

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 8 MAY 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 8 MAY 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 5.36pm.

**2. ATTENDANCE**

<u>Presiding Member:</u>	<u>Members:</u>
Cr Grant Henley Mayor	Cr John McCallum Deputy Mayor Cr Coralie Tarbotton Cr Ross Paine Cr Paul Carter Cr Robert Reekie Cr Kelly Hick Cr Lyndon Miles

Officers:

Mrs Naomi Searle, Acting Chief Executive Officer  
Mr Oliver Darby, Director, Engineering and Works Services  
Mr Paul Needham, Director, Planning and Development Services  
Ms Maxine Palmer, Acting 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:

Cr Rob Bennett

Approved Leave of Absence:

Nil

Media:

"Busselton-Dunsborough Times"  
"Busselton-Dunsborough Mail"

Public:

0

**3. PRAYER**

The prayer was delivered by Pastor Emily Seinemeier of Cornerstone Church.

**4. APPLICATION FOR LEAVE OF ABSENCE**

Nil

**5. DISCLOSURE OF INTERESTS**

The Mayor noted that a declaration of financial interest would be declared by:

- Cr Paul Carter in relation to Agenda Item 16.1 Councillor Carter – Remote Attendance.

The Mayor advised that in accordance with the Local Government (Rules of Conduct) Regulations 2007 this declaration would be read out immediately before Item 16.1 was discussed.

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

Nil

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

Nil

**Question Time for Public**

Nil

**8. CONFIRMATION AND RECEIPT OF MINUTES****Previous Council Meetings****8.1 Minutes of the Council Meeting held 24 April 2019****COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1905/080** Moved Councillor C Tarbotton , seconded Councillor J McCallum

That the Minutes of the Council Meeting held 24 April 2019 be confirmed as a true and correct record.

**CARRIED 8/0**

**Committee Meetings****8.2 Minutes of the Finance Committee meeting held on 18 April 2019****COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1905/081** Moved Councillor R Reekie, seconded Councillor J McCallum

That the Minutes of the Finance Committee meeting held on 18 April 2019 be noted.

**CARRIED 8/0**

**9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS****Petitions**

Nil

**Presentations**

Nil

**Deputations**

Nil

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

**C1905/082** Moved Councillor R Paine, seconded Councillor L Miles

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

- 13.1 AMENDMENT NO. 38 TO LOCAL PLANNING SCHEME NO. 21 - INTRODUCTION OF ADDITIONAL USE (A82) TO LOT 61 (400) METRICUP ROAD, METRICUP INCLUDING ASSOCIATED STRUCTURE PLAN (INCLUDING LOT 60 (310) METRICUP ROAD, METRICUP)
- 13.2 DRAFT STRUCTURE PLAN - ADOPTION FOR FINAL APPROVAL - LOT 2656 BUTTERLY ROAD, YALLINGUP
- 17.1 COUNCILLORS' INFORMATION BULLETIN






**CARRIED 8/0**

**EN BLOC**

## ADOPTION BY EXCEPTION RESOLUTION

### 13. PLANNING AND DEVELOPMENT SERVICES REPORT

#### 13.1 AMENDMENT NO. 38 TO LOCAL PLANNING SCHEME NO. 21 - INTRODUCTION OF ADDITIONAL USE (A82) TO LOT 61 (400) METRICUP ROAD, METRICUP INCLUDING ASSOCIATED STRUCTURE PLAN (INCLUDING LOT 60 (310) METRICUP ROAD, METRICUP)

<b>SUBJECT INDEX:</b>	Local Planning Scheme 21 Amendments
<b>STRATEGIC OBJECTIVE:</b>	Development is managed sustainably and our environment valued.
<b>BUSINESS UNIT:</b>	Strategic Planning and Environmental Services
<b>ACTIVITY UNIT:</b>	Strategic Planning
<b>REPORTING OFFICER:</b>	Strategic Planner - Stephanie Navarro
<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 
	Attachment C Scheme Amendment Map 
	Attachment D Draft Structure Plan Map 
	Attachment E Existing Development Guide Plan 

### PRÉCIS

The Council is requested to consider Amendment No. 38 (Amendment), and associated draft Structure Plan, to the City of Busselton *Local Planning Scheme No. 21* (Scheme) for initiation and consultation. The Amendment seeks to introduce Additional Use (A82) to Lot 61 (400) Metricup Road, Metricup (Site). In addition to the Amendment request, the proposal includes a draft Structure Plan which will supersede an existing Development Guide Plan over the Site and adjoining property to the east, Lot 60 (310) Metricup Road, Metricup (Lot 60).

Officers recommend that Council adopts the Amendment and associated draft Structure Plan for initiation and consultation, which will include referral to the Environmental Protection Authority (EPA), referral to relevant state government agencies and subsequent advertising. The Amendment is deemed to be a 'standard' amendment for the purposes of Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

### BACKGROUND

The Site originally formed part of a larger lot that included Lot 60 to the east. A Location Plan and Aerial Photograph of the Site and Lot 60 are provided at Attachments A and B respectively. The Site was created under the subdivision incentives contained within the City of Busselton Biodiversity Incentive Strategy (BIS) in 2012. Prior to the approval of the subdivision, Amendment 167 to Town Planning Scheme No. 20, was approved by Council at its meeting of 13 June 2012 and gazetted on 6 November 2012. Amendment 167 changed the zoning of the property from 'Agriculture' to 'Bushland Protection.' As part of this process a conservation covenant with Department of Parks and Wildlife, now Department of Biodiversity, Conservation and Attractions (DBCA), was placed over the remnant vegetation at the centre of the two sites.

The Amendment proposes to introduce Additional Use (A82) to allow for commercial, tourism based development on the non-vegetated portions of the Site. Those uses are not permitted under the current zoning. The Amendment proposes the following land uses, which are currently prohibited, to be discretionary ("D") land uses on the Site:

- Produce Sales;
- Restaurant/Café;
- Chalet;
- Brewery; and
- Winery.

The above mentioned land uses would have been discretionary (“D”) or discretionary pursuant to advertising (“A”) land uses under the previous zoning of the property, ‘Agriculture’ (to become ‘Rural under Omnibus 4), however they are prohibited (“X”) land uses in the ‘Bushland Protection’ zone.

The Amendment has been prepared together with a separate draft Structure Plan. A copy of the draft Structure Plan is provided at Attachment D. The draft Structure Plan will supersede an existing Development Guide Plan currently in place across the Site and adjoining property Lot 60 which was adopted by the Council in conjunction with Amendment 167. A copy of the existing Development Guide Plan is provided at Attachment E. This draft Structure Plan is consistent with the previous Development Guide Plan with the exception of introducing Building Exclusion Areas to Lot 61. The Building Exclusion Areas cover all remnant vegetation on Lot 61 and include sufficient buffers around the vegetation to ensure adequate Asset Protection Zones (APZ) can be accommodated around future development to achieve compliance with a Bushfire Attack Level rating of BAL-29 without any clearing being necessary. In addition, the Building Exclusion Area includes a 30 metre setback to the existing stream on the site.

## **STATUTORY ENVIRONMENT**

The key elements of the statutory environment with respect to this proposal are set out in the *Planning and Development Act 2005*, the *Planning and Development (Local Planning Schemes) Regulations 2015* and the relevant objectives, policies and provisions of the *City of Busselton Local Planning Scheme No. 21*. Each is discussed below under appropriate subheadings.

### **Planning and Development Act 2005**

The *Planning and Development Act 2005* (P&D Act) outlines the relevant considerations when preparing and amending local planning schemes. The relevant provisions of the Act have been taken into account in preparing and processing this amendment.

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

The *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), which came into operational effect on 19 October 2015, identifies three different levels of amendments – basic, standard and complex. The resolution of the local government is to specify the level of the amendment and provide an explanation justifying this choice. This Amendment is deemed to be a ‘standard’ amendment.

The new Regulations provide separate processes for the approval of scheme amendments and structure plans, adherence to which would advance the proposed Structure Plan ahead of the Amendment. However, as the Structure Plan is reliant upon the change in zoning proposed in the Amendment and the nature of the proposal supports their assessment in parallel, the Structure Plan and Amendment are being progressed concurrently. Progression of the proposed Structure Plan will therefore assume the process and timeframes associated with the Amendment.

### **City of Busselton Local Planning Scheme No. 21 (the Scheme)**

The Site is zoned 'Bushland Protection' under the Scheme. The Amendment and draft Structure Plan are considered to be consistent with the relevant provisions, including the policy and objectives relating to the zoning of the subject land, under the Scheme.

The Building Exclusion Areas proposed as part of the draft Structure Plan will ensure that any development on the Site will not have an adverse impact on the biodiversity values of the Site and will ensure the preservation of the remnant vegetation.

### **RELEVANT PLANS AND POLICIES**

The policies affecting this proposal include:

- *State Planning Policy 2.5 : Land Use Planning in Rural Areas;*
- *State Planning Policy 3.7 : Planning in Bushfire Prone Areas* and associated Guidelines;
- *State Planning Policy 6.1 : Leeuwin-Naturaliste Ridge;*
- *City of Busselton Local Environmental Planning Strategy;*
- *City of Busselton Local Rural Planning Strategy; and*
- *City of Busselton Local Planning Policy 5B : Rural Tourist Accommodation.*

### **State Planning Policy 2.5: Land Use Planning in Rural Areas (SPP2.5)**

The intention of SPP2.5 is to protect and preserve rural land for rural purposes including primary production while also protecting the biodiversity and landscape values and encouraging a diverse range of compatible land uses." In relation to economic opportunities and regional development SPP2.5 states that WAPC's policy is to "support small scale tourism opportunities, such as bed and breakfast, holiday house, chalet, art gallery, micro-brewery and land uses associated with primary production, within the rural zone."

It is noted that, due to the relatively small size of the lot for an 'Agriculture' zoned property, 32.1621 hectares, with the majority of the Site containing vegetation that is protected via conservation covenants, there is limited potential for the Site to be utilised for intensive agricultural purposes. It is considered that the proposed additional land uses will be complementary and compatible with the surrounding rural land.

### **State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP3.7) and associated Guidelines for Planning in Bushfire Prone Areas**

A majority of the Site is designated as a 'Bushfire Prone Area' in SPP3.7. This policy requires a comprehensive assessment of the bushfire risk to accompany any Amendment and/or structure plan within a 'Bushfire Prone' area. A Bushfire Management Plan (BMP) has been submitted as part of the application. It is noted that at the time that an application for development approval on the Site is submitted to the City the applicant will be required to submit a Bushfire Emergency Evacuation Plan (BEEP). A BEEP has not been requested by the City at this stage as it will depend on the nature and location of development actually proposed on the Site as to the contents of the BEEP. The Amendment, Structure Plan and BMP will be referred to DFES as part of the consultation process.



### **State Planning Policy 6.1: Leeuwin-Naturaliste Ridge (LNRSP)**

Under LNRSP the Site is designated as 'Principal Agriculture (Viticulture & Grazing)'. The relevant policies of this land uses area are as follows –

*LUS 4.1 In areas designated Principal Agriculture (Viticulture and Grazing), the predominant use of land will be agriculture. Other uses, including uses of interspersed lands with lesser agricultural potential, will be compatible with and not jeopardise, agricultural use of adjoining Prime Agricultural Land.*

*LUS 4.2 Agriculture (including viticulture) is to remain the predominant economic land use, within the constraints of protecting remnant vegetation and landscape values.*

It is considered that due to its relatively small size the Site is not suitable for agricultural uses and that the addition of the proposed uses are generally seen to be complimentary to, and will not jeopardise, the agricultural use of adjoining Prime Agricultural Land.

The Site is also identified under the LNRSP as being within a "Travel Route Corridors within Rural Landscape Significance." The relevant policies are as follows -

*PS 3.4 In areas of Natural Landscape Significance, including where they are in Travel Route Corridors, the significant natural characteristics will be protected and provide adequate development setbacks. In these areas development will be screened from Travel Route Corridors except public recreation or safety facilities which may be seen in the foreground.*

It is noted that the setbacks and visual impact of future development cannot be assessed until an application has been submitted to the City. It is, however, considered that there is capacity within the Site for development to be designed such that it does not have a visual impact upon the travel route corridor and that vegetation along Metricup Road that will further mitigate the visual impact of any structures.

### **Local Environmental Planning Strategy**

The Amendment and draft Structure Plan are consistent with the Local Environmental Planning Strategy (LEPS), including the Biodiversity Objectives and Recommendations which are as follows –

#### *3.3 - Objective*

1. *Maintain and enhance the quality and quantity of remnant vegetation throughout the [City].*
2. *Ensure that protection and enhancement of biodiversity assets in the [City] is considered early in the planning process.*
3. *Protect and enhance the biodiversity 'hotspot' status of the [City].*

#### *BD1 - Recommendation*

*Protect and enhance biodiversity values as part of town planning scheme amendment, development guide plan, subdivision and development application processes by:*

...

