopping due to the two sea walls that provide entry into the marina, together with the separation distance between the sea walls and the proposed development site.

Any proposed development on either Lot 590 or Lot 612 is required to be constructed at a sufficient elevation to avoid risks posed by severe coastal inundation events. In the absence of detailed modelling, a conservative estimate of the inundation level determined by the *Design Storms for Western Australian Coastal Planning – Tropical Cyclones* (Seashore Engineering 2018) has been used, requiring the FFL to meet a minimum requirement of 3.8m AHD.

### ***Engineering Services Report (Spinnaker Boulevard)***

The Engineering Services Report confirms that Lots 590 and 612 are connected to all essential service infrastructure and that there is sufficient capacity within the existing network to accommodate development of the sites as proposed by the subject Structure Plans.

The report also demonstrates that, in order to achieve a minimum FFL of 3.8m AHD, retaining walls may be necessary at the lot boundaries and at entry points. The amount of fill necessary for each of these lots is likely to be up to 500mm to reach the appropriate finished lot level of 3.7m AHD. Final road and retaining wall levels would then be determined at the detailed design stage.

### ***Geotechnical Note on Proposed Infill (Port Lane)***

The applicant sought the advice of civil and structural engineers as to whether it would be physically possible to achieve a FFL of 3.8m AHD over the Structure Plan area of Lot 585 and Pt Lot 9501 given the site is currently approximately 2.2 – 2.4m AHD. The advice stipulates:

- Increased fill levels have the potential to cause offsite subsidence, and could potentially result in damage to adjoining roads, service infrastructure, and private property.
- The potential for instability and structural failure of the canal walls is increased significantly due to additional driving forces and load of the increased fill. This may result in the need to undertake significant improvement works to the walls and footings, at considerable expense to the landowner.
- Any improvement works (e.g. for strengthening the canal walls or extensive building footings) will most likely require significant dewatering, resulting in an increased risk of exposing acid sulphate soils, which in turn can have significant environmental consequences.
- In order to maintain a suitable factor of safety, building setbacks will most likely need to be increased to an estimated 12m-15m, resulting in a significant reduction in the developable footprint of the land (from a previous average setback of 6m, under the Scheme) to the point where the practicality of the developable area and the financial viability of the development would become highly questionable.

Due to this advice, the proposed Structure Plan does not mandate or agree to a minimum FFL, and proposes that the site can be developed 'at or around' the existing, approved lot levels of the surrounding area. This matter is further discussed within the 'Officer Comment' section of this report.

## **STATUTORY ENVIRONMENT**

The key elements of the statutory environment with respect to this proposal are set out in the relevant objectives, policies and provisions of the City of Busselton *Local Planning Scheme 21* ('the Scheme') and the *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations').

### **Local Planning Scheme No. 21**

As mentioned above, Lots 590 and 612 Spinnaker Boulevard are zoned 'Tourism' within the Scheme, whilst Lot 585 and Pt Lot 9501 Port Lane are zoned 'Local Centre'. All parcels are located within the Port Geographe Development Area (PGDA), which is subject of controls set out at clause 5.9 of the Scheme.

The Scheme requires for the PGDA that, in considering development within this 'Special Control Area', the City is to be mindful of:

- (a) the need to ensure appropriate standards of development and maintenance are achieved;
- (b) the need to control and enhance the health, safety, convenience, and general welfare and amenity of the locality; and
- (c) the need to ensure that development control within the PGDA is guided by the PGDP itself, but also by the 'Port Geographe Landscape Master Plan' and the Port Geographe VCPP.

Clause 5.9 provides for various development provisions related to canal lots, including that any structures within the lot boundary (such as water frontage walling and 'other structures') shall be the responsibility of, and maintained by, each water frontage lot owner.

The requirements of the 'Special Control Area' also cover what must be considered through any proposed modifications to the PGDP and VCPP, such as the provision for a high level of direct public access to waterways and canals and a general presumption against residential lots backing onto conservation and foreshore reserves. Specifically in regard to the VCPP, the Scheme requires the inclusion of a maximum 3,000m<sup>2</sup> nett floor area for commercial/retail space and a minimum 200m<sup>2</sup> constructed floor area for community and/or meeting space (or a minimum 400m<sup>2</sup> development site for same).

The PGDA seeks the promotion of innovative development, and for a high standard of amenity to be maintained. A comprehensive range of commercial uses is encouraged, together with residential and tourist accommodation, recreation and community facilities.

These matters are further discussed in the 'Officer Comment' section of the report.

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

The Regulations came into operational effect on 19 October 2015 and introduced 'Deemed Provisions' for the preparation, advertising and approval of structure plans (Part 4). The status of structure plans has also changed and local governments are now required to have 'due regard' to approved structure plans when making decisions relating to subsequent subdivision and development.

Clause 15 of the Deemed Provisions prescribes the circumstances in which a structure plan may be prepared:

*"A structure plan in respect of an area of land in the Scheme area may be prepared if —*

*(a) the area is —*

- (i) all or part of a zone identified in this Scheme as an area suitable for urban or industrial development; and*
- (ii) identified in this Scheme as an area requiring a structure plan to be prepared before any future subdivision or development is undertaken;*

*or*

*(b) a State planning policy requires a structure plan to be prepared for the area; or*

*(c) the Commission considers that a structure plan for the area is required for the purposes of orderly and proper planning."*

Although Amendment No. 28 to rezone the land to 'Urban Development' zone has been initiated by the City and will ultimately satisfy clause 15(a) of the Deemed Provisions of the Regulations above, it may be some time before it is finalised and gazetted, as it is still awaiting WAPC approval for advertising. On this basis, the applicant sought the WAPC's agreement to progress structure planning over the subject sites for the purposes of orderly and proper planning. This agreement was subsequently received from the WAPC in August 2018 and the matter was therefore able to be progressed.

### **RELEVANT PLANS AND POLICIES**

The key policies, plans and strategies relevant to the current proposal are:

- *State Planning Policy 2.6: State Coastal Planning.*
- *Liveable Neighbourhoods (2009) and draft Liveable Neighbourhoods.*
- *City of Busselton Draft Local Planning Strategy.*
- *City of Busselton Local Commercial Planning Strategy.*
- *City of Busselton Local Tourism Planning Strategy.*
- *Local Planning Policy 4B – Port Geographe Village Centre Design Guidelines and Performance Standards.*
- *Port Geographe Development Plan and Village Centre Precinct Plan.*

Each is addressed below under appropriate subheadings.

#### **State Planning Policy 2.6: State Coastal Planning (2013)**

The purpose of *State Planning Policy 2.6: State Coastal Planning (SPP2.6)* is to provide guidance for decision-making within the coastal zone and to protect, conserve and enhance coastal values. The Policy requires that coastal hazard risk management and adaptation is appropriately planned for, and encourages innovative approaches to managing coastal hazard risk.

The key objectives of the policy that relate to the proposal are:

- to ensure that development and the location of coastal facilities takes into account coastal processes, landform stability, coastal hazards, climate change and biophysical criteria; and
- to ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities.

One of the key aspects of SPP2.6 is the management of development in the vicinity of the coast, and especially consideration of risks that may arise to and from development in relation to coastal processes. Coastal processes include coastal erosion (i.e. more or less 'permanent' shifts in the coastline), coastal accretion and coastal inundation (i.e. temporary, flooding events).

Discussion of the proposal, as it is affected by SPP2.6, has been provided within the 'Officer Comment' section to follow.

#### **Liveable Neighbourhoods (2009) and draft Liveable Neighbourhoods (2015)**

*Liveable Neighbourhoods (LN, 2009)* is an adopted operational policy of the WAPC to guide structure planning and subdivision of new and infill urban areas. LN 2015 is a 'seriously entertained' draft policy and, as advised by the DPLH, should be referred to in order to provide updated and improved guidance for the assessment and determination of planning and development proposals (rather than the now outdated LN 2009).

Aspects of LN 2015 especially relevant to this proposal are as follows:

- Street layout – to provide a movement network which has a highly-interconnected street network that clearly distinguishes between arterial routes and local streets, establishes good internal and external access for residents, encourages walking and cycling, and minimises the impact of through traffic.
- Design for a range of housing products – to provide a variety of lot sizes and housing types to cater for the diverse housing needs of the community at a density that can ultimately support the provision of local services.
- Activity Centres – to promote mixed-use development of activity centres that optimise commercial opportunities, access to public transport and efficient street network connections.

Each of the proposed Structure Plans is considered to comply with the relevant objectives and requirements of the draft Liveable Neighbourhoods, 2015, with the exception of the guidance criteria for Activity Centre planning.

### **City of Busselton Draft Local Planning Strategy (2016)**

The draft Local Planning Strategy (LPS) sets out the long-term planning direction for the City and provides an overarching, strategic rationale for decisions related to the planning and development of the District. The draft LPS establishes an urban growth area framework that identifies ‘current’ (land that is already zoned and where development is generally progressing), ‘medium-term’ (not currently zoned or subject to structure planning) and ‘long-term’ (also not currently zoned or subject to structure planning) locations for growth.

The draft LPS identifies Port Geographe as a ‘current’ urban growth area, noting that land is already zoned with approved Structure Plans in place. The document also identifies that further development of Port Geographe may involve the necessary updating, rationalisation and re-consideration of existing structure planning and should be reviewed.

Officers consider the current structure planning proposal to each be broadly consistent with the draft LPS.

### **City of Busselton Local Commercial Planning Strategy (2011)**

The City of Busselton *Local Commercial Planning Strategy* (LCPS, 2011) provides a framework for the location of retail, commercial and industrial centres within the District.

The LCPS acknowledges both that a significant over-supply of commercial land is provided for in the Port Geographe Village Centre and that the location of this ‘Local Centre’ zoned land is far from ideal in terms of its access and serviceability to the entire East Busselton area.

However, the following recommendation of the LCPS is made, referring to the Port Geographe Village Centre:

*“The Layman Road area currently has a significant surplus of commercial zoned land but given the location of this site near the Port Geographe marina area, it may be worthwhile retaining in its current form. Council should consider this prospect together with the project proponents. Retain [sic] space in this centre should not exceed 1800m<sup>2</sup>.”*

Given the context of the Port Geographe project at the time, the LCPS was not open to making a recommendation to remove the Activity Centre in its entirety, but the analysis at the time made a clear basis for why that location was not ideal. Provision has been made within the two Spinnaker Boulevard sites for commercial development at a smaller scale, to provide basic amenities to the localised community.

The proposed Structure Plans, along with other planning proposals within the Port Geographe area are considered to generally comply with the LCPS.

### **City of Busselton Local Tourism Planning Strategy (2011)**

The *Local Tourism Planning Strategy* (LTPS, 2011) provides the long-term strategic land use planning and direction for tourism development within the District. The Tourism Strategy identifies specific parcels of land as 'Strategic Tourism Sites', 'Strategic Tourism Precincts' and 'Non-strategic Tourism Sites', all of which should be retained for tourism purposes.

The Village Centre is identified in the LTPS as 'Strategic Tourism Precinct No. 9 – Port Geographe', where rezoning of the Spinnaker Boulevard sites for residential use is considered to be a risk to tourism opportunities as it would reduce the amount of accommodation for tourists potentially available at these locations.

The following policy directions are identified for this precinct:

*"Apply special provisions to ensure that tourist accommodation development is permissible and generally support proposals to rezone land to support tourism development, where it is consistent with the broader planning framework."*

*"As part of any rezoning proposal due consideration will need to be given to any future foreshore works or groyne configuration works intended as part of any wider land use and waterbody rationalisation for the Port Geographe locality."*

The Spinnaker Boulevard lots are specifically identified within the LTPS as 'Tourist-zoned land where alternative zonings may be considered', suggesting that any proposal to amend the zoning should be assessed on its fundamental, and realistic, planning merits.

Further comments in relation to Lots 590 and 612 within the LTPS advise that building heights greater than 3 storeys may be considered, subject to further consideration of detailed issues and consultation with the community. The land may be zoned to allow for the full range of permissible uses in 'Residential', 'Tourism' and 'Commercial', but the tourist accommodation component is to be a minimum of 30 per cent of the total number of proposed residential units of development.

The recommendations of the LTPS have been taken into consideration in the formulation of these proposed Structure Plans.

### **Local Planning Policy 4B – Port Geographe Village Centre Design Guidelines and Performance Standards**

The 'Port Geographe Village Centre Design Guidelines and Performance Standards' (LPP 4B) provides a number of architectural principles and building form guidelines to ensure that development in the Port Geographe Village Centre retains a high built-form quality and an aesthetically pleasing standard.

The policy identifies both Lots 590 and 612 for 'Tourist Accommodation', with Lot 590 establishing a waterside entry statement for the whole of the Port Geographe development and which should therefore be developed to create a distinctive 'landmark' presence at the harbour entry channel. The Port Lane properties are identified within the LPP as "Marina Facility".

The design requirements proposed for the subject parcels of land will be expected to address these guidelines and standards, should the Structure Plan proposals be supported by the Council.

