

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 30 JANUARY 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 30 JANUARY 2019 AT 5.30PM.

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

The Presiding Member opened the meeting at 5.30pm.

2. ATTENDANCE

Presiding Member:

Cr Grant Henley Mayor

Members:

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

Officers:

Mr Mike Archer, Chief Executive Officer
Mr Oliver Darby, Director, Engineering and Works Services
Mr Paul Needham, Director, Planning and Development Services
Mrs Naomi Searle, Director, Community and Commercial Services
Mr Hendrik Boshoff, Acting Director, Finance and Corporate Services
Miss Kate Dudley, Administration Officer, Governance

Apologies:

Cr Rob Bennett

Approved Leave of Absence:

Nil

Media:

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

Public:

7

3. PRAYER

The prayer was delivered by Pastor Tony Peak of Abundant Life Centre.

4. APPLICATION FOR LEAVE OF ABSENCE**COUNCIL DECISION****C1901/001**

Moved Councillor J McCallum, seconded Councillor C Tarbotton

That Leave of Absence be granted to Councillor Rob Bennett for the Ordinary Council Meetings held on 30 January 2019, 13 February 2019 and 27 February 2019.

CARRIED 8/0**5. DISCLOSURE OF INTERESTS**

Nil

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 12 December 2018****COUNCIL DECISION****C1901/002**

Moved Councillor J McCallum, seconded Councillor R Reekie

That the Minutes of the Council Meeting held 12 December 2018 be confirmed as a true and correct record.

CARRIED 8/0

Committee Meetings8.2 Minutes of the Finance Committee Meeting held 17 January 2019**COUNCIL DECISION****C1901/003**

Moved Councillor P Carter, seconded Councillor R Reekie

That the Minutes of the Finance Committee Meeting held 17 January 2019 be noted.

CARRIED 8/0**9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS****Petitions**

Nil

PresentationsMr Zebedee Packard-Hair

Mr Packard-Hair presented as a party with an interest on item 16.2 Proposed Development of a Family Restaurant/Microbrewery/Function. Mr Packard-Hair was in support of Councillor Carters amended motion to extend the deadline to 60 days, 1 April 2019.

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/COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1901/004 Moved Councillor C Tarbotton , seconded Councillor J McCallum

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





- 12.2 Finance Committee - 17/01/2019 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 30 NOVEMBER AND 31 DECEMBER 2018
- 12.4 Finance Committee - 17/01/2019 - APPLICATION FOR RATE EXEMPTION - LAMP INCORPORATED
- 13.1 PROPOSED AMENDMENT NO. 37 AND ASSOCIATED STRUCTURE PLAN (BUSSELTON WETLANDS CONSERVATION STRATEGY) - LOT 7 FORREST BEACH ROAD, WONNERUP
- 17.1 COUNCILLORS INFORMATION BULLETIN

CARRIED 8/0

EN BLOC

12. REPORTS OF COMMITTEE

12.2 Finance Committee - 17/01/2019 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 30 NOVEMBER AND 31 DECEMBER 2018

SUBJECT INDEX:	Budget Planning and Reporting
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Financial Services
REPORTING OFFICER:	Manager Financial Services - Kim Dolzadelli
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Statement of Financial Activity - Period Ending 30 November 2018 
	Attachment B Statement of Financial Activity - Period Ending 31 December 2018 
	Attachment C Investment Report - Period Ending 30 November 2018 
	Attachment D Investment Report - Period Ending 31 December 2018 

This item was considered by the Finance Committee at its meeting on 17 January 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 30 November 2018 and 31 December 2018.

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:

- *Variiances 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 variiances due to timing differences and/or seasonal adjustments are to be reported on a quarterly basis; and*

Reporting of variiances 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’.

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 DECEMBER 2018

Given this report includes the Statement of Financial Activity for the periods ending 30 November 2018 and 31 December 2018 the following commentary is focused on the Statement for the period ending 31 December 2018 which shows a better than expected Net Current Position "Surplus" of \$24.848M being \$12.748M higher than year to date (YTD) budget YTD budget of \$12.099M.