- ii. *requiring applicants to assess biodiversity values and address potential development impacts (including impacts arising from development of services and infrastructure) as part of town planning scheme amendment, development guide plan, subdivision...*

*Minimise development being located so that it will result in the need for clearing or thinning of vegetation to establish bush fire hazard and building protection zones.*

### **Local Rural Planning Strategy**

The Site is located within Precinct 4 – Western Rural of the Local Rural Planning Strategy. The precinct comprises a mix of rural/agricultural type land uses and tourist-based land uses. The precinct has high levels of environmental values and includes significant remnant vegetation throughout. It is considered that the proposed Amendment is consistent with the vision and objectives of the precinct and it is noted that Winery and Rural Enterprise are listed as desirable land uses within the precinct.

### **Local Planning Policy 5B – Rural Tourist Accommodation (LPP5B)**

Currently LPP5B includes density and setback provisions applicable to ‘Chalet’ developments however these may be amended when the City reviews this Policy. Any future development proposal which proposes ‘Chalets’ will be required to be assessed against, and required to meet, the relevant requirements of LPP5B at the time that an application is submitted.

### **FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from the recommendations of this report.

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

There are no direct long term financial implications arising from the recommendations of this report.

### **STRATEGIC COMMUNITY OBJECTIVES**

The Officer recommendation is consistent with Key Goal Area 3 – Environment and Community Objective 3.1 of the City’s Strategic Community Plan 2017, which is: *‘Development is managed sustainably and our environment valued.’*

### **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. The implementation of the officer recommendation will involve adopting the Amendment and proposed modified Structure Plan for advertising. In this regard, there are no significant risks identified.

### **CONSULTATION**

There is no requirement under the *Planning and Development Act 2005* to advertise a proposed scheme amendment prior to it being initiated by the Council. Accordingly, no advertising has occurred to date. Preliminary informal consultation with the officers at the Department of Planning, Lands and Heritage (DPLH) and the DBCA indicated that they were generally supportive of the proposed Amendment.

If the Council resolves to initiate the proposed Amendment and support the Structure Plan proposal, the documentation will be referred to the Environmental Protection Authority (EPA) to consider the need for formal assessment under Part IV of the *Environmental Protection Act 1986*. If the EPA determines that formal assessment is unnecessary, it will be advertised for a period of 42 days in accordance with the Regulations and include referral to relevant state government agencies. In the event that the EPA determines that the proposal is to be formally assessed, it will be prepared by the proponent prior to consultation.

**OFFICER COMMENT**

The proposed Amendment and accompanying Structure Plan is generally consistent with the applicable planning and related requirements, including the objectives and policies of the 'Bushland Protection' zone. Key issues identified with the Scheme Amendment and Structure Plan have been discussed further below:

**Scheme provisions**

The objectives and policies of the 'Bushland Protection' zone applicable to this proposal are as follows—

***Objective***

*To restrict the land uses and type and scale of development that will be considered on lands possessing special biodiversity values to those that will not adversely affect those values, and to provide opportunity for the creation of a subdivision incentive for the protection of those values in perpetuity.*

***Policies***

- (b) To prohibit the clearing, grazing or damage to remnant vegetation on the land unless required for firebreaks identified on an adopted fire management plan, approved dwellings or any incidental development within building envelopes, or to allow for vehicular access to such buildings.*
- (c) To prohibit the clearing, draining, filling or grazing of wetlands on the land.*

It is considered that the proposal is consistent with the above mentioned objective and policies and that the biodiversity values of the Site will not be threatened as a result of the Amendment as demonstrated through the structure plan. The inclusion of the Building Exclusion Area on the Structure Plan demonstrates that development of the Site is able to occur, and achieve adequate bushfire outcomes of BAL-29 or lower, without the need to clear any of the protected remnant vegetation on the Site.

All land uses proposed to be introduced as part of this Amendment are prohibited (X) land uses within the 'Bushland Protection' zone in LPS21. It is noted, however, that the land uses proposed would have been discretionary land uses ("D"), Winery, Restaurant/Café, Produce Sales and Chalets, or discretionary land uses requiring advertising ("A"), Brewery, under Table 2 – The Zoning Table, within the previous zoning of the site as 'Agriculture'.

**Waste Water Disposal**

The production of wine and/or beer as part of a Winery or Brewery on the site will generate, and therefore require the disposal of, waste water. Generally, where there is no connection to mains sewerage, waste water is disposed of on site and involves the irrigation of treated waste water. It is considered that due to the relatively small size of the Site and various environmental considerations there is limited capacity for the irrigation of waste water on the property.

The satisfactory disposal of waste water will be assessed as part of any development application received. Where the production capacity of the Winery and/or Brewery is 350 kilolitres or greater per year licencing by DWER will be required. It is considered that where it is not possible to dispose of the waste water on site either the capacity of the Winery and/or Brewery should be limited or alternative means of off-site disposal of waste water should be imposed as a condition of development approval.

## **CONCLUSION**

The Amendment and associated draft Structure Plan provide for the development of the land generally in accordance with the objective and policies of the 'Bushland Protection' zone in LPS21. Officers recommend that the Council adopt both proposals for the purpose of public consultation, which will include referral to the EPA, referral to relevant state government agencies and subsequent advertising.

## **OPTIONS**

Should the Council not support the officer recommendation the Council could instead resolve –

1. To decline the request to initiate the Amendment in its entirety (and provide a reason for such a decision). It should be noted that under the relevant legislation there is no right of appeal against a Council decision not to initiate an amendment.
2. To seek further information before making a decision.
3. To initiate the Amendment subject to further modification(s) as required.

Officer assessment has not revealed any substantive issue or reasonable grounds that would support any of these options and it is considered that options 2 and 3 could be more appropriately considered following the receipt of advice from the relevant state government agencies.

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

The implementation of the Officer Recommendation would include advising the applicant of the Council resolution and referring the proposal to the Environmental Protection Authority, which will occur within one month of the resolution.

**COUNCIL DECISION AND OFFICER RECOMMENDATION****C1905/083**

Moved Councillor R Paine, seconded Councillor L Miles

That the Council:








1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, initiates Amendment 38 to the City of Busselton Local Planning Scheme 21 for the purposes of:
  - a) Amending Schedule 2 – Additional Uses of the Scheme Text to include the subject land within the Schedule as follows:

No.	PARTICULARS OF LAND	LAND USE PERMITTED/SPECIFIED	CONDITIONS
A82	Lot 61 (Vol. 2822 Fol. 500) Metricup Road, Metricup	Winery Brewery Restaurant/Cafe Produce Sales Chalet	<ol style="list-style-type: none"> <li>1. All additional uses shall be deemed to be 'D' uses for the purposes of Part 4 of the Scheme.</li> <li>2. Application(s) submitted for the development of the property shall be referred to the Department of Biodiversity, Conservation and Attractions for comment.</li> </ol>

- b) Amending the Scheme Map accordingly.
2. Notes that, as the draft Amendment is in the opinion of the Council consistent with Part V of the Act, and Regulations made pursuant to the Act, that upon preparation of the necessary documentation, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by the Act, and on receipt of a response from the EPA indicating that the draft Amendment is not to be subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. In the event that the EPA determines that the draft Amendment is to be subject to formal environmental assessment, this assessment is to be prepared by the proponent prior to advertising of the draft Amendment.
3. Advises the Western Australian Planning Commission that the Amendment is considered a 'standard' amendment pursuant to the *Planning and Development (Local Planning Scheme) Regulations 2015* for the following reasons:
  - a) It is an amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve.
  - b) It is an amendment that would have minimal impact on land in the Scheme area that is not the subject of the amendment.
  - c) It is an amendment that does not result in significant environmental, social, economic or governance impacts on land in the Scheme area.
4. Adopts the Structure Plan for Lot 60 (310) and Lot 61 (400) Metricup Road, Metricup, depicted at Attachment D for public consultation, pursuant to Part 4 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**CARRIED 8/0**

**EN BLOC****13.2 DRAFT STRUCTURE PLAN - ADOPTION FOR FINAL APPROVAL - LOT 2656 BUTTERLY ROAD, YALLINGUP**

<b>SUBJECT INDEX:</b>	Development Guide Plans and Detail Area Plans
<b>STRATEGIC OBJECTIVE:</b>	Development is managed sustainably and our environment valued.
<b>BUSINESS UNIT:</b>	Strategic Planning
<b>ACTIVITY UNIT:</b>	Strategic Planning and Development
<b>REPORTING OFFICER:</b>	Strategic Planner - Janine Eriksson
<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 Structure Plan 
	Attachment C Proposed Road Network/Connections 
	Attachment D Dryandra Road Reserve and Drainage Plan 
	Attachment E Schedule of Submissions 
	Attachment F Schedule of Modifications 
	Attachment G Structure Plan Conditions 

**PRÉCIS**

The Council is requested to consider adopting the draft Structure Plan for Lot 2656 Butterly Road, Yallingup (subject land) for final approval, subject to modifications. The Structure Plan proposes to guide a rural residential subdivision to create 13 lots.

The Structure Plan proposal was advertised for 28 days ending 13 March 2019. The proposal is being presented to Council due to the nature of the issues raised through the submissions. Officers are recommending that Council adopt the Structure Plan subject to modifications as set out in the Schedule of Modifications and forward to the WAPC for Final Approval.

**BACKGROUND**

The subject land is zoned 'Rural Residential', is included within the 'Landscape Value Area' (LVA) designated in Local Planning Scheme No. 21 (the Scheme), and is located within Precinct 5B of the Commonage Policy Area Consolidated Structure Plan (CPACSP). The subject land is an 'L shaped' lot bound by Butterly Road to the north and east, and shares its western boundary with Lot 115 Wildwood Road, Yallingup, which is presently undergoing civil works for construction of an approved rural residential subdivision. Existing rural residential development is located to the north on The Dell Retreat and to the south on Zamia Grove (see Attachment A).

The subject land includes a riparian vegetation corridor running south-east along a creek line (vegetation corridor) connecting to a central north-south oriented woodland vegetation corridor (central woodland) which traverses the undulating landscape. Otherwise, the predominantly cleared farm land is characterised by roadside vegetation, rock outcrops, farm fencing, and includes 6 dams of various sizes. The subject land includes one dwelling and rural outbuildings adjacent to Butterly Road, south of the largest dam. This dam was issued a development approval on 19 May 2017. The approval includes condition 4, which sets out that; "The use of water from the hereby approved storage dam, shall be for stock and domestic purposes only. This approval does not permit the use of the land or water for 'intensive agriculture". The reason for that condition was that no intensive agriculture had been approved on the land.

## Proposal

The advertised Structure Plan (Attachment B) proposes to subdivide the subject land into 13 rural residential lots, consisting of 12 lots ranging between 1ha and 2.15ha, and a 22.61ha 'Rural Production' lot. The Structure Plan features contained in the proposed 'Rural Production' lot (balance Lot 1) include:

- A 'Development Exclusion Area' (DEA), to protect and enhance a portion of the riparian vegetation corridor and the central woodland;
- A 'Revegetation Area' west of the central woodland to enhance the natural landscape; and
- A proposed dam expansion to increase irrigation supplies to support future intensive agricultural activities.

It is proposed that the land generally east of the DEA be subdivided into 6 lots with direct access from Butterly Road. This includes access to proposed Lot 1 from Butterly Road in two locations; adjacent to the existing dam, and via a 15m wide battle-axe leg on the south-east boundary. A third access point is proposed from the internal link road located on the western side of the property.

The proposed subdivision on the western side of the DEA includes 7 lots to be accessed from an internal road (proposed Dryandra Avenue) that links to the planned and existing road network. Road upgrades external to the subject lot provide substantial community benefit by improving bushfire emergency evacuation routes and access for local residents (see Attachment C). Improved access to the south is proposed by constructing an existing but undeveloped road reserve link to Zamia Grove.

Two drainage reserves of 2000m<sup>2</sup> are also included adjacent to the proposed Dryandra Avenue extension to provide for compensation basins (see Attachment D).

The Structure Plan documentation is supported by the following technical studies which are discussed where relevant in the 'Officer Comment' section of this report:

- Environmental and Land Capability Assessment Report
- Bushfire Management Plan
- Engineering Services Assessment
- Rural Production Water Assessment

## 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 *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and the Scheme.

### 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. The deemed provisions are adopted into the Scheme and define the process for receiving and assessing proposed structure plans and/or modifications. Local governments are to have 'due regard' to approved structure plans when making decisions relating to subdivision and development.