### **Port Geographe Development Plan and Village Centre Precinct Plan (2008)**

As mentioned above, the PGDP and VCPP, both most recently adopted in 2008, identify Lots 590 and 612 Spinnaker Boulevard for 'Tourist Development'. A note on both Plans states that "*notwithstanding that lots numbered PT 500, 590, 612, 614, 616 and 617 are shown uncoloured on the plan, development shall be determined in accordance with the District Town Planning Scheme.*" No provisions are provided within the Structure Plan relating to the development of these parcels, other than generic references to compliance with the requirements of the Port Geographe Village Centre Design Guidelines.

Pt Lot 9501 is also identified as 'Residential R60' with sections identified for "Mixed use retail/Commercial/Residential" and "Tourist/Residential". Lot 585 is identified for "Shopping/Tourist Car Park".

A further notation on the PGDP and VCPP requires the provision of public boardwalks "to be secured for unrestricted general public (pedestrian) access" along the perimeter of Pt Lot 9501 where it fronts the marina.

The PGDP and VCPP set out a number of 'Planning Policy Statements' that are relevant to the Port Lane Structure Plan area, including:

“...

2. *Maximum of 3000m<sup>2</sup> of net lettable area of Retail floorspace and a minimum of 200m<sup>2</sup> of constructed floorspace for Community Purposes is to be provided within the area of the Village Centre identified for Mixed Use.*
3. *Public access along the boardwalks proposed along the waterfront and within the Village Centre, as identified on the Port Geographe Development Plan and Village Centre Precinct Plan, is to be appropriately secured. The Boardwalks and associated structures are to be constructed by the Proponent and maintained by the owners of the relevant lots to the satisfaction of the Shire of Busselton and the Department for Planning and Infrastructure in accordance with construction details submitted by the Subdivider and approved by those agencies. The design of the Public Boardwalk adjacent to the Public Boat Ramp is to be to the satisfaction of the Department for Planning and Infrastructure so as not to hinder boat launching.*

...

9. *Cycle racks are to be provided in the Village Centre Shopping/Tourist Carpark.”*

The applicant proposes to remove the abovementioned planning policy statements as part of the proposal to modify the PGDP and VCPP. The appropriateness of the removal of these clauses is discussed within the Officer Comment section of this report.

### **FINANCIAL IMPLICATIONS**

There are no financial implications arising from the proposal.

## **LONG-TERM FINANCIAL PLAN IMPLICATIONS**

There are no long term financial plan implications arising from the proposal.

## **STRATEGIC COMMUNITY OBJECTIVES**

The recommendation of officers provided in this report is consistent with community objective 2.1 of the City's Strategic Community Plan 2017, which is – 'Planning strategies that foster the development of neighbourhoods that meet our needs as we grow'.

## **RISK ASSESSMENT**

An assessment of the potential implications of implementing the 'Officer Recommendation' has been undertaken using the City's risk assessment framework. The assessment identified 'downside' risks only, rather than upside risks as well. In this regard, there are no significant risks identified.

It is noted that the 'Officer Recommendation' addresses the adoption of the proposal for referral to the WAPC. In making a recommendation to the WAPC, however, the City will need to consider risks that may arise from the actual development that may follow approval of the Structure Plan by the WAPC. Key amongst those are risks associated with coastal processes, especially risks that may be associated with coastal storm surge events and potential climate change related sea level rise.

## **CONSULTATION**

The draft Structure Plans were advertised for 28 days, in accordance with the Deemed Provisions, ending 24 April 2019. A Schedule of Submissions is provided at Attachment M. Ten public submissions were received with the majority generally supporting development on the sites. Of these submissions, five stated concerns with particular components of the proposed plans, while five supported the plans as advertised.

The main issues raised during the submission period relate to:

- The loss of pedestrian access to the waterfront/canals;
- The perceived loss of a community purpose building;
- The provision of short stay accommodation; and
- Finished floor levels required under State policy.

These matters are discussed in the 'Officer Comment' section below and in the 'Schedule of Submissions'.

The following agencies made specific comment on the proposal:

- DPLH (Strategy and Engagement) provided advice on the compliance of the structure plan proposals against SPP2.6. DPLH advised that the parcels would be considered as infill development and could therefore be developed, provided coastal hazard risks over the 100-year planning timeframe are identified, considered and managed. Further, DPLH identified inundation as a significant risk and, in accordance with SPP2.6 and the Department of Transport's *Design Storms for Western Australian Coastal Planning – Tropical Cyclones*, a minimum FFL of 3.8m AHD would be necessary. Given the current site levels are 2.2m-2.6m AHD, DPLH has suggested that the structure plan should be modified to demonstrate how the inundation risk is to be managed and alternative design options should be investigated.



- The Department of Transport (DoT) provided advice with regard to mooring considerations. A 'Jetty and Mooring Envelope Plan' is recommended to be provided as a condition of subdivision of Lot 9501 Port Lane and is reflected in the Schedule of Modifications at Attachment N. No jetty structures will be supported at the remaining sites.

DoT also provided further advice that additional detailed information, supporting the assessment of Lot 612 against SPP2.6, demonstrating that the existing coastal structures shall provide sufficient protection from coastal hazards over the planning timeframe.

## OFFICER COMMENT

The most substantive issues identified through the officer assessment and the outcomes of consultation are addressed under the following headings:

- Coastal processes
- Requirements of the Port Geographe Development Area
  - Tourist Development
  - Commercial Development
  - Community Facilities
  - Port Geographe Village Centre Design Guidelines
  - Public Boardwalks/Public Access
- City Owned Land (Lot 585 Port Lane)
- Starboard Lane

### Coastal processes

#### *Inundation Risk*

DPLH has identified that inundation is a significant risk over the planning timeframe (100 years) and that based on SPP2.6 and DoT's *Design Storms for Western Australian Coastal Planning - Tropical Cyclones*, a minimum FFL of 3.8m AHD should be achieved.

The applicant has advised that development within Lots 590 and 612 is likely to meet the required FFL of 3.8m AHD as it appears only 500mm of fill would be required. However, further consideration is required to be given to the Port Lane proposal, where a substantial amount of fill would be needed to achieve 3.8m AHD as the finished ground level is currently much lower, and there may be implications associated with the integrity of the existing canal revetment (et al.) should a higher ground level be introduced.

With regard to Lot 585 and Pt Lot 9501 Port Lane, the applicant has advised that compliance with a FFL of 3.8m AHD, as required by SPP2.6, is unworkable for the development at this location. Given current ground levels at the site range from approximately 2.2 to 2.6m, the import of 1.2 – 1.6m of compacted fill would be required to achieve the necessary level determined as appropriate by State agencies (3.8m AHD). The geotechnical report submitted with the application has indicated that this level of fill could not be supported by the existing canal structures and significant improvement works would be necessary, which in turn could cause further environmental consequences through the risk of acid sulphate soils exposure by dewatering. The concerns raised by the applicant in this instance seem reasonable.

In this report, the City does not suggest an alternative minimum FFL. Given the proponent's concerns, the technical advice and the policy framework, the key question is – why and in what circumstances would the WAPC, whose role it is to make sustainable planning decisions on behalf of the Government of Western Australia, acting in the best long-term interests of the people of Western Australia as a whole, consider allowing development to proceed at a lower FFL?

SPP2.6 does, to a degree, provide an answer to this question, and that is through the ability for local governments (and in some cases, proponents) to develop a Coastal Hazard Risk Management and Adaptation Plan (CHRMAP). A CHRMAP may then identify alternative means of protecting the development (and other existing areas, that would be similarly exposed to coastal flooding risks), rather than setting building floor levels at or above 3.8m AHD. For instance, through a system of seawalls/levies and storm surge barriers.

The City has commenced the process of developing its CHRMAP, but the project is not expected to be completed until September 2019 (and may be subject to delay). It is expected that the City will be making a recommendation on the subject Structure Plan in mid-2019. In the absence of a CHRMAP and alternative means of addressing the risk, how else might the City and the WAPC consider allowing development to proceed at a lower FFL?

Conceptually, there are considered to be three key reasons why the City and WAPC might consider doing so –

- Because they might consider that it is a reasonably likely prospect that an alternative means of addressing the risk will emerge in the future;
- Because they might consider the risk in the context of the competing risk that the development (i.e. the Port Geographe development area as a whole) does not continue to completion in a timely fashion, given that the relatively slow and inconsistent progress of the development to date has been problematic already; and
- Because they might consider that the application of SPP2.6 without broader contextual considerations creates investor uncertainty, which may then have other implications.

Reflected in the recommended Schedule of Modifications at Attachment N is the requirement for the applicant to provide a more detailed investigation of the site against the aims, objectives and requirements of SPP2.6, particularly in terms of how the inundation risk is to be managed, and consideration of alternative design options, consistent with DPLH's advice. Whilst the City is not in a position to offer an alternate figure, officers consider that levels lower than the 3.8m AHD minimum requirement offered by State agencies could nevertheless result in a sound outcome.

### ***Wave Overtopping***

Wave overtopping on Lot 590 is likely to be minimal, due to protection from both the outer and inner breakwaters and separation from the ocean. The Coastal Hazard Assessment submitted with the Structure Plan found that the extent of any overtopping would be negligible and no risk to safety or property.

In relation to Lot 612, whilst the detail provided with the Structure Plan proposal included a Coastal Hazards Assessment, limited information was provided on the ability of the coastal structures, recently reconfigured in 2014, to protect the development from wave overtopping at that particular site. The Coastal Hazard Risk Management Plan itself identifies that "the design for the revetment section fronting Lot 612 was completed primarily to focus on the stability of the structures themselves, as well as the safety of pedestrians immediately behind the structure." The MP Rogers and Associates report, however, concludes that Lot 612 can be safely developed (and any minor risks managed).

However, this detailed additional information is needed to be provided to demonstrate that the coastal structures provide sufficient protection from coastal hazards under SPP2.6 and has been requested by officers from the applicant on several occasions. It is expected that this will confirm the matter, but the evidence to demonstrate this is necessary.

## **Requirements of the Port Geographe Development Area**

### ***Tourist Development (Spinnaker Boulevard Structure Plans)***

In terms of comments and recommendations within the LTPS, with respect to the new Structure Plans identifying the Spinnaker Boulevard sites for 'Residential' development (as opposed to 'Tourist' development), it should be noted that the LTPS pre-dates the City's 'Holiday Homes Local Planning Policy'. Market forces are likely to ensure that residential units and single houses have the demand, and opportunity, to be utilised as holiday homes, if needed (as is the case in other areas of high amenity within the District). The applicant reports that the current zoning of 'Tourism' has precluded viable commercial development of the Spinnaker Boulevard lots for some 20 years and it is highly unlikely that any development will occur under the current zoning.

In response, the current Structure Plan proposal is expected to facilitate the attractive and functional development of the subject land, which could in turn provide for short-stay (tourist-related) development opportunities, as well as increased housing choices, on an otherwise 'undevelopable' site.

### ***Commercial Development (Port Lane Structure Plan)***

The Port Lane Structure Plan does not propose to include any additional commercial land, and instead seeks to deliver a high quality, medium-density residential precinct, catering for both permanent residents and short-stay tourist accommodation.

The LCPS acknowledges that the proximity of the Port Geographe Village Centre to the Busselton City Centre (within 2km) means that additional commercial floor space provided there will be unlikely to attract patronage by the current and future catchment in and around eastern Busselton. A significant over-supply of commercial land in the Port Geographe area is already identified within the LCPS and consideration should be given for rezoning portions of the site for appropriate non-commercial uses, such as higher density residential.

Further, the LCPS acknowledges that the location of this potential commercial precinct is poor in terms of its serviceability to the broader eastern Busselton area for general local and neighbourhood shopping needs. It is at the far eastern edge of the logical service catchment area and more appropriately suited to uses associated with the nearby marina. Given its coastal location, it is considered that this commercial land would be better used for residential and/or tourist purposes rather than retail/commercial uses per se.

There may be the need in the future for a small store/mini-mart and related retail facilities in this commercial area, such as that which is provided for in the Structure Plan for Lot 612. As a general restriction, however, any retail space in the Layman Road centre should be sized to service at the local level, with a maximum of 1800m<sup>2</sup> floor space, as opposed to the 3000m<sup>2</sup> required under the PGDA.

While the LCPS considers that the 'Business'/'Local Centre' zone remain to encourage the development of "marine, tourist and related uses", the planning context and strategic planning framework has changed since 2011, whereby Holiday Home uses are now much more prevalent. It is considered that the modifications proposed to the planning framework under the proposed Structure Plans will encourage development of areas that has so far been unfeasible and impractical.

In the assessment of this proposal it is noted that Liveable Neighbourhoods (2015) supports the provision of mixed-use development and activity centres in areas with suitably sized catchments that can add to the vitality and viability of commercial ventures. The lack of commercial development within the Port Geographe Village Centre is thought to be a result of the relative isolation of the mooted commercial sites. The proposed 'Newport Geographe' Structure Plan in the southern portion of Port Geographe is instead making provision for an alternative Commercial Centre, or 'hub', which

will take advantage of the residential areas on both the eastern and western sides of the marina. It is not anticipated to conflict with the existing Local Centre on Armitage Drive as it is expected to deliver a different commercial product and be far better suited to such development, having direct access to the canals and therefore more likely to provide more tourist-related functions.

The somewhat outdated, sector-based Strategies (both Tourism and Commercial) are not reflective of contemporary planning for the Port Geographe area and fail to acknowledge the 'real' and 'on the ground' circumstances that have been evolving there over the last 10+ years.