## **City of Busselton Local Planning Scheme No. 21**

The subject land is zoned 'Rural Residential' and an officer assessment has identified that the Structure Plan proposal can suitably address the relevant objectives and policies of that zone. Relevant to the proposed Structure Plan, and further discussed in 'Officer Comment', is reference to *Clause 4.37 'Special Provisions Relating to the Rural Residential zone'*, which states that dams shall not be developed unless they have development approval or if they are shown on a Structure Plan.

The subject land is located within the 'Landscape Value Area' (LVA) under the Scheme. The proposed Structure Plan design supports the objectives of the LVA provisions through protection of vegetation and landscape values. Future development within the Structure Plan area will be subject to special controls requiring retention of vegetation, and consideration of siting, design and materials to be in keeping with the landscape character of the locality.

### **RELEVANT PLANS AND POLICIES**

The key strategies and policies relevant to the proposal are:

- State Planning Policy 6.1: Leeuwin-Naturaliste Ridge Policy
- State Planning Policy 3.7 Planning in Bushfire Prone Areas and Guidelines for Planning in Bushfire Prone Areas
- City of Busselton Draft Local Planning Strategy (2016);
- City of Busselton Local Rural Planning Strategy (2006)
- Commonage Policy Area Consolidated Structure Plan

#### **State Planning Policy 6.1: Leeuwin-Naturaliste Ridge Policy (2003)**

Leeuwin-Naturaliste Ridge SPP 6.1 (LNRSP) defines the subject land as 'Rural Residential' within the Commonage area. The landscape classes of 'Natural Landscape Significance' and 'Rural Landscape Significance' relate to the subject land which identifies that natural and rural characteristics contribute to the valued landscape. The Policy also encourages that land committed for rural residential development adopt a 'cluster principle' which is responsive to retaining landscape values and allowing some agricultural pursuits. The objectives of the policy have been accommodated in the Structure Plan by providing a clustered rural residential lot design around proposed balance Lot 1 that includes protection and enhancement of the natural vegetation and habitat linkages, and maintains rural land use features.

#### **State Planning Policy 3.7: Planning in Bushfire Prone Areas (2015) and the Guidelines for Planning in Bushfire Prone Areas (2017)**

State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP 3.7) assists in reducing the risk of bushfire to people, property and infrastructure by encouraging a conservative approach to strategic planning, subdivision, development and other planning proposals in bushfire-prone areas.

All land within the Commonage north of Wildwood Road, including the subject land, is designated as a 'Bushfire Prone Area' by the Department of Fire and Emergency Services (DFES). Consistent with SPP3.7, a Bushfire Management Plan (BMP) has been prepared for the subject land identifying emergency access arrangements throughout the Structure Plan area. DFES has advised they support the proposal subject to the proposed external, integrated road network links being constructed. Clause 6.3 of SPP3.7 requires provision of a BAL Contour Map to determine the indicative acceptable BAL rating across the site which has not been included in the BMP and will be required prior to subdivision, and is further detailed under 'Consultation'.



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

The City's Draft Local Planning Strategy includes the provision to:

'Support and pro-actively plan to identify suitable areas for re-subdivision/consolidation of existing rural-residential development in both the Commonage and Dunbarton rural residential areas.'

Supporting description is as follows:

'In accordance with the draft South West Planning and Infrastructure Framework no new rural residential areas are proposed and the strategy provides the scope to consider limited further subdivision and consolidation within the existing rural-residential areas of Commonage and Dunbarton, where there is seen to be a demonstrable community benefit and having regard to environmental, landscape/visual amenity and biodiversity values, as well as bushfire risk. This will contribute to the more efficient use of land, services and infrastructure and will maximise the number of rural residential lots without needing to alienate additional areas of rural land.'

The subject proposal is considered by Officers to demonstrate community benefit, particularly by providing improved bushfire and emergency management outcomes, along with the protection and enhancement of environmental and biodiversity values.

**Local Rural Planning Strategy (2007)**

The subject land is located within Precinct 6 'Commonage' of the Local Rural Planning Strategy (LRPS). The strategy describes the precinct as 'comprising the existing Commonage Rural Residential Policy Area South of Dunsborough and north of Wildwood Road'.

The vision of the precinct is to:

- Consolidate rural residential land use and provide for diversification in small-scale and low-key tourist, rural and home based activities in a manner that sustains the existing natural environment, landscape values and residential amenity of the area with well-developed pedestrian and habitat/biodiversity links; and
- Promote the retention of the rural amenity and appropriate scaled rural land uses where compatible with rural residential amenity.

Precinct objectives which are addressed further under 'Officer Comment' include:

- To protect biodiversity values of remnant vegetation, with an emphasis on poorly represented vegetation, priority flora and DRF and riparian/creek vegetation,
- To protect environmental flows in watercourses by restriction of off-stream dams, a presumption against on-stream dams, and the control of dam sizes.
- To protect existing and encourage re-establishment of environmental corridors and buffers, particularly in proximity to reserves and particularly in areas of high landscape values.
- To protect habitat and vegetation corridors relied on by the threatened Western Australian Ringtail Possum.

Subdivision criteria states that rural residential subdivision is limited to existing rural residential zones and is to be in accordance with the adopted Structure and Development Guide Plans (including the CPACSP).

**Commonage Policy Area Consolidated Structure Plan (2004)**

The CPACSP was endorsed by the City and the WAPC in 2004 as a guide to planning and development within the 'Commonage' area. It should be noted that the CPACSP is an overarching, guiding document and not a 'Structure Plan' in the sense that the term is now used in the Regulations.

The subject land is located in West Commonage Precinct 5B which indicates a requirement for a minimum lot size of 2ha with an average lot size of 3ha for this site. This policy states that the designated average lot sizes must be maintained, although flexibility in minimum and lot sizes may be permitted by the City (and WAPC) subject to demonstrated community benefits.

The Planning and Policy Statements (relating to subdivision and development) include the provisions below which provide additional guidance for assessment, as discussed further under 'Officer Comment'.

3. Cluster approaches to rural residential subdivision are supported in other undeveloped areas except for areas exposed to long range views, along key existing and proposed distributor roads and sites which consist of remnant vegetation or include vegetation/habitat corridors. Outside the cluster precinct a general minimum lot size of one hectare may be considered subject to achievement of the designated average lot size for the land as indicated on the Structure Plan. Cluster subdivision proposals will be assessed in relation to the performance criteria specified in the LNRSP including assessment of visual analysis prior to preparation of the development guide plan for the land.
12. The Shire will recommend appropriate memorials on rural production lots adjoining sensitive land uses to address off-site impacts and corresponding memorials on rural residential and tourist lots adjoining rural production lots state that the rural production activity may create a nuisance effect on rural residential amendment
16. The Structure Plan indicates the general alignment of habitat and revegetation corridors. The Shire and the Department of Conservation and Land Management are to investigate the general location and width of vegetation/habitat corridors linking remnant vegetation with the national Park, Recreation reserves and other crown reserves during the preparation of development guide plans. Subdivision design is to have regard to the establishment of vegetation/habitat corridors.'

Ultimately the CPACSP provides guidance for the City to support a lower minimum lot size to permit flexibility in subdivision design, subject to a distinct community benefit being demonstrated, and therefore the Structure Plan recommendations are considered to be consistent with the relevant provisions.

**FINANCIAL IMPLICATIONS**

There are no financial implications considered to arise from the officer recommendation.

**LONG-TERM FINANCIAL PLAN IMPLICATIONS**

There are no long term financial implications associated with the recommendations of this report.

## **STRATEGIC COMMUNITY OBJECTIVES**

The officer recommendation provided in this report is consistent with Key Goal Area 3 – Environment and Community Objective 3.1 of the City’s Strategic Community Plan 2017; *‘Development managed sustainably and our environment valued.’*

## **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 identifies ‘downside’ risks only, rather than upside risks as well. The implementation of the officer recommendation will involve recommendation of final approval of the Structure Plan in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations). In this regard, there are no significant risks identified.

## **CONSULTATION**

The Structure Plan was advertised for 28 days from 13 February to 13 March 2019 in accordance with the deemed provisions of the Regulations and 14 submissions were received. A Schedule of Submissions is provided at Attachment E. Nine public submissions included queries relating to details of the development process, and raised concerns regarding density, landscape and vegetation protection, and the proposed dam expansion.

The submission received from the Department of Fire and Emergency Services (DFES) confirms support for the Bushfire Management Plan subject to additional information being provided in an updated BMP prior to subdivision. The matters raised by DFES requires preparation of the BAL contour map to include minor updates to the BHL Assessment and vegetation classification to be provided prior to subdivision. The Department of Water and Environmental Regulation (DWER), and the Department of Biodiversity, Conservation and Attractions (DBCA) and Department of Primary Industries and Regional Development (DPIRD) have informed the recommendations on the Structure Plan as set out in the Schedule of Submissions (Attachment E) and Schedule of Modifications (Attachment F) and are discussed under Officer Comment, to follow.

## **OFFICER COMMENT**

As a result of advertising and subsequent issues raised, a number of modifications are being recommended in the Schedule of Modifications. The key considerations include density and design, intensive agricultural use, and wider environmental and community benefits.

### **Density and Design**

Submissions raised concern that the proposed lot sizes in the Structure Plan appear to contradict those in the CPACSP. The CPACSP, Scheme, LNRSP and Draft LPS all support consideration and assessment and potential flexibility in terms of the intensification of development and subdivision design on the proviso that a tangible community benefit is demonstrated. The proposed lot density is, however, in any case consistent with the CPACSP providing an average density of 3ha. The minimum 1 ha individual lot sizes are supported by the proposed cluster design which improves integration of the local road network and, therefore, delivery of safer bushfire evacuation and emergency services access; and supports retention and enhancement of natural and rural landscapes on the proposed balance lot 1. The lot sizes are also consistent with existing rural residential areas to the north, and lots recently approved in the adjacent Lot 115 Wildwood Road subdivision, thus the proposed Structure Plan density and lot design is considered to be well-integrated and in keeping with the aims, objectives and outcomes of the surrounding development.

Adjacent landowners requested consideration of design constraints such as building envelopes and landscape screening/revegetation for each lot in the western portion of the Structure Plan area. There was concern that development would become intrusive in an area with recognised landscape values and rural amenity that neighbouring landowners enjoy. It is because of these inherent landscape values that existing planning controls under the Scheme (particularly with regards to the LVA provisions and associated local planning policies) are considered to be sufficient in regulating building design in this area. In view of these planning policies and development control processes there is not generally a need to specify exactly where development must occur within each lot at a structure plan level and for that reason, the City has moved away from allocating specific building envelopes for rural residential subdivision. Officers are not recommending any change to the proposed density, lot layout or design.

#### **'Agriculture – Intensive' - Rural Production**

The Scheme provides for consideration of Agriculture-Intensive Use in a rural residential zone where rural or primary production is identified on a structure plan or on land greater than 20 ha in area. The Scheme also requires that expansion of dams in rural residential areas are to be indicated on the structure plan. For this reason, the Structure Plan proposes that the balance Lot 1 will be used for 'Rural Production' and proposes to enlarge an existing dam located on the creek line. The supporting documentation to the Structure Plan describes that the dam and associated water supply is intended to support intensive agriculture uses such as growing of avocados, olives, citrus, olives and blueberries on the balance Lot 1.

Following advertising, the DWER submission revealed that the subject land is located within the Gunyulgup sub-area catchment, which is fully allocated, and therefore no additional water is available to support the proposed dam expansion. The City considered a Development Application in 2016 for a proposed dam expansion in the same location and advised that it could not be approved under the Scheme due to its volume and size. Several submissions from adjacent landowners also raised concern about the expansion of the dam and its impact upon water flow and the environment, which is further discussed in 'Environmental and Community Benefits' below. In view of DWER comments, public submissions and previous planning considerations, the proposed dam expansion is recommended to be removed from the Structure Plan (and intensive agriculture use is not supported).

DPIRD advise that they have no objection to the Structure Plan and use of the land for rural residential purposes. DPIRD also advise that a maximum of 8 ha of land may be available for agricultural uses on the balance Lot 1; however, with no water allocation it would not be possible to establish and operate a successful horticultural enterprise. DWER advise that the recently approved dam on the northern portion of the site is a spring-fed dam and not on a controlled watercourse and, therefore, this dam may be used for irrigation purposes. However, the City issued a development approval in 2017 for this dam, which limits the use for domestic use and watering of stock only. Due to the prospect of a limited irrigated water supply and productive land for intensive agricultural use, it is considered that the notation on the Structure Plan for 'Rural Production' would be misleading and it is therefore recommended to be removed. The Schedule of Modifications accordingly recommends removal of the 'proposed dam expansion' and that the notation of 'Rural Production' is also removed from the Structure Plan. It should be noted that should the water situation change, as proposed Lot 1 will be over 1.0 hectare in area, approval of intensive agriculture could still be considered by the City at some future time.

The Structure Plan shows the location of the remaining dams on the property, however, does not recognise any potential for those dams to be enlarged or expanded. It has been advised by the landowner that the dams will most likely remain as part of future development of the lots.

## Environmental and Community Benefits

The Structure Plan includes mechanisms for the delineation of the DEA and Revegetation Area to ensure ongoing environmental and community benefit through protection and enhancement of natural and rural landscapes. The central woodland corridor running north to south and containing remnant native vegetation is identified in the LNRSP as an area of 'Natural Landscape Significance', and the south east riparian vegetation corridor is recommended under the CPACSP to be protected as a habitat corridor. The existing vegetated areas have been grazed over many years, leaving insufficient new growth to replace older trees. Combined with revegetation, the protection of the DEA intends to promote long-term health and recovery of this plant community.

Key issues raised in the public submissions relate to protection of the landscape, protection of vegetation and maintaining surface water flow. Several public submissions also requested further protection of the creek line and associated vegetation. The DBCA submission supports the development exclusion areas and revegetation areas of the DEA as proposed in the Structure Plan; however, also suggests extension and protection of the vegetation corridor which includes potentially good quality wetland vegetation and Western Ringtail Possum (WRP) habitat. To improve the link between the watercourse and the larger retained bushland area, DBCA recommends revegetation of the northern portion of the wildlife habitat corridor including planting around the edges of the existing dam; and also removing the battle-axe access opening on the south-eastern corner of the balance lot which cuts through the full width of the corridor vegetation. The DBCA consider that the expansion of the dam would adversely impact the effectiveness of the habitat corridor.

The landowner would prefer to maintain the battle-axe access leg to provide a second access to proposed Lot 1 to allow direct access to the central southern portion of the site. The battle-axe leg was proposed in a previous version of the Structure Plan to provide access to an additional lot in this location, however that was not supported by the City as it did not adequately address bushfire requirements. On balance, it is considered that the most appropriate use of this 15 metre wide strip is to provide environmental protection and inclusion in an enhanced habitat corridor. Therefore it is recommended that the battle-axe access opening be removed and the area be instead amalgamated into proposed Lot 6.

Policy objectives of the LNRSP and the draft LPS, along with the precinct objectives of the LRPS seek to protect habitat and vegetation corridors and re-establish environmental corridors, particularly in areas of high landscape values. This overarching policy supports the CPACSP provision that encourages subdivision design to have regard to the establishment of vegetation/habitat corridors. The DEA is the planning mechanism which will ensure that the corridor is protected and revegetated through the subsequent subdivision process, typically via the following condition:

*'A revegetation plan being prepared, approved and implemented for the revegetation of the Revegetation Area and Development Exclusion Area as shown on the approved Structure Plan with appropriate native species to the specifications of the Local Government. (Local Government)'*

In view of submissions received; and in consideration of the relevant planning policies it is recommended that the extent of the south-east vegetation corridor be protected under the draft Structure Plan to improve the environmental and landscape benefit of the proposal. To ensure appropriate protection through the subdivision process, it is recommended that the DEA be extended to reflect the CPACSP habitat corridor through including the following modifications to the Structure Plan:

- The existing dam and northern portion of the corridor linking to the central woodland be included in the DEA.

- Removal of the battle-axe access opening and inclusion instead of the vegetation on the south-east boundary into the DEA.

### **Structure Plan conditions**

Following further assessment after public advertising, officers consider that most of the Structure Plan conditions proposed (see Attachment G) are covered by the deemed provisions of the Regulations, the relevant clauses of the Scheme and otherwise typically applied by the Western Australian Planning Commission on conditional subdivision approvals. Due to this, and not wishing to duplicate processes or cause confusion, it is therefore recommended that all these conditions be removed. That leaves the condition concerning the construction of a public road linking Dell Retreat to the internal subdivision roads of adjoining Lot 115, so as to better integrate the local road system for bushfire and emergency safety purposes). For simplicity's sake, it is recommended this condition be added to the Structure Plan map, rather than being the sole condition in a separate list of conditions.

It should be noted that without that connection, the additional lots proposed on Butterly Road cannot meet access and egress requirements of State bushfire planning policy. The additions to the integration road network proposed in this Structure Plan, and through the development now underway on adjoining Lot 115 Wildwood Road, will together result in a significant number of existing lots in the locality becoming compliant with current requirements of State bushfire planning policy.

### **Recommended Modifications**

Modifications recommended to the Structure Plan are:

1. Removal of 'Proposed Dam Expansion'
2. Removal of the 'Rural Production' notation
3. Removal of the battle-axe access leg on the south-east boundary of balance Lot 1 and its inclusion instead into proposed lot 6.
4. Extend the 'Development Exclusion Area' toward the south-east boundary to include the full extent of the vegetation corridor;
5. Extend the 'Development Exclusion Area' to include the dam, associated vegetation, and land north along the creek line to connect with the central woodland.
6. Remove all Structure Plan Conditions, other than Condition 3 (as described in previous paragraph), as they are unnecessary and reflect already existing requirements of the planning framework, and include that condition on the Structure Plan map, rather than in a separate conditions list.
7. Modifications to the Structure Plan report and technical appendices to reflect the Structure Plan changes, and other changes supported following assessment of the Schedule of Submissions.

### **CONCLUSION**

The Structure Plan consolidates rural residential development, coordinates the delivery of safer bushfire evacuation and emergency services access, enhances long-term environmental protection of native species on the site and improves integration of the local road network in the Commonage. The Structure Plan represents a logical and orderly planning approach to rural residential development in this area that integrates with neighbouring subdivision development and road networks, demonstrating both community and environmental benefit.

Officers are of the view that subject to the modifications set out under Attachment F, that the draft Structure Plan for Lot 2656 Butterly Road is suitable to be adopted for final approval, and referred to the WAPC for endorsement.

**OPTIONS**

Should the officer recommendation not be supported, the following options could be considered –

1. Resolve not to adopt the Structure Plan for final approval (with reasons to be provided).
2. Resolve to adopt the Structure Plan for final approval, but with further recommended modifications (to be justified).

The assessment did not reveal any substantive issue or reasonable grounds that would support either option. With respect to Option 1, it should be noted that the City would still have to forward the Structure Plan to the WAPC, which is the final decision-maker.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The implementation of the officer recommendation will involve referral of the draft Structure Plan documents to the Western Australian Planning Commission as soon as practicable after the resolution.


**COUNCIL DECISION AND OFFICER RECOMMENDATION****C1905/084**

Moved Councillor R Paine, seconded Councillor L Miles

1. That the Council:
  - 1.1 Pursuant to Schedule 2, Part 4 of the Planning and Development (Local Planning Schemes) Regulations 2015, adopts the Structure Plan for Lot 2656 Butterly Road, Yallingup for Final Approval, subject to the recommended changes included in the Schedule of Modifications at Attachment F.
  - 1.2 Pursuant to Schedule 2, regulation 19 of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to endorse the Schedule of Submissions at Attachment E prepared in response to the public consultation undertaken in relation to the Structure Plan.
  - 1.3 Pursuant to Schedule 2, regulation 20 of the Planning and Development (Local Planning Schemes) Regulations 2015 requires that a report on the Structure Plan be provided to the Western Australian Planning Commission within the timeframe agreed with the Commission.
2. Pursuant to Schedule 2, regulations 22 and 23 of the Planning and Development (Local Planning Schemes) Regulations 2015, should the WAPC require modifications be made to the Structure Plan, these modifications 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 Structure Plan, in which case the matter shall be formally referred back to the Council for assessment and determination.

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

**17. CHIEF EXECUTIVE OFFICERS REPORT****17.1 Councillors' Information Bulletin**

<b>SUBJECT INDEX:</b>	Councillors' 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>	Governance Coordinator - Emma Heys
<b>AUTHORISING OFFICER:</b>	Director Finance and Corporate Services - Tony Nottle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A State Administrative Tribunal Reviews 

**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 State Administrative Tribunal Reviews**

Attachment A is a list showing the current status of State Administrative Tribunal Reviews involving the City of Busselton.

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1905/085** Moved Councillor R Paine, seconded Councillor L Miles

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

- [17.1.1 State Administrative Tribunal Reviews](#)

**CARRIED 8/0**



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

### 12. REPORTS OF COMMITTEE MEETINGS

#### 12.2 Finance Committee - 18/04/2019 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 MARCH 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 March 2019 
	Attachment B Investment Report for the month ending 31st March 2019 

**This item was considered by the Finance Committee at its meeting on 18 April 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 March 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 MARCH 2019

The Statement of Financial Activity for the period ending 31 March 2019 shows a better than expected Net Current Position "Surplus" of \$8.9M being \$7.8M higher than year to date amended budget of \$1.1M.

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>					
Operating Grants and Subsidies	3,312,266	2,711,926	5,032,780	22.14%	600,340
Other Revenue	1,018,147	279,006	362,981	264.92%	739,141
Profit on Asset Disposal	96,576	54,037	82,137	78.72%	42,539
<b>Expenses from Ordinary Activities</b>					
Materials & Contracts	(11,497,571)	(13,919,221)	(19,850,500)	17.40%	2,421,650
Depreciation	(16,590,838)	(14,354,856)	(19,070,922)	-15.58%	(2,235,982)
Insurance Expenses	(713,980)	(587,512)	(698,808)	-21.53%	(126,468)
Other Expenditure	(2,167,016)	(3,534,131)	(4,791,109)	38.68%	1,367,115
Allocations	1,416,524	1,278,329	1,723,162	-10.81%	138,195
<b>Non-Operating Grants, Subsidies and Contributions</b>					
	2,724,882	15,250,586	32,443,772	-82.13%	(12,525,704)

<b>Capital Revenue &amp; (Expenditure)</b>					
Land & Buildings	(899,956)	(13,678,993)	(17,902,816)	93.42%	12,779,037
Plant & Equipment	(1,866,828)	(4,737,300)	(6,880,100)	60.59%	2,870,472
Furniture & Equipment	(254,493)	(691,676)	(883,640)	63.21%	437,183
Infrastructure	(15,892,560)	(27,695,311)	(37,380,261)	42.62%	11,802,751
Proceeds from Sale of Assets	660,750	835,950	1,045,950	-20.96%	(175,200)
Proceeds from New Loans	0	3,150,000	3,150,000	-100.00%	(3,150,000)
Advances to Com. Groups	0	150,000	-150,000	100.00%	150,000
Transfer to Restricted Assets	(921,343)	(413,994)	(551,000)	-122.55%	(507,349)
Transfer from Restricted Assets	7,098,045	9,092,600	14,423,922	-21.94%	(1,994,555)
Transfer from Reserves	2,066,023	8,838,113	26,769,361	-76.62%	(6,772,090)

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

YTD actual income from ordinary activities is \$1.4M more than expected when compared to YTD budget with the three items meeting the material variance reporting threshold being;

1. Operating Grants, subsidies and Contributions is \$600k over YTD budget due to timing differences associated with funds being received from DFES for fire prevention and bushfire risk management \$98k, Contributions received within the waste services business unit associated with the appointment of a regional project officer position, and funds recovered from the City's insurance the old butter factory \$413k,
2. Other Revenue is \$739k better than YTD budget. In part this variance is due to better than expected returns on the sale of scrap metal by \$244k. IT lease buybacks reflect additional income of \$544k which is offset by additional expenses in the IT leasing account 3381.
3. Profit on asset disposal is \$43k better than YTD budget due to schedule of purchase/ sale of asset timing variances. 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, is \$4.7M less than expected when compared to YTD budget with the following items meeting the material variance reporting threshold.