### ***Community Facilities***

The Scheme and the PGDP both identify the requirement for the provision of a small community-purpose facility with 200m<sup>2</sup> of constructed floor area within the Village Centre precinct. An agreement between the City and the current landowner specifically requires the transfer of either:

- (a) a minimum of 200m<sup>2</sup> of constructed floorspace within the Village Centre; or
- (b) a block of freehold land within the village centre with a minimum size of 400m<sup>2</sup>.

As with the commercial/retail hub that is considered to be more likely and appropriate within the 'Newport Geographe' development, and with community facilities already well provided for at Port Geographe (and additional quality facilities likely at 'Newport'), it is considered to be in the City's best interests to seek a 'cash in lieu' payment from the current landowner, instead of accepting transfer to the City of the physical site and being unable to determine suitable facilities that are needed/wanted by the local community to construct there.

The landowner has indicated it is prepared to consider foregoing the provision (required ceding) of the community purpose site for a cash in lieu payment to the City.

City officers also met with representatives of the 'Port Geographe Landowners' Association' to discuss that particular prospect and ensure that those representatives were fully aware of (and generally supportive of) the planned intentions of the City regarding the prospective use of those cash-in-lieu funds and the adequate provision of such facilities elsewhere in the Port Geographe location. While no objection was initially received to this proposal, the submission from the Port Geographe Landowners' Association and other submissions have expressed a desire to see a portion of Lot 585 retained for some form of community use.

### ***Port Geographe Village Centre Design Guidelines***

The Scheme (at clause 5.9.4) requires any development within the VCPP to be in accordance with the Port Geographe Village Centre Design Guidelines. The Design Guidelines are being retained, but given the proposed Structure Plan areas will be removed from the VCPP, this connection with the Design Guidelines will be lost. Whilst the Design Guidelines need review to update the land uses contemplated, the general architectural concepts remain valid.

The three proposed Structure Plans also identify where a Local Development Plan is to be prepared, addressing lots that:

- abut public foreshore reserves;
- are serviced by a rear laneway; or
- are zoned 'Business'/'Local Centre'.

The proposed Structure Plans do not reference the existing Design Guidelines and, given the land parcels will no longer be included within the PGDP and VCPP, the Design Guidelines would therefore no longer apply.

To ensure continuation of the critical aspects of the Design Guidelines, being certain desirable architectural principles and building form, it is recommended that the proposed Structure Plans be amended to ensure that a Local Development Plan is prepared for all land parcels within the Structure Plan area and that these Local Development Plans are developed in reference to the Port Geographe Village Centre Design Guidelines. This recommendation is provided within the Schedule of Modifications at Attachment N.

### ***Public boardwalks/Public Access***

The Port Geographe Development Area 'Special Control Area' places importance on the retention of "a high level of direct public access to waterway/canals" in the Scheme by the inclusion of this within any future version of the PGDP. The requirement to retain pedestrian routes throughout the former Village Centre is echoed within the PGDP, VCPP and LPP 4B, with the extensive provision of waterfront boardwalks to facilitate public access.

The applicant has stated that the boardwalks were initially proposed to provide a public interface to the planned commercial and tourist uses within Lot 9501 and were not intended as primary pedestrian routes through the site, which is identified separately on the PGDP. The applicant further argues that the change of land use proposed by this Structure Plan no longer gives rise to the need for a public boardwalk in this location, and as such, seeks the removal of this requirement.

Despite this, the desire for this pedestrian access has been reflected through the public submissions received during advertising, with a number of submissions seeking better pedestrian access for lots within the southern portion of the Port Geographe development to the marina and coastal areas. Currently, the only public access to the marina and canals is provided at the marina itself, around the existing restaurant and at the small number of pocket parks that are not widely used. The development of Lot 9501 is the last remaining opportunity for the creation of meaningful access for the community to enjoy the amenity of the waterfront areas. Although a perceived security and amenity risk could arise with the provision of public access in close proximity to residential houses, this concern is no different to the provision of a dual use path.

Given the importance placed on access to the waterfront areas and canals by the Scheme, et al, and the expressed desire of existing residents, it is recommended that a portion of the original public boardwalk network be retained and incorporated into the proposed pedestrian network within the 'Village Centre'. Officers consider that the portion of Lot 9501 nearest to the public boat launching facilities providing the mainland interface with the Marina (as distinct from the portions known as 'The Islands') should include public access to the waterway as an extension of the pedestrian network.

The original provision within the PGDP required public boardwalks to be created within individual lot boundaries and to be maintained by each individual lot owner. Officers believe this requirement to be overly onerous and impractical. A preferred approach could be for a constructed pathway along the landward side of the canal edge in this location, instead of a boardwalk, would achieve the requirement for public access while reducing the construction and ongoing maintenance costs quite significantly. The ongoing maintenance of the pathway would also more appropriately lie with the City rather than the individual lot owners.

These land tenure matters will need to be further investigated and resolved with the applicant/landowner, which can occur without delaying final consideration of the Structure Plan. As such, the Schedule of Modifications, at Attachment N, recommends a new provision to be included within Part One of the Structure Plan document with a notation on the Structure Plan map.

### **City Owned Land (Lot 585 Port Lane)**

Development of the northern-most section of Lot 9501 nearest to the Marina is constrained by the narrow width (being only approximately 26 metres of 'dry' land) between the marina (canal wall) and the City-owned Lot 585. The narrow nature of this strip of land limits viable development opportunities, particularly with respect to accommodating on-site car parking.

As part of a broader review of the balance of the land within the former Village Centre precinct, the applicant identified an opportunity for a 'like-for-like' land exchange between Lot 9501 and Lot 585 which will not only improve the development potential of the area fronting the marina, but will consolidate the City's landholding and provide direct frontage to the main entry of the former 'Village Centre' from Layman Road. It is intended that such a land rationalisation will stimulate development of the strip of land fronting the marina, as well as providing an improved planning and development outcome for Lot 585.

Alternatively, the applicant identified a proposal where the landowners would potentially purchase Lot 585 for residential development. Lot 585 was initially set aside for future expansion of the parking area to service the commercial/retail aspect of the former 'Village Centre'. In recent times, the focus on the 'Village Centre' as a major commercial node has dissipated, and as such, there will no longer be demand for public parking in this location.

Comments provided during the public submission period sought an additional area of public open space in the area of Lot 585, rather than the development of this land. However, a significant provision for public open space has already been provided for the area north of Lanyard Boulevard, a contribution by the original subdivider of 17.77% of the gross subdivisible area, being greater than the 10% required by State policy. Much of these existing parks appear to be underutilised.

Further discussions with the applicant and landowners are continuing and the correct statutory processes for disposal of the subject land will be followed, if that approach is favourably endorsed by the Council.

### **Starboard Lane**

The Starboard Lane road reserve ceases at the boundary of Lot 584, directly to the north of Lot 585 Port Lane. Lot 584 is owned in freehold by the City and the road pavement continues through to the marina and associated parking. In order for the development to be realised as per the proposed Structure Plan, this land would need to be ceded as road reserve. The Structure Plan recognises this by requiring any lots fronting Starboard Lane to have legal road access prior to subdivision. Any costs associated with the creation and dedication of the road reserve will be required to be borne by the subdivider.

### **CONCLUSION**

As a result of the assessment detailed above, City officers recommend that the Council provides a recommendation to the WA Planning Commission to support, subject to the modifications detailed at Attachment N) the following proposed Structure Plans:

1. Proposed Structure Plan for Lot 590 Spinnaker Boulevard, Geographe.
2. Proposed Structure Plan for Lot 612 Spinnaker Boulevard, Geographe.
3. Proposed Structure Plan for Lot 585 and Pt Lot 9501 Port Lane, Geographe.
4. Proposed modifications to the Port Geographe Development Plan.
5. Proposed modifications to the Village Centre Precinct Plan.

**OPTIONS**

Should the Officer Recommendation not be supported, the following options could be considered –

1. Resolve to adopt the draft Structure Plans for final approval subject to further (or alternative) modification(s); and/or
2. Resolve not to adopt the draft Structure Plans for final approval, for reasons to be specified.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Implementation of the Officer Recommendation will occur within one month of the date of decision.

**COUNCIL DECISION AND OFFICER RECOMMENDATION****C1906/110**

Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council:

1. Pursuant to Schedule 2, Part 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts for Final Approval, subject to the Schedule of Modifications at Attachment N, the following:
  - a) Proposed Structure Plan for Lot 590 Spinnaker Boulevard, Geographe.
  - b) Proposed Structure Plan for Lot 612 Spinnaker Boulevard, Geographe.
  - c) Proposed Structure Plan for Lot 585 and Pt Lot 9501 Port Lane, Geographe.
  - d) Proposed modifications to the Port Geographe Development Plan.
  - e) Proposed modifications to the Village Centre Precinct Plan.
2. Pursuant to Schedule 2, regulation 19 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolve to endorse the Schedule of Submissions at Attachment M prepared in response to the public consultation undertaken in relation to these draft Structure Plans.
3. Pursuant to Schedule 2, regulation 20 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, requires that a report on the draft Structure Plans be provided to the Western Australian Planning Commission within the timeframe agreed with the Commission.
4. Pursuant to Schedule 2, regulations 22 and 23 of the *Planning and Development (Local Planning Schemes) Regulations 2015* should the WAPC require modification be made to any of the draft Structure Plans, other than those set out in Attachment N, these modification are to be undertaken accordingly, on behalf of the Council, unless they are considered by officers to be likely to significantly affect the purpose and intent of the draft Structure Plan(s), in which case the matter shall be formally referred by to the Council for assessment and determination.

**CARRIED 8/0****EN BLOC**

## 15.1 NAMING OF THE BUSSELTON TENNIS CENTRE

<b>SUBJECT INDEX:</b>	Naming of City Assets
<b>STRATEGIC OBJECTIVE:</b>	Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities.
<b>BUSINESS UNIT:</b>	Community Development
<b>ACTIVITY UNIT:</b>	Community Development
<b>REPORTING OFFICER:</b>	Club Development Officer - Pam Glossop
<b>AUTHORISING OFFICER:</b>	Director, Community and Commercial Services - Naomi Searle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

### PRÉCIS

This report seeks the Council's endorsement to name the Busselton Tennis Courts and Pavilion located at Lot 507, part Reserve 8485 Busselton (Barnard Park) as the Busselton Tennis Centre, in line with Council policy 'Naming of City Roads and Assets'.

### BACKGROUND

The Busselton Tennis Club Relocation Working Group (the Working Group) have meet regularly over the last three years as they plan for the soon to be realised relocation of the Busselton Tennis Club from the corner of Queen Street and Marine Terrace to the new location at Lot 507 Marine Terrace.

The existing tennis club pavilion is called the Charlie Clayton Pavilion and the complex as a whole is named the Busselton Tennis Club. The subject of naming the new tennis club premises was raised during business planning. It was felt that the name of the new facility was important to support the City and Club's aim of engaging more broadly with the community. The Busselton Tennis Centre was suggested as a name for the new facility and this was discussed at a meeting of the Busselton Tennis Club on 4 February, 2019.

On 11 May 2019, at the Busselton Tennis Club Annual General Meeting (AGM), a proposal to name the new facility the Busselton Tennis Centre (with no separate name for the pavilion) was put forward. An alternative motion was moved to name the new pavilion after a local identity however this motion was defeated. The Busselton Tennis Club now seek the Council's endorsement to name the new Busselton tennis courts and pavilion located at Lot 507 part Reserve 8485 Busselton (Barnard Park) the 'Busselton Tennis Centre'.

### STATUTORY ENVIRONMENT

Nil.

### RELEVANT PLANS AND POLICIES

Council Policy 'Naming of City Roads and Assets' is a relevant policy.

The policy applies in respect to any proposal to name a park, garden, reserve, memorial, sports ground and building or other significant infrastructure asset owned by or under the care, control or management of the City of Busselton

### FINANCIAL IMPLICATIONS

There are no financial implication associated with the officer recommendation with the cost of signage able to be met in the current budget.



## **LONG-TERM FINANCIAL PLAN IMPLICATIONS**

There are no long term financial implications associated with the officer recommendation.

## **STRATEGIC COMMUNITY OBJECTIVES**

The officer recommendation primarily aligns with the following Key Goal Area and Community Objective of the City of Busselton's Strategic Community Plan 2017:

Key Goal Area 2 – PLACES AND SPACES

2.2 Attractive parks and open spaces that create opportunity for people to come together, socialise and enjoy a range of activities.

## **RISK ASSESSMENT**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework. There are no risks identified of a medium or greater level associated with the officer recommendation.

## **CONSULTATION**

Consultation has been undertaken with the Working Group and with club members via the AGM, who support the 'Busselton Tennis Centre' as the most appropriate name for the new tennis complex (inclusive of the courts and pavilion). Officers are comfortable that broader community consultation including advertising of the proposed name is unnecessary.

## **OFFICER COMMENT**

The Busselton Tennis Club has discussed the naming of the new tennis courts and pavilion with its members and has achieved consensus on the proposed name – the 'Busselton Tennis Centre'.