### **Materials and Contracts:**

The main items affected are listed below:

Cost Code	Cost Code Description / GL Activity	Variance YTD \$
<b><u>Finance and Corporate Services</u></b>		
10250	Information & Communication Technology Services	(462,424)
10000	Members of Council	(15,800)
10251	Business Systems	31,574
10500	Legal and Compliance Services	82,053
<b><u>Community and Commercial Services</u></b>		
10590	Naturaliste Community Centre	59,079
10591	Geographe Leisure Centre	64,505
10380	Busselton Library	77,215
10600	Busselton Jetty Tourist Park	90,322

<b><u>Planning and Development Services</u></b>		
10931	Protective Burning & Firebreaks-Reserves	42,090
10820	Strategic Planning	58,889
11170	Meelup Regional Park	98,473
10830	Environmental Management Administration	107,620

Cost Code	Cost Code Description / GL Activity	Variance YTD \$
<b><u>Engineering and Works Services</u></b>		
B1401	Old Butter Factory	(85,219)
12620	Rural-Tree Pruning	(83,489)
M9996	Roads Sundry Overhead/Consumables	(70,745)
M9995	Roller & Grader Hire	(45,064)
G0030	Busselton Transfer Station	(40,442)
11162	Busselton Jetty - Underwater Observatory	26,482
R0821	Avignon Park (Provence)	26,753
R0750	Barnard Park Ovals	26,917
R0700	Dunsborough Oval and Skate Park	27,779
G0033	Green Waste	30,703
F9999	Footpaths Maintenance	32,812
11108	Rural Intersection (Lighting) Compliance	34,075
G0010	Domestic Recycling Collections	35,122
R0820	Almond Green Park (Provence)	35,381
G0034	External Waste Disposal	37,767
11106	Street Lighting Installations	41,692
R2001	Tree Planting - Urban	45,769
A6004	Pedestrian Bridge (Port Geographe)	47,997
B1000	Administration Building- 2-16 Southern Drive	52,860
12600	Street & Drain Cleaning	53,500
B1514	Asbestos Removal & Replacement	61,245
G0032	Rubbish Sites Development	74,997
11301	Regional Waste Management Administration	90,000
A9999	Miscellaneous Bridge Maintenance	97,476
R0004	Busselton Foreshore Precinct (not including Skate Park)	99,484
11101	Engineering Services Administration	131,788
M9999	Road Maintenance Bal Of Budget	288,251
11160	Busselton Jetty	584,040

**Depreciation:**

There is an overall variance in depreciation of \$2.2M, 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 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.

**Insurance:**

There is an YTD variance in insurance costs of \$126K. This is a timing issue only which mainly relates to the fleet management insurance budget being projected to occur in period 12.

**Other Expenditure:**

There is an YTD variance in other costs of \$1.4M. The main items affected are listed below:

Cost Code	Cost Code Description / GL Activity	Variance YTD
<b><u>Finance and Corporate Services</u></b>		
10618	Winderlup Court Aged Housing	40,094
10151	Rates Administration	52,209
10700	Public Relations	52,708
10000	Members of Council	68,237
<b><u>Community and Commercial Services</u></b>		
10547	Iron Man	(63,336)
12631	Peel Terrace Building & Surrounds	(35,287)
10567	Cinefest Oz	(31,664)
10548	Half Iron	30,800
10530	Community Services Administration	103,569
11156	Airport Development Operations	1,000,000
<b><u>Planning and Development Services</u></b>		
10942	Bushfire Risk Management Planning - DFES	(39,283)
10805	Planning Administration	33,399
<b><u>Engineering and Works Services</u></b>		
G0042	BTS External Restoration Works	(172,636)
11160	Busselton Jetty	25,000.00
B1223	Micro Brewery - Public Ablution	80,000.00

With regard to the \$1M 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 then it follows that the transfer from reserve will also not be processed. All other items above have been classified as timing differences.

**Non-Operating Grants, Subsidies and Contributions:**

Non-Operating Grants, Subsidies and Contributions are less than YTD budget by \$12.5M 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 expenditure at this time:

Cost Code	Cost Code Description	Variance YTD
<b><u>Finance and Corporate Services</u></b>		
10250	IT Capital Grant - CCTV at NCC	140,044
10240	Contributions to Works	(123,102)
10239	Contributions Community Facilities	(876,218)
10239	Contribution Public Art	(74,977)

<u>Community and Commercial Services</u>		
10900	Cultural Planning - Donated Assets	37,000
C6099	Airport Development - Project Expenses	(8,946,609)
Cost Code	Cost Code Description	Variance YTD
<u>Planning and Development Services</u>		
B9109	Hithergreen Building Renovations	(68,886)
B9112	Ambergate Bushfire Brigade Shed	(290,484)
B1015	Hithergreen District Bushfire Brigade	(465,200)
B1026	Yallingup Rural Bushfire Brigade	(597,600)
<u>Engineering and Works Services</u>		
D0017	Chain Avenue - Drainage Works	(31,500)
S0069	Peel Terrace (Brown Street Intersection Upgrades)	(58,334)
C2523	Broadwater Beach Coastal Protection Stage 1 of 4	(75,000)
C3150	Busselton Foreshore Stage 3: Toddler's Playground	(86,547)
S0035	Strelly Street / Barlee Street Roundabout	(105,000)
S0064	Peel Terrace (Stanley Pl/Cammilleri St Intersection Upgrade)	(116,669)
C2528	Craig Street Groyne and Sea Wall	(125,000)
C0049	Port Geographe Marina Car Parking	(128,817)
F1018	Dunsborough Cycleway CBD to Our Lady of the Cape School	(151,253)
S0051	Causeway Road / Rosemary Drive Roundabout	(175,003)
C3168	Busselton Foreshore Jetty Precinct	(308,221)

### **Capital Expenditure**

As at 31 March 2019, there is a variance of -60% or -\$27.9M in total capital expenditure with YTD actual at -\$18.9M against YTD budget of -\$46.8M.

The airport development makes up for \$11.5M (main variance relates to the Airport Terminal \$9.7M), Busselton Tennis Club – Infrastructure \$1.5M, Plant and Equipment \$2.88M, Council Roads Initiative projects \$776K, Eastern Link - Busselton Traffic Study \$2M, Dunsborough Land Purchase Parking \$1.3M, Main Roads projects \$1.4M, Parks, Gardens and Reserves \$650K, Sanitation Infrastructure \$934K, Beach Restoration \$972K, Busselton Senior Citizens \$553K, Dunsborough Cycleway CBD to Our Lady of the Cape School \$372K, Furniture and Equipment \$437K, Busselton Jetty Tourist Park Upgrade \$214K, Beach Front Infrastructure \$72K, GLC - Pool Relining \$50K, Energy Efficiency Initiatives (Various Buildings) \$70K, Boat Ramp Construction \$155K, and Major Projects Lou Weston Oval \$509K and Busselton Foreshore \$1.5M.

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.

### Proceeds from Loans/ Advances to Community Groups

As at 31 March 2019, there is a variance of \$3.15M which relates to the budgeted drawdown of loans that as at this time is yet to occur. The two main loans to be raised are as follow;

- Busselton Tennis Club \$1.5M; and
- Air Freight Hub Stage 1 \$1.5M;

At this time it is anticipated that an application will be submitted to draw down these loans within the next four weeks. To this end this variance is a timing difference that will be resolved shortly.

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 cost neutral to the City, therefore will have no effect on the net current position.

### Investment Report

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

As at 31st March 2019 the value of the City’s invested funds totalled \$74.40M, down from \$75.44M as at 28th February. The decrease is due to the withdrawal of funds from the 11am account to meet standard operating costs.

During the month of March seven term deposits held with four different institutions totalling \$22.0M matured. All were renewed for a further 112 days at 2.52% (on average).

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) decreased by \$1.0M with funds being withdrawn to meet standard operating costs.

The balance of the Airport Development ANZ cash account remained steady.

The RBA left official rates on hold during March and April. Future movements remain uncertain at this point, however as an indication of current sentiment financial markets have priced in a rate decrease at some stage in the coming months.

Details of monthly (February to March) transactions made on the Chief Executive Officers corporate credit card are provided below to ensure there is appropriate oversight and awareness of credit card transactions made.

Date	Amount	Payee	Description
04-Mar-19	121.45	Crown Perth Silks Restaurant	* LGCOG Conference Dinner
04-Mar-19	595.00	Australian Institute of Company Directors	* AICD Membership Renewal
04-Mar-19	25.00	Crown Perth Atrium	* LGCOG Conference Breakfast
04-Mar-19	5.06	Crown Towers Perth	Unknown Charge - reimbursed by CEO
08-Mar-19	507.00	Kiama Shores Pty Ltd	Accommodation Cr MCallum
08-Mar-19	215.00	The Grove Experience	Beverages for Civic Reception Showcase
11-Mar-19	17.00	Equinox Café	+ Coffee - Meeting with Dennis Gee & Mayor



Date	Amount	Payee	Description
11-Mar-19	57.99	Dan Murphy's Online	Refreshments for Civic Reception Room
15-Mar-19	662.86	Crown Towers Perth	* Accommodation Package
18-Mar-19	166.78	Esplanade Hotel Fremantle	Accommodation
19-Mar-19	25.27	Esplanade Hotel Fremantle	Marine Lounge Bar Dinner
28-Mar-19	425.00	Trybooking	LG COG EAA Meeting Fraser Coast 15/08/19

*\*Funds debited against CEO Annual Professional Development Allowance as per employment Contract Agreement*

*+ Allocated against CEO Hospitality Expenses Allowance*

## CONCLUSION

As at 31 March 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/COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**

**C1905/086**

Moved Councillor J McCallum, seconded Councillor R Reekie

## **ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

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

**CARRIED BY ABSOLUTE MAJORITY 8/0**

### 12.3 Finance Committee - 18/04/2019 - 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>	Finance and Corporate 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>	Nil

**This item was considered by the Finance Committee at its meeting on 18 April 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 funding changes that have positively impacted the original budget and Council is now being asked to consider budget amendments for the following key areas/projects:

1. Storm Damage Reimbursement
2. Queen to Strelly Street

#### **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 amendments to the Finance Committee for consideration and recommendation to Council.

### 1. “Storm Damage Reimbursement

On the 5-6th June 2018 the City experienced a severe weather event causing extensive damage throughout the City.

Financial assistance was sought via the Western Australian Natural Disaster Relief and Recovery Arrangements (WANDRRA) to assist with the clean-up.

Unfortunately damage caused by the high-tide and coastal inundation were deemed ineligible for assistance under the program.

City Officers did however seek to have the event declared for the collection and disposal of the many hundreds of trees that fell on or near the City’s rural road network. In prior years this activity has been funded under this program however the rules and guidelines have changed significantly since a Federal Government Productivity Review.

After having submissions rejected multiple times the State Government, on behalf of the City; sought a determination from the Federal Governments Auditor General’s office as to the following;

1. What constitutes adequate evidence to support a claim of this nature?
2. What part of a road is deemed to be an essential public asset eligible for funding?

Additional evidence was submitted which ultimately resulted in the event being declared in December 2018. A revised estimate, comprising quotes for the clean-up; has since been submitted and approval for 75% or \$391,500 of the total \$522,000 in estimated costs are eligible to be reimbursed to the City. It should be noted that trees that fell exclusively within the City’s road reserves, where the majority of the tree did not impact on the road surface; were ineligible for funding assistance.

A budget amendment is now requested to bring both the extra expenditure to budget and the corresponding reimbursable amount. The 25% of the total cost required to be funded by the City (\$522,000 @ 25% = \$130,500) will be drawn from the existing Rural Tree Pruning budget which forms part of the larger Road Maintenance 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.M9971.3280.0000	WANDRRA Storm Claim	0	391,000	391,000
<b>Income</b>				
541.M9971.1520.0000	WANDRRA Storm Claim - Reimbursement	0	-391,000	-391,000
	<b>Net Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

## 2. "Queen to Strelly Street"

The Queen Street Road Project (S0066) has budget totalling \$52,846 that represents budget carried over from previous year works. \$18,469 of this is Municipal funds while the balancing amount of \$34,377 represents Main Roads Grant monies under the Regional Road Group program.

In January, City Officers sought and have subsequently have been approved by SWRRG / Main Roads WA; to transfer these remaining monies against the Strelly Street Road Project (S0035) for the construction of the roundabout on the corner of Strelly and Barlee Street. These additional funds will be used to relocate the NBN infrastructure that was overlooked when the Telstra communication infrastructure was relocated last year.

### Planned Expenditure Items

Officers propose that the 2018/2019 adopted budget be amended to reflect the following funding changes, shown in Table 2.

**Table 2:**

<i>Cost Code</i>	<i>Description</i>	<i>Current Budget</i>	<i>Change</i>	<i>Resulting Proposed Amended Budget</i>
<b>Expenditure</b>				
541.S0066.3280.0000	Contractors	52,846	-52,846	0
541.S0035.3280.0000	Contractors	450,000	52,846	502,846

<b>Income</b>				
541.S0066.1210.0000	Capital Grants – Main Roads	-10,000	10,000	0
541.S0035.1210.0000	Capital Grants – Main Roads	-300,000	-10,000	-310,000
Restricted grant collected unspent from S0066	Restricted Monies	-24,377	24,377	0
Restricted grant collected unspent from S0035	Restricted Monies	0	-24,377	-24,377
	<b>Net Total</b>	<b>0</b>	<b>0</b>	<b>0</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/COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

**C1905/087**

Moved Councillor C Tarbotton , seconded Councillor J McCallum

## ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That Council endorse the requested budget amendments outlined in tables 1 to 2 below, resulting in no change to an amended budgeted 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.M9971.3280.0000	WANDRRA Storm Claim	0	391,000	391,000
<b>Income</b>				
541.M9971.1520.0000	WANDRRA Storm Claim - Reimbursement	0	-391,000	-391,000
	<b>Net Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Table 2:**

<i>Cost Code</i>	<i>Description</i>	<i>Current Budget</i>	<i>Change</i>	<i>Resulting Proposed Amended Budget</i>
<b>Expenditure</b>				
541.S0066.3280.0000	Contractors	52,846	-52,846	0
541.S0035.3280.0000	Contractors	450,000	52,846	502,846
<b>Income</b>				
541.S0066.1210.0000	Capital Grants – Main Roads	-10,000	10,000	0
541.S0035.1210.0000	Capital Grants – Main Roads	-300,000	-10,000	-310,000
Restricted grant collected from S0066	Restricted Monies	-24,377	24,377	0
Restricted grant collected from S0035	Restricted Monies	0	-24,377	-24,377
	<b>Net Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

**CARRIED BY ABSOLUTE MAJORITY 8/0**

**16. FINANCE AND CORPORATE SERVICES REPORT****16.1 COUNCILLOR CARTER - REMOTE ATTENDANCE**

<b>SUBJECT INDEX:</b>	Councillor
<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 Services
<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>	Absolute Majority
<b>ATTACHMENTS:</b>	Nil

DISCLOSURE OF INTEREST	
Date	08 May 2019
Meeting	Council
Name/Position	Paul Carter, Councillor
Item No./Subject	16.1 Councillor Carter – Remote Attendance
Type of Interest	Financial
Nature of Interest	I declare I have an interest in this Council Report, as I am the subject of this Council Report.

**5.39pm**      **At this time Councillor P Carter left the meeting.**

**PRÉCIS**

The purpose of this report is to recommend to Council that they consider the continuation of an arrangement allowing Councillor (Cr) Paul Carter to attend specified meetings of the Finance Committee by telephone (or other means of instantaneous communication) as per Regulation 14A of the *Local Government (Administration) Regulations 1996* (the Regulations).

**BACKGROUND**

In January 2019 Council resolved to approve an arrangement for Cr Carter to attend by telephone etc at the Finance Committee Meetings held on 21 February 2019, 21 March 2019, 18 April 2019, and 16 May 2019 and in association with that approval, that a conference / meeting room or Cr Carters private accommodation lodgings at Yandi Accommodation Village be considered a suitable place in accordance with regulation 14A of the *Local Government (Administration) Regulations 1996* (the Regulations).

Cr Carter is now required to work at an additional mine site and has requested that the Mulla Mulla Accommodation Village at Mining Area C also be considered a suitable site in accordance with regulation 14A and that approval be provided by Council for him to attend by telephone etc at the Finance Committee Meetings held on 20 June 2019, 25 July 2019, 15 August 2019, 19 September 2019 and 17 October 2019. The local government elections are to be held on Saturday the 19 October 2019 and hence no approvals are sought beyond this date.

## STATUTORY ENVIRONMENT

In accordance with Regulation 14A - Attendance by telephone etc - of the Regulations, sub-regulation (1), it is the role of the Council to determine that a person who is not physically present at a meeting of a council or committee is to be taken to be present at the meeting if the person is:

- (a) simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and
- (b) in a suitable place, and
- (c) the council has approved of the arrangement (by absolute majority).

A council cannot give approval under sub-regulation (1)(c) if to do so would mean that at more than half of the meetings of the council, or committee, as the case may be, in that financial year, a person (other than a person with a disability) who was not physically present was taken to be present in accordance with Regulation 14A. The implications of this are discussed further in the officer comment section of this report.

A suitable place (as per sub-regulation (4) (b) means a place that the council has approved (again by absolute majority) as a suitable place for the purpose of the regulation and must be located –

- i. in a townsite or other residential area; and
- ii. 150 km or further from the place at which the meeting is to be held ... measured along the shortest road route ordinarily used for travelling;

where townsite has the same meaning given to that term in the *Land Administration Act 1997* section 3(1). That is, a townsite constituted by the Minister for Lands.

Neither the Yandi Accommodation Village (YAV), nor the Mulla Mulla Accommodation Village (MAV) are located in a townsite. Independent legal advice has previously confirmed however that there are strong grounds to conclude that YAV would meet the 'other residential area' requirements of the regulation. As such, Council has previously determined YAV to be a 'suitable place'. The MAV has very similar attributes to the YAV.

## RELEVANT PLANS AND POLICIES

There are no plans or policies relevant to this matter.

## FINANCIAL IMPLICATIONS

There are no financial implications associated with the officer recommendation

## LONG-TERM FINANCIAL PLAN IMPLICATIONS

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

## STRATEGIC COMMUNITY OBJECTIVES

The matter primarily links to Key Goal Area 6 – Leadership of the City's Strategic Community Plan 2017 and specifically Community Objective 6.3 – 'Governance systems, process and practices are responsible, ethical and transparent'.



**RISK ASSESSMENT**

Given the absence of a legislative definition for 'other residential area', there is a risk that a different, interpretation could be taken as to whether the YAV and MAV meet the requirements of the Regulation. Noting the legal advice previously received, this risk is considered to be low.

**CONSULTATION**

No external consultation is required or considered relevant for this matter.

**OFFICER COMMENT**

Cr Carter is currently working an 8 days on 6 days off roster which requires his remote attendance for the Finance Committee meetings held on 20 June 2019, 25 July 2019, 15 August 2019, 19 September 2019 and 17 October 2019.

A council cannot give approval under sub-regulation (1)(c) if to do so would mean that at more than half of the meetings of the council, or committee, as the case may be, in that financial year, a person (other than a person with a disability) who was not physically present was taken to be present in accordance with Regulation 14A.

There will be 11 Finance Committee meetings held in the 2018/19 financial year, meaning Cr Carter can attend a maximum of 5 meetings by remote attendance. Cr Carter has so far attended 4 meetings by remote attendance, therefore council can choose to approve remote attendance for the meeting on 20 June 2019.

With respect to determining a suitable place, it is proposed that Cr Carter use a conference / meeting room within YAV or the MAV where available or, where not available, his private accommodation lodgings at either accommodation village.

Officers consider the following to be relevant considerations for Council in determining a suitable place and generally feel that the proposed locations provide for these (noting YAV has previously been resolved as a 'suitable place'):

- A place where instantaneous communication can be easily maintained;
- A place reasonably free of noise, distractions or interruptions;
- A place where, as required, confidentiality can be maintained (noting that the majority of the time Council meetings are open to the public); and
- A place where City provided equipment can be safely used without potential of damage.

In addition to the considerations outlined above, Councillors should also consider issues such as impacts on the effectiveness and transparency of the decision making process and public perception. Officers make no comments or recommendations in this regard other than to note them as factors for consideration.

**CONCLUSION**

Cr Carter is currently working an 8 days on 6 days off roster which requires his remote attendance for the Finance Committee meetings until the local government elections to be held on 19 October 2019. In accordance with the Regulations, officers recommend that Council re-approve a conference / meeting room or Cr Carters private accommodation lodgings at YAV and additionally approve a conference / meeting room or Cr Carters private accommodation lodgings at MAV as a suitable place and approve Cr Carter's remote attendance for the Finance Committee meetings specified.

**OPTIONS**

Council could decide to determine the proposed location/s as not being a suitable place and / or could decide not to approve the arrangement.

The Council could determine it more practical to change the dates of the Finance Committee meetings proposed for the remainder of 2019.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The officer recommendation will be effective immediately upon adoption.

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1905/088** Moved Councillor R Reekie, seconded Councillor L Miles

**ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council resolves

1. the following to be a suitable place in accordance with regulation 14A of the *Local Government (Administration) Regulations 1996*:
  - a conference / meeting room or Cr Carters private accommodation lodgings at Yandi Accommodation Village
  - a conference / meeting room or Cr Carters private accommodation lodgings at the Mulla Mulla Accommodation Village at Mining Area C
2. to approve the arrangement outlined in this report for Councillor Paul Carter to attend by telephone etc the Finance Committee Meetings held on 20 June 2019, 25 July 2019, 15 August 2019, 19 September 2019 and 17 October 2019.






**CARRIED BY ABSOLUTE MAJORITY 7/0**

**5.40pm** At this time Councillor P Carter returned to the meeting.

## ITEMS FOR DEBATE

### 12. REPORTS OF COMMITTEE

#### 12.1 Finance Committee - 18/04/2019 - APPLICATION FOR RATE EXEMPTION - RELATIONSHIPS AUSTRALIA (WA) INC

<b>SUBJECT INDEX:</b>	Exemptions and Appeals (Rates)
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Rates
<b>ACTIVITY UNIT:</b>	Rates
<b>REPORTING OFFICER:</b>	Rates Coordinator - David Nicholson
<b>AUTHORISING OFFICER:</b>	Director Finance and Corporate Services - Tony Nottle
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Rate Exemption Application - Statutory Declaration & Covering Letter 
	Attachment B Certificate of Incorporation 
	Attachment C Constitution 
	Attachment D Financial 2017-2018 Report 
	Attachment E Lease For Unit 3 71 Kent Street Busselton 

**This item was considered by the Finance Committee at its meeting on 18 April 2019, the recommendations from which have been included in this report.**

### PRÉCIS

An application has been received from Relationships Australia (WA) Inc. ("RAWA") for rate exemption on 3/71 Kent Street Busselton, Yoonderup House. This is a commercial property that RAWA have leased from 1<sup>st</sup> March 2018 for 9 years. The current rent is \$52,500 increasing almost annually thereafter. (see attachment E) On the basis of the application and previously sought legal opinions, this report recommends that the application for exemption be granted.

### BACKGROUND

RAWA is a not for profit Benevolent Institution with Deductible Gift Receipt (DGR) status. The vast majority of RAWA income is from Commonwealth and State grants so as to provide community services. Services delivered from 3/71 Kent Street Busselton are:

- Headspace Busselton;
- 4Families Support Services; and
- Bunbury Family Relationship Centre outreach services.

RAWA does not charge for Headspace or 4Families Services with only a small charge for the Bunbury Family Relationship Centre outreach service.

The purposes of these service as per the rate exemption application are:

#### Headspace Busselton

RAWA is the lead agency for Headspace Busselton. Headspace is an organisation that operates across Australia, providing support, information and services to people aged 12-25.

Headspace Busselton offer anyone aged 12-25 free access to social workers, counsellors, mental health workers and psychologists. Headspace also has an extensive website where young people and their

carers can read information on a wide range of issues including depression, bullying and relationship issues.

#### **4 Families Support**

Is a free service that provides whatever support families and carers need, linking them to a variety of services to reduce family stress and enable children and young people to reach their full potential.

Services provided are:

- counselling and emotional support
- information and referrals
- home based family support
- workshops, seminars and groups
- community development activities
- support for grandparents and carers

Focus is on prevention and early intervention by addressing issues that affect the mental and emotional well-being of children and young people.

Where families and carers need more assistance, RAWA will actively work with other services including schools, community organisations, Centrelink and mental health services.

#### **Bunbury Family Relationship Centre**

- The Busselton service is the outreach service for Bunbury Family Relationships Centre.
- It provides information about family relationships at all stages – forming new relationships, overcoming relationship difficulties or dealing with separation and also referring other services that can help.
- For parents experiencing separation, the centre helps the parents to focus on the children's needs and help decide what to do next. RAWA can also provide Family Dispute Resolution sessions with the other parent or family members to help with parenting arrangements.
- RAWA can also provide joint sessions with the other parent or family members to help on parenting arrangements.

Information, referral and individual sessions are free of charge. RAWA provides one hour family dispute resolution sessions free of charge (up to four hours where interpreters are used) and may charge fees after this depending on the circumstances. Everyone is welcome to drop in or phone the Centre for information about programs and services available in the local area that can help strengthen family relationships.

According to RAWA constitution the objects are to prevent and relieve the suffering, distress, vulnerability and disadvantage of people in our community by –

- a) providing services and programs which prevent and alleviate their distress and suffering, particularly for those with complex needs to build stronger relationships and increase resilience. This includes support and advocacy for persons from indigenous or culturally diverse communities, persons with disabilities and mental health issues, and persons affected by domestic violence, child abuse and neglect, trauma, dislocation, social isolation or anyone in need of benevolent relief;
- b) providing education, mediation services and trauma, abuse and relationships counselling;
- c) addressing the incidence of abuse by providing programs to assist, encourage and support change in those who exhibit antisocial behaviour including perpetrators of abuse or violence as well as support and advocacy to victims of violence;
- d) taking initiatives and making representation in matters of social and family policy relevant to the work of the Association; and

- e) doing anything ancillary to the Objects referred to in clauses (a) to (d).

Under this constitution income or property shall be applied solely to or towards the promotion of RAWA objects and no part thereof shall be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise by way of pecuniary profit to members of the association.