It is felt that the name, the 'Busselton Tennis Centre' is inclusive in nature and reflects a facility that can be used by all of the community. This view is supported by City Officers.

## **CONCLUSION**

Council are requested to endorse the naming of the Busselton tennis courts and pavilion located at Lot 507 part Reserve 8485 Busselton (Barnard Park) as the Busselton Tennis Centre.

## **OPTIONS**

Council may elect to:

- Propose or seek alternative naming of the tennis courts and pavilion located on Lot 507 part reserve 8485 Busselton (Barnard Park).
- Not proceed with the proposed naming at this time.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Officers will advise the Busselton Tennis Club immediately of the Council's decision.

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1906/111** Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council:

1. Approve the naming of Part Reserve 8485, Lot 507 as the Busselton Tennis Centre; and
2. Consult with the relevant Government agencies to formalise the naming process of Part Reserve 8485, Lot 507 to the Busselton Tennis Centre.

**CARRIED 8/0**

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## 17.1 COUNCILLORS' INFORMATION BULLETIN

<b>SUBJECT INDEX:</b>	Councillor's Information Bulletin
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Governance Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Executive Assistant to Council - Katie Banks
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

### PRÉCIS

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

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

### INFORMATION BULLETIN

#### 17.1.1 Current Active Tenders 2018/19

##### **EOI01/18 CONSTRUCTION OF THE CITY CENTRE EASTERN LINK – STAGE 1**

- Requirement – Construction of the City Centre Eastern Link Stage 1.
- An Expression of Interest was advertised on 15 December 2018 with a closing date of 22 January 2019.
- The process for making a preliminary selection among prospective tenderers has been completed and pursuant to delegation LG3K, the CEO determined that Ertech Pty Ltd, Georgiou Group Pty Ltd and BMD Constructions Pty Ltd be accepted by the City as “acceptable tenderers” and thus eligible to participate in the forthcoming request for tender.
- The tender phase was commenced by private notice pursuant to RFT05/19 (see below).

##### **PQS01/19 PLANT AND EQUIPMENT HIRE – REQUEST FOR APPLICATIONS TO JOIN A PANEL OF PRE-QUALIFIED SUPPLIERS**

- Requirement – hire of plant and equipment.
- The PQS was advertised on 9 February 2019 with a closing date of 7 March 2019.
- The closing date has been extended until 14 March 2019. A further State wide advertisement providing notification of the extension was provided by the City on 9 March 2019.
- Thirty submissions were received.
- In accordance with delegation LG3M the CEO has authority to establish the panel and to decide which applications to accept.
- It is anticipated that the panel of pre-qualified suppliers will be established by the CEO in June 2019.

**RFT01/19 SUPPLY OF MOBILE WASTE SHREDDER**

- Requirement – the supply of a mobile waste shredder to be delivered at the Dunsborough Waste Facility.
- A Request for Tender was advertised on 9 March 2019 with a closing date of 26 March 2019.
- Five submissions were received.
- The value of the contract is expected to exceed the CEO's delegated authority under Delegation LG3J and will require Council approval.
- The CEO under delegated authority declined to accept any tender.

**RFT02/19 PROVISION OF CLEANING SERVICES TO CITY OWNED FACILITIES**

- Requirement – the provision of cleaning services to City owned facilities.
- A Request for Tender was advertised on 9 March 2019 with a closing date of 4 April 2019.
- Eight submissions were received.
- The value of the contract is expected to exceed the CEO's delegated authority under Delegation LG3J and will require Council approval.
- It is anticipated that the contract will be awarded in June 2019.

**RFT04/19 SUPPLY OF TWO TRI-AXLE SIDE TIPPING TRAILERS**

- Requirement – supply of two tri-axle side-tipping trailers.
- A Request for Tender was advertised on 23 March 2019 with a closing date of 9 April 2019.
- Four submissions were received.
- The value of the contract is not expected to exceed the CEO's delegated authority under Delegation LG3J.
- A contract was awarded by the CEO under delegated authority to Haulmore Trailer Sales Pty Ltd in June 2019.

**RFT05/19 CITY CENTRE EASTERN LINK**

- Requirement – following an Expression of Interest (EOI 01-18) process for making a preliminary selection among prospective tenderers, the City of Busselton invited tenders for the construction of the City Centre Eastern Link Road upgrade including stages 1,2A and 2B.
- Three tenderers were invited to submit a tender – Georgiou Group Pty Ltd, Ertech Pty Ltd and BMD Constructions Pty Ltd, with a closing date of 14 May 2019.
- The closing date was extended to 28 May 2019.
- Two submissions were received.
- The value of the contract is expected to exceed the CEO's delegated authority under Delegation LG3J and will require Council approval.
- It is anticipated that the contract will be awarded in July 2019. However contract commencement is subject to the relevant conditions precedent being satisfied including environmental approvals being obtained.

**RFT06/19 DESIGN, SUPPLY AND INSTALLATION OF BIRD NETTING OVER STORM WATER RETENTION BASIN**

- Requirement – The design, supply and installation of bird netting over storm water retention basin.
- A Request for Tender was advertised on 22 May 2019 with a closing date of 12 June 2019.
- The value of the contract is not expected to exceed the CEO's delegated authority under Delegation LG3J.

### 17.1.2 Donations, Contributions and Subsidies Fund – May 2019

The Council allocates an annual budget allowance to the Donations, Contributions and Subsidies (Sponsorship Fund). 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 the funds is delegated to the Chief Executive Officer, in accordance with published guidelines and funding availability.

Two applications were supported in May 2019, totalling \$800.00 as outlined in the table below:

App. No.	Recipient	Purpose	Amount
<b>May 2019</b>			
63/1819	Obie Herring	Selected to represent WA as a member of the U13 Junior State Team to compete in the 2019 National Junior Table Tennis Championships held in Wollongong NSW in July 2019. Funds to assist with travel related expenses.	\$300.00
64/1819	Southern Districts Agricultural Society Inc.	The Southern Districts Agricultural Society are seeking sponsorship to purchase materials needed to construct display frames to be used in exhibits at the Busselton Show in an effort to improve the experience for people attending the Show by updating their exhibitions area.	\$500.00
		<b>May Total</b>	<b>\$800.00</b>

- At the end of May 2019, expenditure from the Donations, Contributions and Subsidies Fund totalled \$21,271.00, leaving a balance of \$8,729.00.

### 17.1.3 Recent Correspondence

#### 20 May 2019 – Local Economic Development - WALGA

To assist the Local Government sector in this area, WALGA has recently undertaken a major study into Local Economic Development. The project aimed to:

- Examine the current economic development activities undertaken by Local Governments in Western Australia;
- Explore the broader economic development landscape and environment in which Local Government operates;
- Support the sector to understand its role in driving local economic outcomes;
- Provide practical examples of the types of economic development activities that Local Governments can undertake; and
- Identify reforms at a State level needed to ensure WA's future economic success.

As a result, information relating to Economic Development Framework, Research Findings and Future Directions and Policy Summary has been provided by WALGA.

30 May 2019 – Publication of the Leeuwin- Naturaliste Sub-regional Strategy

The Western Australian Planning Commission has advised the abovementioned strategy has been published and is available to view and download via [www.dplh.wa.gov.au](http://www.dplh.wa.gov.au)

11 June 2019 – Blackwood Complex Fires – June 2019

Following the recent fire events at Jarrahwood, Baudin and Vasse Plantations, City of Busselton Volunteer Bushfire Brigades, Volunteer Fire and Rescue Service and SES have been acknowledged by the Department of Biodiversity, Conservation and Attraction (DBCA) Parks and Wildlife Service, Blackwood District. Due to the collective efforts and experience of firefighters, no properties were lost as a result of the bushfires.

Hard copies of the abovementioned correspondence are available to view upon request.

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1906/112** Moved Councillor J McCallum, seconded Councillor C Tarbotton

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



- 17.1.1 Current Active Tenders 2018/19
- 17.1.2 Donations, Contributions and Subsidies Fund – May 2019
- 17.1.3 Recent Correspondence

**CARRIED 8/0**

**EN BLOC**

**ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION, WITHOUT DEBATE**

12.3 Finance Committee - 20/06/2019 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 MAY 2019

<b>SUBJECT INDEX:</b>	Budget Planning and Reporting
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Financial Services
<b>REPORTING OFFICER:</b>	Acting Manager Financial Services - Jeffrey Corker
<b>AUTHORISING OFFICER:</b>	Director Finance and Corporate Services - Tony Nottle
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Statement of Financial Activity - Period Ended 31 May 2019 
	Attachment B Investment Report for the month of May 2019 

**This item was considered by the Finance Committee at its meeting on 20 June 2019, the recommendations from which have been included in this report.**

**PRÉCIS**

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

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the City's financial performance on a year to date basis for the period ending 31 May 2019.

**BACKGROUND**

The Regulations detail the form and manner in which financial activity statements are to be presented to the Council on a monthly basis; and are to include the following:

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

Additionally, and pursuant to Regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year. At its meeting of 25 July 2018, the Council adopted (C1807/138) the following material variance reporting threshold for the 2018/19 financial year:

*"That pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations, the Council adopts a material variance reporting threshold with respect to financial activity statement reporting for the 2018/19 financial year as follows:*

- Variances equal to or greater than 10% of the year to date budget amount as detailed in the Income Statement by Nature and Type/ Statement of Financial Activity report, however variances due to timing differences and/or seasonal adjustments are to be reported on a quarterly basis; and
- Reporting of variances only applies for amounts greater than \$25,000.”

### **STATUTORY ENVIRONMENT**

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

### **RELEVANT PLANS AND POLICIES**

There are no plans or policies directly relevant to this matter.

### **FINANCIAL IMPLICATIONS**

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

### **LONG-TERM FINANCIAL PLAN IMPLICATIONS**

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

### **STRATEGIC COMMUNITY OBJECTIVES**

This matter principally aligns with Key Goal Area 6 – ‘Leadership’ and more specifically Community Objective 6.1 - ‘Governance systems, process and practices are responsible, ethical and transparent’.

The achievement of the above is underpinned by the Council strategy to ‘ensure the long term financial sustainability of Council through effective financial management’.

### **RISK ASSESSMENT**

Risk assessments have been previously completed in relation to a number of ‘higher level’ financial matters, including timely and accurate financial reporting to enable the Council to make fully informed financial decisions. The completion of the monthly Financial Activity Statement report is a control that assists in addressing this risk.

### **CONSULTATION**

Consultation is not applicable in relation to this matter.

### **OFFICER COMMENT**

In order to fulfil statutory reporting requirements, and to provide the Council with a synopsis of the City’s overall financial performance on a full year basis, the following financial reports are attached here to:

- Statement of Financial Activity

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



▪ Net Current Position

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

▪ Capital Acquisition Report

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

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

▪ Reserve Movements Report

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

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

### COMMENTS ON FINANCIAL ACTIVITY TO 31 MAY 2019

The Statement of Financial Activity for the period ending 31 May 2019 shows an overall Net Current Position "Surplus" of \$4.1M. The following summarises the major variances in accordance with Council's adopted material variance reporting threshold that collectively make up the above difference:

Description	2018/2019 Actual	2018/2019 Amended Budget YTD	2018/2019 Amended Budget	2018/19 YTD Bud Variance	2018/19 YTD Bud Variance
	\$	\$	\$	%	\$
<b>Revenue from Ordinary Activities</b>					
Other Revenue	1,072,055	326,826	362,981	228.02%	745,229
Profit on Asset Disposal	103,947	82,137	82,137	26.55%	21,810
<b>Expenses from Ordinary Activities</b>					
Materials & Contracts	(14,909,912)	(18,454,420)	(20,225,500)	19.21%	3,544,508
Depreciation	(20,253,479)	(17,519,304)	(19,070,922)	-15.61%	(2,734,175)
Asset Adjustments as per Changes to Regulations (OAG)	(1,147,545)	0	0	0	(1,147,545)
Insurance Expenses	(713,980)	(591,974)	(698,808)	-20.61%	(122,006)
Other Expenditure	(2,603,180)	(4,329,729)	(4,862,439)	39.88%	1,726,549
Allocations	1,838,344	1,574,778	1,723,162	-16.74%	263,566
Loss on Asset Disposals	(46,370)	(33,134)	(34,577)	-39.95%	-13,236
<b>Non-Operating Grants, Subsidies and Contributions</b>					
	4,265,125	16,502,588	32,471,094	-74.15%	(12,237,463)
<b>Capital Revenue &amp; (Expenditure)</b>					
Land & Buildings	(1,093,178)	(16,626,044)	(17,986,501)	93.42%	15,532,866
Plant & Equipment	(2,735,555)	(6,462,900)	(6,900,100)	57.67%	3,727,345
Furniture & Equipment	(318,768)	(771,258)	(890,640)	58.67%	452,490
Infrastructure	(20,386,022)	(34,435,366)	(37,644,708)	40.80%	14,049,344
Proceeds from Sale of Assets	773,141	974,550	1,045,950	-20.67%	(201,409)
Proceeds from New Loans	2,730,000	3,150,000	3,150,000	-13.33%	(420,000)

Advances to Com. Groups	0	(150,000)	(150,000)	100.00%	150,000
Transfer to Restricted Assets	(1,155,151)	(505,326)	(551,000)	-128.60%	(649,825)
Transfer from Restricted Assets	8,652,354	11,663,540	14,530,252	-25.82%	(3,011,186)
Transfer from Reserves	5,400,819	12,958,790	27,075,171	-58.32%	(7,557,971)

### **Revenue from Ordinary Activities:**

YTD actual income from ordinary activities is \$700K more than expected when compared to YTD budget with the following items meeting the material variance reporting threshold being;

1. Other Revenue is \$745K better than YTD budget. In part this variance is due to better than expected returns on the sale of scrap metal by \$240k. IT lease buybacks reflect additional income of \$544k which is offset by additional expenses in the IT leasing account 3381. There are many other variances however they are all below the reporting threshold.
2. Profit on asset disposal is \$22k better than YTD budget. This line item is an accounting book entry to recognise profit on asset disposal and as a consequence will not affect the City's "cash" position.

### **Expenses from Ordinary Activities**

Expenditure from ordinary activities, excluding depreciation, allocations and asset adjustments as per amended regulations (i.e. remove assets less than \$5k from assets register and place in portable and attractive register), is \$6.1M less than expected when compared to YTD budget with the following items meeting the material variance reporting threshold;

#### **1. Materials and Contracts:**

The main items affected are listed below:

Cost Code	Cost Code Description / GL Activity	Variance YTD \$
<b>Finance and Corporate Services</b>		
10250	Information & Communication Technology Services	(461,279)
10300	Records	32,749
10251	Business Systems	56,645
10500	Legal and Compliance Services	79,469
<b>Community and Commercial Services</b>		
10630	Property and Business Development	29,872
B1361	YCAB (Youth Precinct Foreshore)	35,101
11151	Airport Operations	42,760
10590	Naturaliste Community Centre	51,543
10380	Busselton Library	70,247
10600	Busselton Jetty Tourist Park	92,831
<b>Planning and Development Services</b>		
10925	Preventative Services - CLAG	38,439
10931	Protective Burning & Firebreaks-Reserves	47,548
10820	Strategic Planning	64,608
10830	Environmental Management Administration	69,846
11170	Meelup Regional Park	108,270

Cost Code	Cost Code Description / GL Activity	Variance YTD \$
<b>Engineering and Works Services</b>		
M9998	Street Side Spraying Urban Areas	(39,152)
C8500	Cycle Ways Maintenance Busselton	(37,727)
G0031	Dunsborough Waste Facility	(36,895)
M0005	Ludlow-Hithergreen Road	(34,014)
G0030	Busselton Transfer Station	(33,732)
M9970	Tree Removal and Clean-up	(26,161)
11300	Sanitation Waste Services Administration	25,371
R0750	Barnard Park Ovals	28,004
12600	Street & Drain Cleaning	28,008
10115	Major Projects Administration	29,700
R0822	Lavender Park (Provence)	30,094
R0821	Avignon Park (Provence)	30,853
11162	Busselton Jetty - Underwater Observatory	34,816
F9999	Footpaths Maintenance	36,330
G0010	Domestic Recycling Collections	36,884
G0034	External Waste Disposal	37,768
<b>Engineering and Works Services</b>		
B1000	Administration Building- 2-16 Southern Drive	39,079
R0820	Almond Green Park (Provence)	42,715
11108	Rural Intersection (Lighting) Compliance	43,768
11106	Street Lighting Installations	49,472
R2001	Tree Planting - Urban Verges	57,270
G0033	Green Waste	58,560
A6004	Pedestrian Bridge (Port Geographe)	58,663
B1514	Asbestos Removal & Replacement	68,750
12620	Rural-Tree Pruning	75,617
R0004	Busselton Foreshore Precinct (not including Skate Park)	76,659
G0032	Rubbish Sites Development	91,663
11301	Regional Waste Management Administration	110,000
A9999	Miscellaneous Bridge Maintenance	115,676
11101	Engineering Services Administration	126,577
M9999	Road Maintenance Bal Of Budget	351,421
11160	Busselton Jetty	649,266
B1401	Old Butter Factory	801,570

## 2. Depreciation:

There is an overall variance in depreciation of \$2.7M, however it should be noted that this is a non-cash item and does not impact on the City's surplus position. The variance can be attributed to the final adjustments made at year end for donated assets, Airport infrastructure additions and Fair Valuation of infrastructure assets being completed post budget adoption and the increase in valuation was unable to be included in the 2018/2019 budget.

### 3. Asset Adjustments as per Changes to Regulations:

Amendments to Regulation 17A will now exclude assets in a local Government annual financial report if valued under \$5000. Regulation 17 (5) states “An asset is to be excluded from the assets of a local government if the fair value of the asset as at the date of acquisition by the local government is under \$5 000”.

A full review has now been conducted and in consultation with the Office of Auditor General and the City auditors an accepted methodology has been now endorsed in order to ensure that the City’s financial reports do not contravene the requirement of the amended Regulations. It was determined that all assets equal to or below the \$5k threshold will be removed from the asset register and placed in the City’s portable and attractive register in order to assist in stock takes and the security of City’s property. The exception to this, is where assets fall below the \$5K threshold, but form part of “parent” asset (i.e. an asset that is made of many individual components that are all required in order to function as a unit) then these assets will remain within the asset register and be capitalised accordingly.

The end result of this process initiated the expensing of assets in accordance with Regulations to the amount of \$1,147,545.

### 4. Insurance:

There is a year to date variance in insurance costs of \$122K. This is a timing issue only which relates to the fleet management business unit insurance budget being projected to occur in period 12 (i.e. June) whereas the actual expenditure was incurred in period 1 (i.e. July).

### 5. Other Expenditure:

There is an YTD variance in other costs of \$1.7M less than year to date budget. The main items affected are listed below:

Cost Code	Cost Code Description / GL Activity	Variance YTD
<b><u>Executive Services</u></b>		
10001	Executive Services	52,926
<b><u>Finance and Corporate Services</u></b>		
10618	Winderlup Court Aged Housing	52,357
10700	Public Relations	63,188
10000	Members of Council	81,299
<b><u>Community and Commercial Services</u></b>		
12631	Peel Terrace Building & Surrounds	(33,216)
10540	Recreation Administration	35,758
10548	Half Iron	42,350
10530	Community Services Administration	133,798
11156	Airport Development Operations	1,375,000
<b><u>Planning and Development Services</u></b>		
10942	Bushfire Risk Management Planning - DFES	(39,283)
10805	Planning Administration	45,590
<b><u>Engineering and Works Services</u></b>		
G0042	BTS External Restoration Works	(226,517)
11160	Busselton Jetty	25,000
B1223	Micro Brewery - Public Ablution	110,000

With regard to the \$1.375M variance associated with the Airport marketing incentive, it is not anticipated that this expense will be incurred this year. However this will not constitute a saving as this cost is reserve backed, hence if expenditure is not incurred, then it follows that the transfer from reserve will also not be processed. All other items above have been classified as timing differences.

#### **6. Allocations**

In addition to administration based allocations which clear each month, this category also includes plant and overhead related allocations. Due to the nature of these line items, the activity reflects as a net offset against operating expenditure, in recognition of those expenses that are of a capital nature (and need to be recognised accordingly). It should be noted that performance in the category has no direct impact on the closing position.

#### **7. Loss on Sale of Assets**

Loss on asset disposal is \$13k higher than YTD budget. This line item is an accounting book entry to recognise loss on asset disposal and as a consequence will not affect the City's "cash" position.

#### **8. Non-Operating Grants, Subsidies and Contributions:**

Non-Operating Grants, Subsidies and Contributions are less than YTD budget by \$12.2M with the main items impacting on the above result being the timing of the receipt of funding which is also offset with less than anticipated capital expenditure at this time;

Cost Code	Cost Code Description	Variance YTD
<b><u>Finance and Corporate Services</u></b>		
10239	Contributions - Public Art (Percent for Art)	(1,073,747)
10240	Contributions - Contribution to Works	(150,405)
10250	Capital Grants-Other (Federal)	140,044
<b><u>Community and Commercial Services</u></b>		
C6099	Capital Grants-Other (Federal)	(8,946,609)
10900	Donated Assets	37,000
C6086	Capital Grants-Other (Federal)	675,556
<b><u>Planning and Development Services</u></b>		
B9109	Hithergreen Building Renovations	(68,886)
B1013	Dunsborough Bushfire Brigade	(178,300)
B1024	Willyabrup Bushfire Brigade	(178,300)
B1015	Hithergreen District Bushfire Brigade	(465,200)
B1026	Yallingup Rural Bushfire Brigade	(597,600)
<b><u>Engineering and Works Services</u></b>		
C3168	Capital Grants-Other (Federal)	(308,221)
S0051	Capital Grant-Department of Main Roads	(258,337)
S0064	Capital Grant-Department of Main Roads	(172,225)
S0035	Capital Grant-Department of Main Roads	(165,000)
C0049	Capital Grants - Other (State)	(157,443)
C2528	Capital Grants - Other (State)	(125,000)
C3112	Capital Grants - Other (State)	(100,000)
C3150	Contributions - Capital Activities	(96,715)
S0069	Capital Grant-Department of Main Roads	(86,112)
C2523	Capital Grants - Other (State)	(75,000)
C2512	Capital Grants - Other (State)	(55,000)
D0017	Capital Grant-Department of Main Roads	(46,500)

F1018	Capital Grants - Other (State)	(32,087)
S0068	Contributions - Capital Activities	74,500
W0026	Capital Grant-Department of Main Roads	120,000

### **9. Capital Expenditure**

As at 31 May 2019, there is a variance of -58% or -\$33.8M in total capital expenditure with YTD actual at -\$24.5M against YTD budget of -\$58.3M.

The airport development makes up for \$14.5M (main variance relates to the Airport terminal \$11.8M), Busselton Tennis Club infrastructure \$1.38M, Plant and Equipment \$3.7M, Council roads initiative projects \$0.9M, Eastern link Busselton traffic study \$2.5M, Dunsborough land purchase for parking \$1.3M, Main roads projects \$1.4M, parks, gardens and reserves \$685K, sanitation infrastructure \$1.2M, beach restoration \$1.1M, Busselton Senior Citizens \$678K, Dunsborough cycleway CBD to Our Lady of the Cape School -\$154K (i.e. over YTD budget), furniture and equipment \$452K, Busselton jetty tourist park upgrade \$208K, beach front infrastructure \$72K, Geographe Leisure Centre pool relining \$50K, energy efficiency initiatives (various buildings) \$84K, boat ramp construction \$362K, major projects Lou Weston oval \$625K, Busselton foreshore infrastructure \$770K, Busselton foreshore buildings \$219K, bridge construction \$222k, and depot wash down facility upgrade \$100k.

These items of under expenditure also assists in explaining the above current YTD shortfall in Non-Operating Grants.

The attachments to this report include detailed listings of the following capital expenditure (project) items, to assist in reviewing specific variances.

### **10. Proceeds from Loans/ Advances to Community Groups**

As at 31 May 2019, there is a variance of \$420K which relates to the budgeted drawdown of loans that has now mainly occurred, however to a lesser extent than anticipated. The two main loans raised that varied from the budget are;

- Busselton Tennis Club loan budgeted to drawdown \$1.5M, however actual drawdown was \$1.25M (variance \$250k) ; and
- Air Freight Hub Stage 1 loan budgeted to drawdown \$1.5M, however actual draw down was \$1.48M (variance \$20k);

With regard to the self-supporting loan for community groups, it is not expected that this will occur, hence the contra entry "advances to community groups" as a consequence will also not be required. The transactions associated with self-supporting loans is ordinarily cost neutral to the City, therefore this transaction will have no effect on the City's net current position.

### **11. Transfer to Restricted Assets**

There is a YTD variance for transfer to restricted assets of \$649k more than year to date budget. The reason for this is as follows:

- Transfer to deposits and bonds of \$1M as opposed to a budget of \$0. These funds do not have a budget allocation as they are not able to be reliably measured and will be subject to a Council report in June 2019;
- Transfer to contributions to works has fallen short of anticipated budget by -\$150K,
- Transfer to restricted grants (interest) has fallen short of budget by -\$200k.

### **12. Transfer from Restricted Assets**

There is a YTD variance for transfer from restricted assets of \$3M less than year to date budget. The reason for this is as follows:

- Transfer for Airport noise mitigation of \$869k will not proceed this year and has been relisted on the 2019/20 budget;
- Transfer for Airport marketing of \$1.5M will not proceed this year and has been relisted on the 2019/20 budget;
- Transfer for unspent loans relating to Busselton Tennis Club is under budget by \$955K.

### **13. Transfer from Reserves**

There is a YTD variance for transfer from reserves of \$7.5M less than year to date budget. The reason for this is mainly due to the need to do a full analysis at the end of year in order to determine the authorised final expenditure that can be recouped in accordance with the purpose of the reserve. Traditionally the City has made any transfers possible during the year (once acquisitions/ works are completed) with the bulk of the transfers being made in June.

### **Investment Report**

As at 31st May 2019 the value of the City's invested funds totalled \$71.95M, down from \$73.95M as at 30th April March. The decrease is due to the withdrawal of funds from Term Deposits as required to meet expenditure.