It is known that a legal opinion obtained by the City of Fremantle on services provided by RAWA Fremantle being anger management for men, communication and relationships and rebuilding after separation and divorce were “educational” in the relevant sense required by the law of charities, and furthermore, would satisfy the “public benefit” test required in order for an educational use to be considered charitable for the purposes of the law of charities. It was considered that the Fremantle premises would appear to be wholly charitable in the required sense, and thus the land used exclusively used for charitable purposes and is appropriately subject to rate exemption.

### **STATUTORY ENVIRONMENT**

Section 6.26 of the *Local Government Act 1995* (the Act) provides broad definitions for rateable and non-rateable land. Moreover, Section 6.26 (2) (g) states that land is not rateable if it is “used exclusively for charitable purposes”.

### **RELEVANT PLANS AND POLICIES**

There are no plans or policies relevant to this matter.

### **FINANCIAL IMPLICATIONS**

The rates levied on 3/71 Kent Street Busselton will be \$4,835 for the 2018/2019 financial year. Therefore rate exemption, if granted effective 1<sup>st</sup> July 2018, will result in a \$4,835 reduction to the 2018/2019 rating income and similar amounts for the ensuing years.

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

The amount of the rate exemption for the 2018/2019 financial year whilst not being considered large when compared to the annual overall rating income will over the term of the lease amount to a substantial loss of rating incoming for the City overall.

This loss is part of a broader local government issue where there are concerns that a large number of organisations claiming charitable status could result in a long term effect on the City’s rate base into the future. This matter was raised at the South West WALGA Zone (SWZ) meeting in Capel on the 23 November 2018. The SWZ has since advocated for clarity and consideration of the impacts of rates exempt properties within the current Local Government Act Review (Phase 2).

### **STRATEGIC COMMUNITY OBJECTIVES**

This matter principally aligns with Key Goal Area 6 of the Strategic Community Plan 2017 and more specifically Community Objective 6.1 - ‘Governance systems, process and practices are responsible, ethical and transparent’.

### **RISK ASSESSMENT**

There are no risks identified of a medium or greater level associated with the Officers recommendation. Having said that, if Council chooses to not approve the application for rate exemption then staffing and/or legal costs may be incurred if the applicant refers the matter to the State Administrative Tribunal for a review of the decision.

## CONSULTATION

No consultation was considered necessary in relation to this matter.

## OFFICER COMMENT

In accordance with Section 6.26(2)(g) of the Act, land is not rateable if it is used exclusively for charitable purposes. Rate exemption applications need only be considered in two parts – being firstly is the use itself “charitable” and secondly if the use is considered to be charitable, then is the property being used “exclusively” for such use.

In considering the first part, that is, ‘are the operations of RAWA considered to be a charitable use’; legal opinions have been consistent in defining a charitable purpose as land used for:

1. The relief of poverty;
2. The advancement of education;
3. The advancement of religion; and
4. Other purposes beneficial to the community.”

The use of the leased property by RAWA as Headspace Busselton, 4Families Support services and Bunbury Family Relationship Centre outreach services are considered to meet both the “advancement of education” and “other purposes beneficial to the community” charitable definition.

In considering the second part, that is, ‘is the property being exclusively used for a charitable purpose’; this criteria is being met by RAWA as they are the sole lessee of the property and due to the services that they provide from the property.

No physical inspection of the property has been undertaken as it is not considered that this would alter eligibility for rate exemption. This because the RAWA statutory declaration clearly states the purposes of the property, other Council legal opinion concluding that services provided by RAWA are considered charitable in nature and other Councils approving rate exemption.

In terms of the current usage of the properties there are no known planning, health or building compliance issues. The use by RAWA meets the properties “Business” zoning.

If rate exemption is approved then the applicant will be instructed to confirm by the 30<sup>th</sup> April annually that they continue to lease the property and that its use remains as per the application. If a change has occurred and the new use is not eligible for rate exemption then the property will become rateable.

## CONCLUSION

It is considered based on the application and associated documentation provided by RAWA, as well as the legal opinions on charitable purposes, that 3/71 Kent Street Busselton is eligible for rate exemption whilst it is being leased and used by RAWA exclusively for such charitable purposes.

**OPTIONS**

Council may decline the rate exemption application on the basis that it considers that RAWA is not providing charitable services from the property to the community or that any charitable use is not considered an exclusive use of the property.

Should the application be declined for either of the above reasons then RAWA will have the option to refer the matter to the State Administrative Tribunal for a review of the decision. Such referral will see Council needing to defend its decision and thereby incurring staffing and/or legal costs.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The proposed effective date for rate exemption if approved would be the 1<sup>st</sup> July 2018 as the application was lodged on the 14<sup>th</sup> November 2018, after the issuance of the 2018/2019 annual rate notice.

**OFFICER RECOMMENDATION**

That Council:

1. Approve Relationships Australia (WA) Inc. application for rate exemption under section 6.26(2)(g) of the Local Government Act 1995, "land used exclusively for charitable purposes", for 3/71 Ken Street Busselton effective from 1<sup>st</sup> July 2018; and
2. Agree that this rate exemption is to continue where Relationships Australia (WA) Inc. confirm in writing by the 30<sup>th</sup> April of each year that it remains the lessee of the property and that the properties use is the same as stated in the rate exemption application.

**COMMITTEE RECOMMENDATION**

That the Council:

1. Approve Relationships Australia (WA) Inc. application for rate exemption under section 6.26 (2)(g) of the *Local Government Act 1995*, "land used exclusively for charitable purposes", for 3/71 Kent Street Busselton effective from the 1<sup>st</sup> July 2018;
2. Agree that this rate exemption is to continue where Relationships Australia (WA) Inc. confirm in writing by the 30<sup>th</sup> April of each year that it remains the lessee of the property and that the properties use is the same as stated in the rate exemption application;
3. Move a motion through SW zone to WALGA for work to be undertaken to remove rate exemptions or changed to rating discounts and that the state and government make the shortfall; and
4. Move a motion go to ALGA for work to be undertaken to remove rate exemptions or changed to rating discounts and that the federal government make the shortfall.

**LAPSED FOR WANT OF A MOVER**

**COUNCIL DECISION AND AMENDED OFFICER RECOMMENDATION****C1905/089**

Moved Councillor P Carter, seconded Councillor K Hick

That the Council:

1. Approve Relationships Australia (WA) Inc. application for rate exemption under section 6.26 (2)(g) of the *Local Government Act 1995*, "land used exclusively for charitable purposes", for 3/71 Kent Street Busselton effective from the 1<sup>st</sup> July 2018;
2. Agree that this rate exemption is to continue where Relationships Australia (WA) Inc. confirm in writing by the 30<sup>th</sup> April of each year that it remains the lessee of the property and that the properties use is the same as stated in the rate exemption application;
3. Request that the South West Zone representative put a motion to the South West Zone of WALGA for lobbying of the State Government to consider the removal of rate exemptions for charitable organisations under the Local Government Act or that an alternative position to implement a rebate scheme similar to the Pensioners and Seniors Rebate Scheme be considered.

**CARRIED BY ABSOLUTE MAJORITY 8/0**


Reason:

As discussed with Council it is recommended that part 3 of the recommendation be reworded to more clearly reflect the Committee's discussion. Further it is recommended that Part 4 of the recommendation is removed as the closing date for submissions to the ALGA's Annual General Assembly 2019 occurred on the 29<sup>th</sup> March 2019.

Council will still be able to lobby outside of the ALGA Annual General Assembly process.



**12.4 Finance Committee - 18/04/2019 - 2019/20 DRAFT LIST OF FEES AND CHARGES**

<b>SUBJECT INDEX:</b>	Financial Management: Financial Operations
<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 Draft Schedule of Fees and Charges - 2019/20 

**This item was considered by the Finance Committee at its meeting on 18 April 2019, the recommendations from which have been included in this report.**

**PRÉCIS**

In accordance with Regulation 5(2) of the Local Government (Financial Management) Regulations, a local government is to undertake a review of its fees and charges regularly; and not less than once in every financial year. This report provides the Finance Committee with a recommended Schedule of Fees and Charges to apply for the financial year commencing on 01 July 2019, for its consideration and consequent recommendation to the Council.

**BACKGROUND**

Section 6.16 of the Local Government Act (the “Act”) states that a local government may impose and recover a fee or charge for any goods or services it provides or proposes to provide, other than a service for which a service charge is imposed.

Section 6.17 of the Act further states that in determining the amount of a fee or charge for goods and services, a local government is to take in to consideration the following factors:

- a) The cost to the local government of providing the service or goods;
- b) The importance of the service or goods to the community; and
- c) The price at which the service or goods could be provided by an alternative provider.

Section 6.18 of the Act clarifies that if the amount of any fee or charge is determined under another written law, then a local government may not charge a fee that is inconsistent with that law.

The above matters have been considered as part of the annual fees and charges review and the fees and charges recommended are in accordance with recent planning and discussions relating to the City’s Long Term Financial Plan.

Finally, whilst Section 6.16(3) of the Act states that a schedule of fees and charges is to be adopted by the Council when adopting the annual budget, fees and charges may also be imposed during a financial year. In order for the 2019/20 schedule of fees and charges to be effective from the commencement of the new financial year, the Council is required to adopt its schedule in advance of 30 June 2019, such that any statutory public notice periods (including gazettal’s where required) can be complied with.

## **STATUTORY ENVIRONMENT**

Sections 6.16 – 6.19 of the Act refer to the imposition, setting the level of, and associated administrative matters pertaining to fees and charges. The requirement to review fees and charges on an annual basis is detailed within Regulation 5 of the Local Government (Financial Management) Regulations

## **RELEVANT PLANS AND POLICIES**

The Council's Draft Long Term Financial Plan, which will be subject to Workshops with SMG and Councillors in April 2019, reflects an annual increase in Fees and Charges revenue of 2.5%. This matter has been considered as part of the review process. In some cases, market analysis was undertaken to determine if an increase in the coming year would be viable, potentially impacting on business units within the City of Busselton.

## **FINANCIAL IMPLICATIONS**

Whilst fees and charges revenue includes items that the Council has no authority to amend, it is important that, where possible, controllable fees and charges are appropriately indexed on an annual basis, to assist in offsetting the increasing costs of providing associated services. This may include increases beyond normal indexation in particular cases in line with Section 6.17 of the Act.

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

In terms of the Council's currently adopted budget, revenue from fees and charges (excluding waste collection charges) equates to approximately 20.4% of budgeted rates revenue and 14% of total operating revenue (excluding non-operating grants). As such, fees and charges form an integral and important component of the City's overall revenue base in relation to the Long Term Financial Plan.

## **STRATEGIC COMMUNITY OBJECTIVES**

The schedule of fees and charges adopted by the Council encompasses 'whole of organisation' activities. As such, all Key Goal Areas within the Council's Strategic Community Plan 2017 are in some way impacted. More specifically however, this matter aligns with Key Goal Area 6 – 'Leadership' and particularly Community Objective 6.1 - 'Governance system, process and practices are responsible, ethical and transparent'.

## **RISK ASSESSMENT**

There are several risks that the Council needs to be mindful of when reviewing its schedule of fees and charges. Firstly, in an effort to assist in recovering costs associated with the provision of services, it is important that, where applicable, fees and charges are increased on an annual basis in line with relevant economic indicators. Should this not occur the provision of services is required to be increasingly subsidised by other funding sources. Conversely however, a balance is also required to ensure that fees and charges are maintained at levels so as not to adversely impact on the financial ability for ratepayers to utilise those services, which may otherwise result in a net reduction in revenue.

## **CONSULTATION**

Business Unit Managers are responsible for reviewing fees and charges associated with activities under their control. As part of the review process, consultation may occur with other local government authorities, in addition to a review of prices offered by alternate service providers (pursuant to Section 6.17 of the Act).

## OFFICER COMMENT

The 2019/20 Draft Schedule of Fees and Charges has been guided by a general escalation of 2.5% over currently adopted fees and charges. This methodology is consistent with the Fees and Charges revenue extrapolation as comprised within the Council's current Draft Long Term Financial Plan.

Notwithstanding this however, in numerous instances this principle is not appropriate, with other factors also requiring consideration. The following provides an overview, by Directorate, of noteworthy instances where the extrapolation has not been utilised, whilst also discussing, where relevant, newly proposed fees and charges.

### Planning and Development Services

#### Building Related Fees

- General  
A number of fees have been deleted as they are no longer applicable due to a change to procedures such as the provision of information electronically or on the Council's website.
- Building Inspection and Reports  
Two Inspections fees have been merged into one. One fee has now been deleted, with the second reflecting the higher original fee;

#### Health Related Fees

- General  
A number of fee categories have been included in the provision for a 50% concession for incorporated not for profit organisations and groups where profits raised from the associated activity are to be donated to a local cause or charity. Additionally, a number of fees have been identified to allow a pro rata charge to be levied for part years.
- Food Premises Fees  
Fee structure has been rationalised.
- Holiday Homes  
Registration fee has been restructured to allow for an initial Application Fee.
- Noise Regulation Fees  
New fees have been added for Regulation 14 (Waste Collection and Other Works) and 16 (Motor Sports Venues, Shooting Venues) fees under the Environmental Protection (Noise) Regulations 1997.