During the month of April five term deposits held with four different institutions totalling \$13.5M matured. Three, totalling \$7.5M; were renewed for a further 110 days at 2.26% (on average). Two, totalling \$6.0M; were closed to provide readily available cash for the coming months.

The balance of the 11am account (an intermediary account which offers immediate access to the funds compared to the term deposits and a higher rate of return compared to the cheque account) increased by \$4.0M with funds from closed term deposits temporarily held there.

The balance of the Airport Development ANZ accounts remained steady

The RBA left official rates on hold during May but decreased them by 0.25% in June. Term deposit renewal rates had been pricing in a drop for some weeks and returns are noticeably lower. The drop will decrease the return on cash accounts including the 11am account. Financial markets are predicting further falls. The Interest return on Council's investments will fall accordingly.

### **Chief Executive Officer – Corporate Credit Card**

Details of monthly (April to May) transactions made on the Chief Executive Officer's corporate credit card are provided below to ensure there is appropriate oversight and awareness of credit card transactions made.

<b>Date</b>	<b>Amount</b>	<b>Payee</b>	<b>Description</b>
		No expenses recorded during the period	

### **CONCLUSION**

As at 31 May 2019, the financial performance for the City of Busselton is considered satisfactory based on the information received from directorates and the recent budget review.

### **OPTIONS**

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

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Not Applicable

**COUNCIL DECISION AND COMMITTEE RECOMMENDATION**

**C1906/113** Moved Councillor P Carter, seconded Councillor J McCallum

That the Council receives the statutory financial activity statement reports for the period ending 31 May 2019, pursuant to Regulation 34(4) of the Local Government (Financial Management) Regulations

**CARRIED 8/0**

**CARRIED BY ABSOLUTE MAJORITY**



## 12.4 Finance Committee - 20/06/2019 - BUDGET AMENDMENT REQUEST / REVIEW

<b>SUBJECT INDEX:</b>	Budget Planning and Reporting
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Financial Services
<b>REPORTING OFFICER:</b>	Acting Manager Financial Services - Jeffrey Corker
<b>AUTHORISING OFFICER:</b>	Director Finance and Corporate Services - Tony Nottle
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	

**This item was considered by the Finance Committee at its meeting on 20 June 2019, the recommendations from which have been included in this report.**

### **PRÉCIS**

This report seeks recommendation of the Finance Committee to Council for the approval of budget amendments as detailed in this report. Adoption of the Officers recommendation will result in no change to the City's current amended budgeted surplus position of \$0.

### **BACKGROUND**

Council adopted its 2018/2019 municipal budget on Wednesday, 25 July 2018 with a balanced budget position.

Since this time Council has been advised of certain expense changes that have impacted the original budget and Council is now being asked to consider budget amendments for the following key areas/projects:

#### **1. West Street Drainage**

### **STATUTORY ENVIRONMENT**

Section 6.8 of the *Local Government Act 1995* refers to expenditure from the municipal fund that is not included in the annual budget. In the context of this report, where no budget allocation exists, expenditure is not to be incurred until such time as it is authorised in advance, by an absolute majority decision of the Council.

### **RELEVANT PLANS AND POLICIES**

There are multiple plans and policies that support the proposed budget amendments.

### **FINANCIAL IMPLICATIONS**

Budget amendments being sought will result in no change to Council's budget surplus position of \$0.

### **LONG-TERM FINANCIAL PLAN IMPLICATIONS**

There are no Long Term Financial Plan implications in relation to this item.

## STRATEGIC COMMUNITY OBJECTIVES

This matter principally aligns with Key Goal Area 6 – ‘Leadership’ and more specifically Community Objective 6.1 - ‘Governance systems, process and practices are responsible, ethical and transparent’.

## RISK ASSESSMENT

There is a risk to the City, as there is with all projects undertaken, that the final cost could exceed budget. If this looks to be the case Council will be notified so a suitable offset / project scope back can be identified.

## CONSULTATION

No external consultation was considered necessary in relation to the budget amendments.

## OFFICER COMMENT

The Officer recommends the following requested budget amendment to the Finance Committee for consideration and recommendation to Council.

### 1. West Street Drainage

This budget amendment seeks to transfer \$30,000 of the Glenmeer Ramble Drainage Project budget (D0020) to a new project titled West Street Drainage.

During a high rainfall event in May 2018 localised flooding occurred on West Street adjacent the recently developed Aldi and Kmart complex. Stormwater from the road (West Street) and overflow from the new carpark inundated 100 (Lot 16) West Street causing flood damage to the property. A design to bypass the flow of stormwater through to the existing wetland has been completed. These mitigation works are estimated to cost in the order of \$30,000. Due to the high risk of further stormwater flooding these works have been identified as urgent.

The drainage work at Glenmeer Ramble scheduled for this financial year have been postponed and relisted in the 2019/2020 budget.

## Planned Expenditure Item

Officers propose that the 2018/2019 adopted budget be amended to reflect the following funding changes, shown in Table 1.

**Table 1:**

<i>Cost Code</i>	<i>Description</i>	<i>Current Budget</i>	<i>Change</i>	<i>Resulting Proposed Amended Budget</i>
<b>Expenditure</b>				
541.D0020.3035.0000	Glenmeer Ramble drainage project - Wages	\$11,780	-\$6,431	\$5,349
541.D0020.3280.0000	Glenmeer Ramble drainage project - Contractors	\$28,520	-\$15,337	\$13,183

541.D0020.6180.0000	Glenmeer Ramble drainage project - Overheads	\$15,000	-\$8,232	\$6,768
	<b>Total from Glenmeer Ramble</b>	<b>\$55,300</b>	<b>-\$30,000</b>	<b>25,300</b>
541.D0022.3035.0000	West Street Drainage - Wages	0	\$6,431	\$6,431
541.D022.3280.0000	West Street Drainage project - Contractors	0	\$15,337	\$15,337
541.D022.6180.0000	West Street Drainage project - Overheads	0	\$8,232	\$8,232
	<b>Total to West Street</b>	<b>\$0</b>	<b>\$30,000</b>	<b>\$30,000</b>
	<b>Net Total</b>	<b>\$55,300</b>	<b>0</b>	<b>\$55,300</b>

## CONCLUSION

Council's approval is sought to amend the budget as per the details contained in this report. Upon approval the proposed works will be planned, organised and completed.

## OPTIONS

The Council could decide not to go ahead with any or all of the proposed budget amendment requests.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should the Officer Recommendation be endorsed, the associated budget amendment will be processed within a month of being approved.

## COUNCIL DECISION AND COMMITTEE RECOMMENDATION

**C1906/114** Moved Councillor J McCallum, seconded Councillor L Miles

That Council endorse the requested budget amendment outlined in Table 1 below resulting in no change to an amended budget surplus position of \$0.

**Table 1:**

<i>Cost Code</i>	<i>Description</i>	<i>Current Budget</i>	<i>Change</i>	<i>Resulting Proposed Amended Budget</i>
<b>Expenditure</b>				
541.D0020.3035.0000	Glenmeer Ramble drainage project - Wages	\$11,780	-\$6,431	\$5,349
541.D0020.3280.0000	Glenmeer Ramble drainage project – Contractors	\$28,520	-\$15,337	\$13,183
541.D0020.6180.0000	Glenmeer Ramble drainage project - Overheads	\$15,000	-\$8,232	\$6,768

	<b>Total from Glenmeer Ramble</b>	<b>\$55,300</b>	<b>-\$30,000</b>	<b>25,300</b>
541.D0022.3035.0000	West Street Drainage - Wages	0	\$6,431	\$6,431
541.D022.3280.0000	West Street Drainage project - Contractors	0	\$15,337	\$15,337
541.D022.6180.0000	West Street Drainage project - Overheads	0	\$8,232	\$8,232
	<b>Total to West Street</b>	<b>\$0</b>	<b>\$30,000</b>	<b>\$30,000</b>
<b>Net Total</b>		<b>\$55,300</b>	<b>0</b>	<b>\$55,300</b>

**CARRIED 8/0**

**CARRIED BY ABSOLUTE MAJORITY**

14.1 AWARD OF TENDER RFT02-19 PROVISION OF CLEANING SERVICES TO CITY OWNED FACILITIES

<b>SUBJECT INDEX:</b>	Award Of Tender RFT02-19 Provision Of Cleaning Services To City Owned Facilities
<b>STRATEGIC OBJECTIVE:</b>	Assets are well maintained and responsibly managed.
<b>BUSINESS UNIT:</b>	Major Projects and Facilities
<b>ACTIVITY UNIT:</b>	Facilities
<b>REPORTING OFFICER:</b>	Manager Major Projects and Facilities - Meg Delahoy
<b>AUTHORISING OFFICER:</b>	Director, Engineering and Works Services - Oliver Darby
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Confidential Attachment A - RFT 02-19 - Tender Evaluations, Panel Consensus Score Sheets and Recommendation Report for Council

<b>DISCLOSURE OF INTEREST</b>	
Date	26 June 2019
Meeting	Council
Name/Position	Coralie Tarbotton, Councillor
Item No./Subject	14.1
Type of Interest	Impartiality Interest
Nature of Interest	I declare an Impartiality Interest in relation to Item 14.1 as I have previously engaged Ocean Air Trust T/A Ocean Air Carpet Care who are recommended as one of the preferred tenders for the CEO to negotiate with and award a contract to. As a consequence there may be a perception that my impartiality on the matter may be affected. I declare that I will consider the item solely on its merits and vote or act accordingly.

**Attachment A is confidential under Section 5.23 - 2(c) of the Local Government Act 1995 in that it deals with "a contract entered into or which may be entered into, by the local government". Copies have been provided to Councillors, the Chief Executive Officer and Directors Only.**

### PRÉCIS

The Council is requested to consider the tenders received in response to Request for Tender RFT02-19 Provision of Cleaning Services to City Owned Facilities (the Tender). The Tender has now closed and tender submissions have been received and evaluated. This report summarises the submissions received and recommends that the Council endorse the outcome of the evaluation panel's assessment and delegate authority to the CEO to negotiate and agree final terms and conditions and award a contract for a finalised contract price to the following tenderers:

- Bellrock Cleaning Services Pty Ltd as trustee for the Bellrock Cleaning Services Trust for Separable Portion 1 and Separable Portion 4; and
- Jenni and Michael Eddington ATF Ocean Air Trust T/A Ocean Air Carpet Care for Separable Portion 2 and Separable Portion 3.

## BACKGROUND

The City of Busselton's Building/Facilities Maintenance Working Budget includes provision for the scheduled cleaning services to all City-owned Facilities administration/ office buildings (internal and external), halls, ablutions, change rooms and BBQ hotplates.

The City invited suitably qualified and experienced contractors to make submissions to enter into a Contract for the provision these services separated into the following separable portions:

1. SP1 City Owned Buildings – Internal
2. SP2 City Owned Ablution Blocks and Change rooms
3. SP3 City Owned BBQ Hotplates and Surrounds
4. SP4 City Owned Buildings – External/Façade for Administration Building, Busselton Library, YCAB, CRC, Art Geo and Old Court House

Tenderers were offered the opportunity to submit tenders for all Separable Portions or any combination thereof. Each separable Portion was to be submitted for the entirety of the Requirements of that Separable Portion.

The City of Busselton is committed to maintaining high levels of cleanliness at all City owned facilities. The tendered documentation outlined the service expectations, specifications and standards associated with providing cleaning services to City owned facilities. A requirement was also included for the Contractor to maintain a log of facility conditions pre and post cleaning including photos. These records are to be maintained by the Contractor for a minimum period of ninety days from date of works and made available to the City at their request within this period.

## STATUTORY ENVIRONMENT

The contract value is greater than \$500,000, therefore, in accordance with section 5.43(b) of the Local Government Act 1995, read with Delegation 3J, the tender must be accepted by the Council and will require a report to the Council.

In terms of Section 3.57 of the *Local Government Act 1995 (Act)* a local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods and service. Part 4 of the *Local Government (Functions and General) Regulations 1996*:

- requires that tenders be publicly invited for such contracts where the estimated cost of providing the required goods and/or service exceeds \$150,000; 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.

With regard to the Tender, City officers have complied with abovementioned legislative requirements.

## RELEVANT PLANS AND POLICIES

The City's purchasing policies and its occupational health and safety, asset management and engineering technical standards and specifications were all relevant to the Tender, and have been adhered to in the process of requesting and evaluating tenders.

## FINANCIAL IMPLICATIONS

This contract is funded by the City of Busselton's Building/Facilities Maintenance Working Budget.

The estimated total value of the procurement for the full contract term of three (3) years is \$2,865,000 excluding GST. The estimated total value over the full contract term of three (3) years, plus the optional two (2) one (1) year contract extensions is \$4,850,000 excluding GST.

The budget estimate is based on current contract rates and forecast number of cleans, with prices indexed based on estimated annual CPI increases of 1.5%. The budget estimate for the total Contract, including all extension options is broken down annually as follows:

Financial Year	Projected budget
FY18/19	\$907,800
FY19/20	\$941,000
FY20/21	\$955,000
FY21/22	\$969,000
FY22/23	\$985,500
FY23/24	\$999,500
<b>Total</b>	<b>\$4,850,000.00</b>

As part of the Tender process, tenderers were requested to provide itemised costs under the four separable portions. The recommendation delegates to the CEO the ability to negotiate the final contract terms. It is proposed that final terms be agreed, subject to awarding a contract for a contract price not exceeding the budget.

The recommendation is for a total contract price of \$2,548,558 for the full contract term of three (3) years. This contract price is approximately 11% less compared to the budget estimate. It is also approximately 8% less than the expenditure for the FY18/19. The reduction is primarily due to comparatively lower tendered rates for BBQ cleaning and internal building cleaning.

## LONG-TERM FINANCIAL PLAN IMPLICATIONS

The costs associated with this project have been included in the City's Long Term Financial Plan and therefore the Officer's recommendation does not give rise to any long term financial plan implications.

## STRATEGIC COMMUNITY OBJECTIVES

The officer's recommendation primarily aligns with the following Key Goal Area/s and Community Objective/s of the City of Busselton's Strategic Community Plan 2017:

Key Goal Area 1 - COMMUNITY: Welcoming, friendly, healthy

1.3 A community with access to a range of cultural and art, social and recreational facilities and experiences.

Key Goal Area 6 - LEADERSHIP: Visionary, collaborative, accountable

6.4 Assets are well maintained and responsibly managed.

## RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer's recommendation has been undertaken using the City's risk assessment framework, with the intention being to identify risks which, following implementation of controls, are identified as medium or greater. There are no such risks identified, with the preferred tenderers assessed as being capable of delivering the services to a suitable service level and in line with the agreed cleaning schedule.

## CONSULTATION

The Tender was advertised in the West Australian newspaper and the City of Busselton tenders website (Tenderlink) on Saturday 9 March 2019. The closing time and date for lodgement of a response was 2:00 p.m. on Thursday 4 April 2019

Reference checking of the preferred Tenderers has been undertaken.

## OFFICER COMMENT

The City received a total of eight submissions as follows:

Bellrock Cleaning Services Pty Ltd as trustee for the Bellrock Cleaning Services Trust	Jenni and Michael Eddington ATF Ocean Air Trust T/A Ocean Air Carpet Care
DMC Cleaning Corporation Pty Ltd ATF Panich Family Trust T/A Delron Cleaning	Brigade Facilities Management Pty Ltd
CSCH Pty Ltd T/A Charles Service Company	Fernview Holdings Pty Ltd T/A Delron Cleaning Busselton
Office Cleaning Experts Pty Ltd T/A OCE Corporate Cleaning	<i>Paradigm Cleaning &amp; Professional Services Pty Ltd</i>

The compliance criteria specified for this Request were:

- (a) Compliance with and completion of the Price Schedule;
- (b) Compliance with the Specification as contained in this Request for Tender; and
- (c) Compliance with City of Busselton OSH Requirements.

These criteria were not point scored. Each submission was assessed on a Yes / No basis as to whether a criterion was satisfactorily met.

Paradigm Cleaning & Professional Services Pty Ltd were non-compliant for all separable portions and their submission was not evaluated.

Jenni and Michael Eddington ATF Ocean Air Trust T/A Ocean Air Carpet Care were non-compliant for Separable Portion 1 and Separable Portion 4 and their submission was not evaluated for these two separable portions.

The tender assessment was carried out by a tender evaluation panel in accordance with normal practice.

Tenders were evaluated using the tendered prices and information provided by tenderers in response to the qualitative criteria specified in the Tender. A scoring and weighting system was used to assess the tendered prices and the responses against the qualitative criteria.



The following weightings were applied to the qualitative criteria and to price:

- Relevant Experience 15%
- Local Benefit 5%
- Key Personnel skills and experience 5%
- Respondent's Resources 10%
- Demonstrated Understanding 20%
- Occupational Health and Safety 5%

The City adopted a best value for money approach to this Tender. This means that, although price will be a consideration, the Tender containing the lowest price will not necessarily be accepted, nor will the Tender ranked the highest in relation to the qualitative criteria. The extent to which a tender demonstrated greater satisfaction of each of the qualitative criteria resulted in a greater score. The tendered prices were then assessed together with the weighted qualitative criteria and the tenders scored and ranked to determine the most advantageous outcome to the City.

The tender evaluation resulted in two (2) tenderers being considered to be the most advantageous to the City. The Evaluation Panel recommends that the below Tenderers be appointed for each separable portion:

- Bellrock Cleaning Services Pty Ltd as trustee for the Bellrock Cleaning Services Trust be awarded SP1: City Owned Administration/Office Buildings at a contract value of \$945,422 for the full contract term of three (3) years.
- Jenni and Michael Eddington ATF Ocean Air Trust T/A Ocean Air Carpet Care be awarded SP2: City Owned Ablution Blocks and Changerooms at a contract value of \$1,200,787 for the full contract term of three (3) years.
- Jenni and Michael Eddington ATF Ocean Air Trust T/A Ocean Air Carpet Care be awarded SP3: City Owned BBQ Hotplates and Surrounds at a contract value of \$245,187 for the full contract term of three (3) years.
- Bellrock Cleaning Services Pty Ltd as trustee for the Bellrock Cleaning Services Trust be awarded SP4: City Owned Administration/Office Buildings – External/Façade” at a contract value of \$157,161 for the full contract term of three (3) years.

The total value of the procurement for the full contract term of three (3) years is \$2,548,558. This is \$316,488 less than the budget estimate for the full contract term of three (3) years. The reduction is primarily due to comparatively lower tendered rates for BBQ cleaning and internal building cleaning.

The attached confidential Tender Evaluation and Recommendation Report (Attachment A) provides the detailed evaluation outcome.

## CONCLUSION

The tender evaluation panel has completed their assessment of the Tender in line with the City's tender process and Officers now recommend that Council endorse the outcome of the evaluation panel's assessment and delegate authority to the CEO to negotiate and agree final terms and conditions with and to award a contract for the following separable portions:

- Bellrock Protective Services Pty Ltd as being the best valued tender submission in relation to Separable Portion 1 and Separable Portion 4; and
- Jenni and Michael Eddington t/a Ocean Air Carpet Care & Commercial Cleaning as being the best valued tender submission in relation to Separable Portion 2 and Separable Portion 3.

## OPTIONS

The Council may consider the following alternate options:

1. To award the Tender to an alternative tenderer/s. In the view of the Officers this could result in the Tender being awarded to a Tenderer that is not most advantageous to the City.
2. To not award the Tender. This would mean going back out to tender, resulting in significant delays to the contract award and potential significant delays to the provision of cleaning services to City owned facilities. The current interim contract would also need to be extended with the Contractors who are currently engaged to provide these services.

For the reasons provided in this report, the abovementioned options are not recommended.

If any Councillor is minded to either of the above options, Officers can assist on the drafting of a suitable alternative motion.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The selection of the preferred tenderers can be made immediately after the Council has endorsed the Officer's recommendation. Subject to negotiation and agreement on scope and budget the successful Tenderers will then receive formal written notification. All tender applicants not selected as preferred will also be notified at this time.

### COUNCIL DECISION AND OFFICER RECOMMENDATION

**C1906/115**

Moved Councillor P Carter, seconded Councillor J McCallum

That the Council:

1. Endorse the outcomes of the City's tender evaluation panel's assessment in relation to tender RFT02/19 Provision of Cleaning Services to City Owned Facilities, which recommended the following tenders as the most advantageous to the City:
  - a. Bellrock Protective Services Pty Ltd in relation to Separable Portion 1 and Separable Portion 4; and
  - b. Jenni and Michael Eddington t/a Ocean Air Carpet Care & Commercial Cleaning in relation to Separable Portion 2 and Separable Portion 3.  
(Preferred Tenderers)
2. Delegate power and authority to the CEO to:
  - a. Negotiate and agree with the Preferred Tenderers variations in accordance with Regulations 20 and 21A of the *Local Government (Functions and General) Regulations 1996* subject to such variations not to exceed the overall project budget;
  - b. Negotiate and agree with the Preferred Tenderers the final terms and conditions of the respective contracts (including rates/contract prices); and
  - c. Pursuant to resolutions 2.a and b. enter into contracts with the Preferred Tenderers for supply of the relevant goods and services.

**CARRIED 8/0**  
**CARRIED BY ABSOLUTE MAJORITY**

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

Nil

**19. URGENT BUSINESS**

<b>DISCLOSURE OF INTEREST</b>	
Date	26 June 2019
Meeting	Council
Name/Position	Grant Henley, Councillor
Item No./Subject	19.1
Type of Interest	Financial Interest
Nature of Interest	I hereby declare my financial interest in this item – my daughter works for Busselton Jetty Inc who this matter relates to and there may be a financial impact on her resulting from any decision relating to this matter. As a closely associated person to me, I therefore have a financial interest and will leave the room.

Councillor G Henley requested that Council considers under Section 5.68 the extent of his interest to be trivial or insignificant and unlikely to influence his conduct in relation to the matter. The extent of his interest being that his daughter is a casual employee of Busselton Jetty Inc and is unlikely to still be employed when the proposal related to this matter eventuates.

5.41pm At this time Councillor G Henley left the meeting and Councillor J McCallum assumed chair of the meeting.

**COUNCIL DECISION**

**C1906/116** Moved Councillor P Carter, seconded Councillor C Tarbotton

That the Council consider the extent of Cr Grant Henley's financial interest, under S5.68, to be trivial and approve Cr Henley to remain involved in discussion, debate and the decision making process.

**CARRIED 7/0**

5.43pm At this time Councillor G Henley returned to the meeting and resumed the chair.

Councillor G Henley as Presiding Member consented to a member moving a motion in relation to Item 19.1, on the basis of the item being urgent business as it cannot wait inclusion in the next agenda of Council due to Busselton Jetty Inc being required to submit a funding application by 2<sup>nd</sup> July and requiring Council's decision in relation to a self-supporting loan.

**COUNCIL DECISION**

**C1906/117** Moved Councillor J McCallum, seconded Councillor P Carter

That the Council consider Item 19.1 Proposed Australian Underwater Discovery Centre as urgent business on the basis that it cannot wait inclusion in the next agenda of Council as Busselton Jetty Inc are required to submit a funding application by 2 July and require Council's decision in relation to a self-supporting loan.

**CARRIED 8/0**

## 19.1 PROPOSED AUSTRALIAN UNDERWATER DISCOVERY CENTRE

<b>SUBJECT INDEX:</b>	Busselton Jetty
<b>STRATEGIC OBJECTIVE:</b>	Events and unique tourism experiences that attract visitors and investment.
<b>BUSINESS UNIT:</b>	Community and Commercial Services
<b>ACTIVITY UNIT:</b>	Commercial Services
<b>REPORTING OFFICER:</b>	Director, Community and Commercial Services - Naomi Searle Legal Services Coordinator - Cobus Botha
<b>AUTHORISING OFFICER:</b>	Director, Community and Commercial Services - Naomi Searle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

### PRÉCIS

Busselton Jetty Inc (**BJI**) has identified a significant upgrade of the UWO to a new state of the art underwater observatory, proposed as the Australian Underwater Discovery Centre (**Project**), as a key strategy for increasing revenue from Busselton Jetty Operations and ensuring sustainability of the Busselton Jetty for future generations. BJI have been invited to apply for \$13 million grant from the Federal Government's Regional Growth Fund as partial funding for the Project and have requested that the City indicate prior to BJI's board meeting on 27 July 2019 whether the City is prepared to:

- Contribute \$4 million, either by way of grant funding or a self-supporting loan, towards Stage 1 of the Project; and
- Assume responsibility for insuring the AUDC; and
- Set aside funds, through the anticipated increased licence, fee to maintain and replace the new AUDC structure.

This report recommends that Council expresses in-principle support for the Project and facilitation of a self-supporting loan as partial funding of the Project, subject to conditions.

### BACKGROUND

Busselton Jetty Inc, formerly known as Busselton Jetty Environment and Conservation Association Incorporated (BJECA), is a Busselton based voluntary incorporated association with, among other things, the following objectives:

- Raising funds to protect and preserve the Busselton Jetty and the environment around it; and
- Being resourceful, financially viable and economically sustainable to ensure it meets its obligation to provide funds for the preservation and maintenance of the Busselton Jetty.

In 2008 the City obtained grant funding of \$24 million from the South West Development Commission (SWDC) for purposes of refurbishing the Busselton Jetty. In accordance with the grant agreement the City and BJI entered on 30 October 2009 into a licence agreement, which has since been amended (**Busselton Jetty Licence**). In terms of the Busselton Jetty Licence BJI was granted the right to conduct certain commercial activities at/on the Busselton Jetty in consideration for payment of an annual licence fee, which include collecting entrance fees from persons entering the Busselton Jetty from its land side and operating the Busselton Jetty train, the Underwater Observatory (UWO) towards the northern end of the Busselton Jetty and the Interpretive Centre. These licenced activities constitute BJI's main business and main source of revenue.

The Busselton Jetty is a highly successful tourist attraction. The UWO is the main attraction on the Busselton Jetty. Tours for visiting the UWO (most of which include a trip on the Busselton Jetty train) is the activity that generates the most income. During peak seasons, visitors are turned away from the current UWO tours due to building's size constraints. Despite this, and despite increasing operating hours of the UWO in summer to increase revenue, a feasibility study commissioned by BJI in 2016 found that it is imperative to implement new income generating activities at and on the Busselton Jetty in order to ensure its financial sustainability over the long term.