#### Town Planning Related Fees

- General  
A number of fees have been deleted as they are no longer applicable due to a change to procedures such as the provision of information electronically or on the Council's website.

### Engineering Works & Services

#### Miscellaneous

- Outstanding Works Bond determined by the Chief Executive Officer  
The Bonds have been removed from the list as they are now included in associated policies as reviewed earlier in the year.

### Waste Disposal and Sanitation Fees

- General  
A number of fees have been increased above the guidelines so as to reflect the actual cost of the service. A number of fees have been increased by \$0.50 so as to facilitate change handling at the gatehouse. A number of Commercial Waste fees have been adjusted to be the same as the equivalent Domestic charges as the vehicles delivering the waste are often indistinguishable at the gatehouse. The Building and construction waste fee has been increased as per Council briefing discussions to maximise cell longevity.

### Finance & Corporate Services

#### Administration / Miscellaneous Fees

- Council Minutes  
Annual subscription fee not increased as already considered cost prohibitive.
- Publications  
Fee not increased as old stocks remain.
- City of Busselton License Plates  
Fee not increased due to low sales.

### Rates & Finance Charges

- Rates / Property Related Matters  
The General Enquiry fee has been altered from a flat rate fee to an hourly charge to better reflect work involved. The Provision of Rate Notices fee has been reduced to reflect that the majority are now supplied electronically rather than on paper, which reduces time and cost. The ownership Statement Fee has been increased to better reflect the work involved. New fees have been added with regard to legal fees to recover the City's costs.
- Financial Transactions  
A new fee has been introduced to recover the costs involved when a payment from a customer is rejected. These costs, excluding actual bank fees; are incurred in the reversing of a receipt, contacting the payee, and processing the second payment.  
A new fee has been introduced to replace a payment to a customer (on the first occasion) where it can be shown it is the customers fault. These costs, excluding actual bank fees; are incurred in reversing the initial payment, processing a second, and posting it to the customer.  
A new fee has been introduced to replace a payment to a customer (on the second or subsequent reissue) where it can be shown that the customer is at fault. Although uncommon, there are occasions where the City has sent three or more payments to the customer for a single event. Each incurs additional costs to the City.

### Cemetery Fees

- General  
Fee reforms in 2009-2015 brought the City to parity with similar facilities within the state. A number of fees are not proposed to be increased this year as previous annual price increases have now made Busselton's fees higher, so further increases at this time are considered cost prohibitive.

### Hire Facilities

- General  
A number of fees and bond amounts have not been increased as the current values are considered sufficient.

- Facility Hire Bonds  
Bond levels have not been increased as current values are considered sufficient. The “Low Risk Function” Bond (Office hours – no alcohol) has been deleted as it is considered unnecessary.

#### Churchill Park Hall, High Street Hall, Rural Halls (Yallingup, Yoongarillup)

- Comparable venues in other Council’s charge significantly less. Feedback from customers indicates the City is over-charging which has resulted in reduced booking numbers. Accordingly fees have been reduced.

#### Undalup Function Room

- Existing fees are sufficient to cover costs. Increasing fees would be prohibitive of bookings so no increases proposed.

### Community & Commercial Services

#### Events & Casual Ground Hire

- Use of Busselton Foreshore Stage  
A new fee has been introduced for the placement of a bond for the use of the foreshore stage curtain. Operators using the stage can hire the stage curtain and are responsible for installing the curtain so it is necessary to have a bond in the event of any damage.

#### Commercial Hire Site Traders (Non Foods)

- There have been some changes to the wording for the Commercial Hire Sites fees to provide clarity only. There have been no changes to the fees or the structure of fees.

#### Commercial Activity Permit (Non Food)

- A new set of fees and charges have been introduced to allow for commercial operators wanting to use City of Busselton managed/owned land for their operations. These type of commercial operations are not daily operations or continued use of a single site as with commercial hire site operators and examples include tour operators based outside the City conducting snorkelling, walking or whale sight-seeing tours. The fees have been split into three classes of fees to represent the location, use and impact that the commercial operations will have on the specific area (environment) and surrounds.

#### Foreshore Kiosk Permit – Busselton Foreshore

- Kiosk structures are expected to be constructed on the foreshore and available for hire in the second half of 2019. City Officers will conduct an expression of interest and advertise the kiosks however an annual fee that can then be applied on a pro rata basis will be charged. A bond fee has also been introduced to ensure any damage can be rectified if needed

#### Commercial Use of marine Berthing Platforms – Whale Watching / Tour Vessels – Per Vessel

- General  
A new set of daily fees has been introduced for the commercial use of the marine berthing platforms on the Busselton Jetty by whale watching and tour vessels. A daily fee has been introduced to allow operators that use these facilities on an infrequent basis to operate without having to pay a monthly fee which was considered too high and commercial unviable for some operators. An application fee for a marine berthing permit and renewal fee has also been introduced.

#### Naturaliste Community Centre

- General  
A clause worded “Promotions at the discretion of the Chief Executive Officer” has been inserted. The Leisure Centres run advertised promotions at times during the year to drive new memberships. Such promotions may include reduced membership charges. As the fee must

normally be in accordance with the advertised list, provision is being made for the CEO to sign off approval for an alteration during the promotion period only.

- Stadium  
Association fee per Hour amended to align with GLC Fees.
- Community Office Space  
The NCC Community Office currently has low usage during weekday working hours. Consequently the commercial hourly hire rate has been reduced in order to appeal to potential commercial users as a casual business office. The Community rate has been reduced accordingly.
- Group Fitness  
The fees for group fitness memberships have been amended to align with GLC fees in order to ensure equity for residents across the City to access these services. The 6 month, and 3 month memberships are rarely sold with most patrons purchasing 12 month memberships for cost effectiveness. The Remote shift worker membership has been aligned with the GLC Pricing to attract FIFO community and to reflect their reduced ability to access programs.
- Seniors Programs  
The pricing of the Book of 10 discount tickets has been removed and replaced with a percentage discount to ease administration.

#### Geographe Leisure Centre

- General  
A clause worded “Promotions at the discretion of the Chief Executive Officer” has been inserted. The Leisure Centres run advertised promotions at times during the year to drive new memberships. Such promotions may include reduced membership charges. As the fee must normally be in accordance with the advertised list, provision is being made for the CEO to sign off approval for an alteration during the promotion period only.
- Swimming Pool  
All pool entry fees with the exception of commercial lane hire have been not been increased this year as a result of feedback from School Principals and the community about their affordability and from benchmarking against other similar aquatic facilities. Whilst there is a slight revenue impact, Officers believe this will be offset by other areas over the course of the financial year.  
Commercial lane hire has increased by 5.49% due to lane space for community access being at capacity most days. Community use of the pool is heavily subsidised and therefore if opportunity arises to hire out to commercial operators it should be at a premium to recover some cost.
- Fitness Centre  
The gym concession fee of \$13 has been reinstated to be in-line with the current concession fee for Group Fitness entry. The ‘Appraisal and programme and group fitness Assessment Fee’ is for non-members. The price increase is to make membership a better option
- Crèche/Activity Room  
Per child per session book of 10 has increased by 8% to align better with the discount for 5 passes.

- Gym/Swim/Spa/Sauna: [per person per annum]  
The remote worker annual membership fee has been reduced to \$500. Previously this type of membership had several price options available, relevant to shift rosters. Last financial year these options were removed and replaced with one fee of \$694. The reduced price reflects shift workers reduced ability to access programs.
- Corporate Packages  
The Corporate Packages for swim clubs and member's gym/swim/spa/sauna per person per annum Individual prices for corporate packages have been replaced with a 20% discount to bring them into line with other current discounts and make them easier to administer.  
  
The individual price for City of Busselton Staff Members has been deleted and changed to a discount of 30% discount off a full membership to bring it in line with current discounts. This will assist attract City staff to use the GLC and advocate for the service rather than joining other commercial gymnasiums.
- Health Suites  
No change proposed as benchmarking has been undertaken and it has been identified that there is a glut of rental suites and offices on the market currently.

#### Busselton Jetty Tourist Park

- General  
A clause worded "Promotions at the discretion of the Chief Executive Officer" has been inserted. The Park may run advertised promotions at times during the year to drive new bookings, potentially at short notice during periods of low bookings as an example. Such promotions may include reduced booking charge rates. As the fee must normally be in accordance with the advertised list, provision is being made for the CEO to sign off approval for an alteration during the promotion period only.  
The high season pensioner rate of overnight and weekly powered sites has been removed as this fee is not offered during the high tourism seasons only in the mid and low seasons.  
Weekly rates for both powered sites and cabins for mid and high season rates have been adjusted. The rates (powered sites and all cabins other than the basic cabins) have been increased to reflect that a discount that was previously applied to the seventh day/night for mid and high seasons to encourage patrons to stay longer however as policies have been introduced a minimum stay of seven nights is now required for mid and high seasons. In most cases the increases are larger than if the prescribed rate had been applied despite the prescribed rate not being applied to the daily (overnight rates).  
Semi-Permanent fees have been increased (less than the prescribed rate) however reflect the increase in power and water service charges.

#### ArtGeo Cultural Complex

- Courtyard Hire (4 Queen Street)  
No change proposed due to very limited use of the facilities.
- Terrace Garden  
No change proposed due to very limited use of the facilities.

#### Busselton-Margaret River Airport

- General  
It is regular practice in the aviation industry to have a number of fees and charges which can be commercially negotiated by agreement, hence the following statement has been included in the 2019/20 schedule:

“The City of Busselton reserves the right to establish Pricing Arrangements, incorporating elements of the standard fees and charges listed below with partners (including RPT and Open & Closed Charters) based on commercial arrangements.”

- **Landing Fees and General Aviation Charges**  
New landing fees have been introduced or replaced for the following aircraft weight categories:
  - Fixed and rotary aircraft 5,700kg-19,999kg MTOW per part 1000kg
  - Fixed and Rotary wing Aircraft greater than 20,000kg MTOW per part 1000kg

The new fees have been introduced to differentiate between aircraft weight categories further allowing for more affordable landing fees for general aviation and smaller charter aircraft. The annual landing fees for both private operators and commercial operators have been extended to include aircraft with MTOW less than 3000kgs.

- **Other Fees**  
New fees have been introduced regarding Hangar Hire Parking Fees as per council decision C1811/2433.

#### Library Charges

- **General**  
No changes proposed as fees generally small and change would necessitate handling small change coins.

### **CONCLUSION**

As part of the annual fees and charges review, the currently adopted fees and charges have been reviewed in line with the requirements of the Local Government Act and other relevant legislation as applicable. Where considered relevant, fees and charges have been increased by, or above, LGCI estimates in recognition of increased costs associated with the provision of services. In other instances, the prevailing fees and charges are considered adequate (and as such, no changes are recommended). Furthermore, a number of new fees and charges have been proposed, or amendments to existing fees structures recommended. Consequently, it is recommended that the Finance Committee endorses the draft Schedule of Fees and Charges for 2019/20 as recommended, for subsequent consideration by the Council.

### **OPTIONS**

The Finance Committee may determine to recommend amendments to the Draft Schedule of Fees and Charges as it deems appropriate

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

Consequent to adoption by the Council, the Schedule of Fees and Charges for 2019/20 will become effective from and including 01 July 2019.



**COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**

That the Council endorses the Fees and Charges as detailed in the “Draft List of Fees and Charges 2019/20” as per Attachment A - Schedule of Fees and Charges, effective from and including 01 July 2019.

**LAPSED FOR WANT OF A MOVER**

**COUNCIL DECISION AND AMENDED OFFICER RECOMMENDATION**

**C1905/090** Moved Councillor K Hick, seconded Councillor P Carter

That the Council endorses the Fees and Charges as detailed in the “Draft List of Fees and Charges 2019/20” as per the updated Attachment A - Schedule of Fees and Charges, effective from and including 01 July 2019.

**CARRIED 8/0**

Reason: An amendment, being a minor addition to the wording; to the Draft Schedule of Fees and Charges for the 2019/20 Financial Year as previously presented to the May meeting of the Finance Committee is required.

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

Nil

**19. URGENT BUSINESS**

**20. CONFIDENTIAL REPORTS**

Nil

**21. CLOSURE**

The Presiding Member closed the meeting at 5.42pm

THESE MINUTES CONSISTING OF PAGES 1 TO 58 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 22 MAY 2019.

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