BJI has since identified a significant upgrade of the UWO as a key strategy for increasing revenue from Busselton Jetty operations. As such BJI, in conjunction with the stakeholders mentioned in this report, proposed construction of a new state of the art underwater observatory, the Australian Underwater Discovery Centre. High level detail of the Project was submitted by BJI with the City during the week of 24 June 2019. BJI's main objectives with the Project are:

- Increasing the income stream from activities at/on the Busselton Jetty and ensuring sustainability of the Busselton Jetty for future generations;
- Increasing Busselton and the region's tourism appeal;
- Supporting the City's current major infrastructure projects at the Busselton/Margaret River Airport and the proposed performing arts centre (Busselton Entertainment Arts and Cultural Hub), by attracting new visitors to Busselton;
- Supporting significant investments in a new family restaurant/microbrewery and hotel on the Busselton foreshore; and
- Creating new local jobs (directly and indirectly).

BJI indicated that the cost of constructing the proposed Australian Underwater Discovery Centre (**AUDC**) and delivering the Project is estimated to be \$37 million. BJI proposes to fund the Project as follows:

#### Stage 1 – Construction of AUDC

- BJI have been invited to apply for a \$13 million grant from the Federal Government's Regional Growth Fund as partial funding for the Project;
- BJI proposes to source a \$10 million "Market Led Proposal" from the State Government;
- BJI will contribute \$3 million from their reserves;
- BJI is proposing that the City contributes \$4 million, either by way of grant funding or a self-supporting loan.

#### Stage 2 – Fit out

BJI proposes that the AUDC fit out costs of \$7 million are to be funded by third parties and grant bodies that BJI are currently in consultation with and has three years to secure.

BJI indicated that, should they fail to obtain above-mentioned Federal or State Government funding, the Project will be put on hold.

BJI requested the City to indicate prior to BJI's board meeting on 27 July 2019 whether the City is prepared to:

- Contribute \$4 million, either by way of grant funding or a self-supporting loan, towards Stage 1 of the Project;
- Assume responsibility for insuring the AUDC;
- Set aside funds, through the anticipated increased licence, fee to maintain and replace the new AUDC structure; and
- Revise the Busselton Jetty Licence agreement to replace the annual licence fee ‘floor limit’ of \$700,000 to a ‘ceiling limit’.

This report recommends that Council expresses in-principle support for the Project and facilitation of a self-supporting loan as partial funding of the Project, subject to conditions. With regards to the revision of the Busselton Jetty Licence agreement, that this is dealt with as a separate matter at an appropriate time.

### **STATUTORY ENVIRONMENT**

The Busselton Jetty is located within Reserve 46715, which is Crown Land in a managed Reserve. BJI and the City have entered into the Busselton Jetty Licence, with the approval of both the Minister for Lands and the CEO of the Department of Transport (WA). The Busselton Jetty Licence is non-exclusive and does not create in or confer to BJI any tenancy or estate or interest in the Busselton Jetty or the Reserve.

The Busselton Jetty is managed and operated under a jetty licence granted to the City of Busselton by Department of Transport under the Section 7 of the *Jetties Act 1926* (WA). In terms of this licence the City:

- May only use the Busselton Jetty for the use permitted under this licence (which includes operation of the existing UWO);
- May appoint a person or entity to undertake its management obligations (or some of them) in respect to the Busselton Jetty;
- Must maintain the Busselton Jetty in accordance with a pre-approved maintenance plan;
- Must not, and must not permit, any structural changes or additions to the Busselton Jetty without the Department’s prior approval; and
- When seeking approval for structural changes or additions, must submit detailed plans of and reasons for the proposed changes and a maintenance plan for ongoing maintenance of any new structural addition.

### **RELEVANT PLANS AND POLICIES**

The proposed Project is consistent with the contents of the Busselton Foreshore Master Plan, where activation of the Busselton foreshore is identified as a key priority.

The City’s Corporate Business Plan identifies key City led or funded priority actions and projects over the ensuing four years. This project was initially identified as a medium-long term project and as such is not contained within the City’s current Corporate Business Plan

### **FINANCIAL IMPLICATIONS**

The City has not budgeted for any expenses or financial contributions towards the Project costs, and also have not included any such contributions in the City’s Long Term Financial Plan. As the City is currently involved in a number of major projects (some of which are cost intensive), the City’s budget does not allow for any financial contribution towards the cost of the Project (other than facilitating a self-supporting loan as proposed by BJI). It is unlikely that the City’s position will change over the short

to medium term. Therefore the City's expectation is that BJI will be responsible for funding all costs/expense associated with or required for successful delivery of the Project.

A \$4M self-supporting loan is sought, with the loan not likely to be required until post 2021; hence any decision to provide the loan will not impact on the 2019/20 budget. The self-supporting loan would be provided in accordance with current arrangements whereby the City would take out a loan for the project from the WA Treasury Corporation at the borrowing rate at the time, as well as the additional State Government Guarantee Fee (currently at 0.7%). A loan agreement would then need to be established between the City of Busselton and the BJI to ensure that the BJI is responsible for the repayment of the loan via the City.

In accordance with the Busselton Jetty Licence BJI currently pays the City an annual licence fee of approximately \$840,000 (exclusive of GST), which is currently based on 25% of BJI's "gross revenue" as defined in the Busselton Jetty Licence (**Licence Fee**). BJI forecasted that:

- From 2022/23 (when the AUDC is fully operational and their gross revenue increases), the Licence Fee could increase to \$1.7 million per year, which, as part of their proposal, should be sufficient to cover repayment of the self-supporting loan and insurance premiums in relation to the AUDC; and
- From 2033/34, when the self-supporting loan has been repaid, the Licence Fee is estimated to be \$2.7 million.

However, City Officers are of the view that the loan repayments, annual insurance and asset maintenance and replacement costs associated with the AUDC should be included in the AUDC financial model and should be incorporated prior to the calculation of the annual Licence Fee payable to the City. While this would reduce the estimated Licence Fee payment of \$1.7 million in 2022/23, it would ensure the new asset is appropriately resourced without it burdening ratepayers.

BJI indicated that both their external accountants (AMD) and a consultant (Lucid Economics) have independently considered their financial projections and visitor numbers (respectively) and found them to be reasonable and realistic. Accordingly BJI forecasts this will allow the City to fund all future Busselton Jetty maintenance costs from income from operations at/on the Busselton foreshore (including income from Busselton Jetty activities) and assist with major works scheduled for 2035 at the Interpretive Centre.

City officers have not had the opportunity to view these independent assessments. At this stage, and with the limited information available, City officers identified the following issues that need to be further investigated:

- BJI indicated that insurance of the AUDC structure will be a requirement under the Federal Government's Regional Growth Fund. Preliminary investigations show that the cost of insuring the new AUDC will be approximately \$300,000/year.
- Due to the nature, extent and location of the AUDC, it is expected that ongoing maintenance costs will be incurred. The City's current income from Busselton Jetty and other foreshore operations are insufficient to cover these costs. Therefore a reserve account for long term asset maintenance and renewal costs may have to be established, which could potentially be funded from BJI's surplus revenue once the self-supporting loan has been fully repaid.



## **LONG-TERM FINANCIAL PLAN IMPLICATIONS**

Due to the fact that this is a reasonably unexpected project for the City, there is no allocation within the existing adopted Long Term Financial Plan 2018/19 – 2027/28 towards the funding or financing of the Project. There are also no allocations provided for within the existing draft LTFP 2019/20 – 2029/30 plan.

## **STRATEGIC COMMUNITY OBJECTIVES**

The Proposed Development and the Officer Recommendation aligns with the following Key Goal Areas and Community Objectives of the Strategic Community Plan 2017:

- Key Goal Area 2: Places & Spaces - 2.2: Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities.
- Key Goal Area 4: Economy: - 4.3: Events and unique tourism experiences that attract visitors and investment.
- Key Goal Area 6: Leadership - 6.4: Assets are well maintained and responsibly managed.

## **RISK ASSESSMENT**

While there are risks associated with the Project in terms of its financial viability and therefore the provision of the requested funding, the Officer Recommendation and the conditions contained within the recommendation seek to mitigate these. City officers will undertake a detailed risk assessment once BJI has provided the City with the information required under the Officer Recommendation.

## **CONSULTATION**

Aside from direct consultation and discussion with BJI, the City has not conducted or had the opportunity to conduct other external stakeholder consultation.

## **OFFICER COMMENT**

The City and BJI have common objectives:

- Operating and maintaining the Busselton Jetty as an iconic landmark and major regional tourist attraction; and
- Achieving self-sustainability for the Busselton Jetty by funding future operational and maintenance costs from income from Busselton Jetty and other foreshore operations.

Current arrangements under the Busselton Jetty Licence and a review of financial projections based on current operating models, indicate a need for additional revenue streams to achieve these objectives.

BJI consider the AUDC project as an “ambitious, but not bullish” project, estimating 150,000 tours would be sold per year, with financial projections based on the current ticket price per person for UWO tours. BJI also indicated that they commissioned a number of independent reviews which test the business model, financials, and risk factors and these would presumably be tested again through both the Federal and State government funding approval process. City officers have not had sufficient time to review and assess the information provided by BJI. In particular, BJI’s business case and financial modelling will have to be assessed for self-sustainability – that is to ensure the Project is fully funded and that no City funds will be required.

Given the significance of:

- The Busselton Jetty (and the existing UWO) as a community asset and regional tourist attraction;
- The complexities associated with the nature and extent of the Project; and
- The financial implications of the Project,

the City will require detailed information for purposes assessing of assessing BJI's proposals in relation to the Project. This will include, among other things:

- A detailed business case demonstrating the viability and sustainability of the project and in particular how future maintenance and replacement of the new AUDC will be funded;
- BJI's ability to service the proposed self-supporting loan;
- A detailed design of the proposed AUDC, to be assessed for purposes of structural integrity and ongoing maintenance requirements and in particular to obtain approval of the Minister of Transport required under the Jetty Licence issued to the City under the *Jetties Act 1926 (WA)*; and
- A detailed project plan to assess BJI's ability to successfully deliver the Project.

BJI should also be required to demonstrate to the City's satisfaction that all governmental approvals, authorisations and consents required for the Project has been or will be obtained. These include approval from Department of Transport for the proposed structural changes/additions to the Busselton Jetty structure, approval/consent from Department of Planning, Lands and Heritage for land use and tenancy proposals, approvals/authorisations under the *Rail Safety National Law (WA) Act 2015* (which may be required as a consequence of increased Jetty Train activity), environmental approvals/authorisations (the Busselton Jetty is adjacent to the Ngari Capes Marine Park) and such town planning and heritage approvals that may be required.

## **CONCLUSION**

The City acknowledges the Project objectives and principles and is in-principle support of the Project. However formal approval for the Project should be subject to:

- The City's contribution towards the Project costs being limited to facilitation of \$4 million self-supporting loan;
- The City being provided with detailed information in relation to the Project and sufficient time to review and assess this information; and
- BJI securing funding for the entire Project and obtaining all governmental approvals, authorisations and consents required for the Project.

## **OPTIONS**

Council may consider:

1. To not support the Project; or
2. To indicate unconditional support for the Project and undertake to facilitate a \$4 million self-supporting loan to partially fund the Project costs.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

If the Officer Recommendation is adopted, City officers will without delay request BJI to provide relevant information for review and assessment, such that Resolution (4) of the Officer Recommendation can be progressed.

**COUNCIL DECISION****C1906/118**

Moved Councillor P Carter, seconded Councillor C Tarbotton

That the Council:

1. Expresses its in-principle support for Busselton Jetty Inc.'s (BJI) proposal for the Australian Underwater Discovery Centre as detailed in BJI's submission of 24 June 2019 and referred to in this report (Project).
2. Expresses its in-principle support, subject to resolution (3) and (4) to facilitate up to a \$4 million self-supporting loan for a term of ten years for BJI from WA Treasury for partial funding of the Project.
3. Resolution (2) is subject to:
  - a. BJI submitting with the City for review and Council approval a detailed business case and project plan demonstrating the viability and sustainability of the project and BJI's ability to service the loan mentioned in Resolution (2);
  - b. BJI providing confirmation to the City's satisfaction that funding for the balance of the full Project scope and delivery and all other associated Project costs have been secured without recourse to any further City contribution, including appropriate contingency funding;
  - c. BJI providing confirmation to the City's satisfaction that, in relation to the Project, all contractual requirements under the Busselton Jetty licence agreement between the City and BJI have been or will be complied with;
  - d. BJI providing confirmation to the City's satisfaction that, in relation to the Project, all governmental authorisations, approvals and consents have been or will be obtained.
4. Requests the Chief Executive Officer to present Council with a detailed report on the Project as soon as practicable after which Council will make a final resolution in relation to approval of the Project and provision of the \$4 million self-supporting loan referred to in Resolution (2).

**CARRIED 8/0**

**20. CONFIDENTIAL REPORTS**

Nil

**21. CLOSURE**

The Presiding Member closed the meeting at 5.45pm

THESE MINUTES CONSISTING OF PAGES 1 TO 76 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 31 JULY 2019.

DATE: \_\_\_\_\_ PRESIDING MEMBER: \_\_\_\_\_