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
	\$	\$	\$	%	\$
Revenue from Ordinary Activities					
Other Revenue	357,898	192,531	362,981	85.89%	165,367
Expenses from Ordinary Activities					
Materials & Contracts	(8,258,468)	(9,338,486)	(18,952,210)	11.57%	1,080,018
Utilities (Gas, Electricity, Water etc)	(1,107,273)	(1,284,216)	(2,569,240)	13.78%	176,943
Depreciation on non current assets	(11,137,153)	(9,659,824)	(19,070,922)	-15.29%	(1,477,329)
Insurance Expenses	(713,890)	(580,819)	(698,808)	-22.91%	(133,071)
Other Expenditure	(1,230,086)	(2,368,104)	(4,795,009)	48.06%	1,138,018
Non-Operating Grants, Subsidies and Contributions					
	2,340,437	8,913,706	32,443,772	-73.74%	(6,573,269)

Adjustments for Non-cash Revenue & Expenditure					
Depreciation	11,137,153	9,659,824	19,070,922	-15.29%	1,477,329
Donated Assets	(42,000)	(5,000)	(8,365,000)	-740.00%	(37,000)
(Profit)/Loss on Sale of Assets	(66,166)	(17,114)	(47,560)	-286.62%	(49,052)
Capital Revenue & (Expenditure)					
Land & Buildings	(643,086)	(9,639,598)	(17,902,816)	93.33%	8,996,512
Plant & Equipment	(1,336,380)	(2,955,500)	(6,880,100)	54.78%	1,619,120
Description	2018/2019 Actual	2018/2019 Amended Budget YTD	2018/2019 Amended Budget	2018/19 YTD Bud Variance	2018/19 YTD Bud Variance
Furniture & Equipment	(174,675)	(465,803)	(883,640)	62.50%	291,128
Infrastructure	(9,528,499)	(18,370,980)	(37,380,261)	48.13%	8,842,481
Proceeds from Sale of Assets	541,945	748,350	1,045,950	-27.58%	(206,405)
Proceeds from New Loans	0	1,500,000	3,150,000	-100.00%	(1,500,000)
Transfer to Restricted Assets	(702,383)	(273,996)	(551,000)	-156.35%	(428,387)
Transfer from Restricted Assets	5,002,527	6,285,180	14,423,922	-20.41%	(1,282,653)

Revenue from Ordinary Activities:

YTD actual income from ordinary activities is \$263K more than expected when compared to YTD budget with the only item meeting the material variance reporting threshold being "Other Revenue" which is \$165k better than YTD budget. This variance is due to better than expected returns on sale of scrap metal.

Expenses from Ordinary Activities

Expenditure from ordinary activities, excluding depreciation, is \$2.915M 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 \$
<u>Finance and Corporate Services</u>		
10000	Members of Council	(37,046)
10250	Information & Communication Technology Services	(622,978)
10251	Business Systems	(53,031)
10500	Legal and Compliance Services	44,626
<u>Community and Commercial Services</u>		
10590	Naturaliste Community Centre	41,801
10591	Geographe Leisure Centre	40,606
10600	Busselton Jetty Tourist Park	70,416
10980	Other Law, Order & Public Safety	72,486
<u>Planning and Development Services</u>		
10830	Environmental Management Administration	92,639
10850	Implement Management Plans Other	31,096

10931	Protective Burning & Firebreaks-Reserves	29,276
11170	Meelup Regional Park	74,520

Engineering and Works Services		
11101	Engineering Services Administration	40,308
11160	Busselton Jetty	391,880
11300	Sanitation Waste Services Administration	29,308
11301	Regional Waste Management Administration	60,000
12620	Rural-Tree Pruning	(107,574)
12621	Urban-Tree Pruning	(6,074)
Various	Bridge Maintenance	62,822
Various	Building Maintenance	121,503
G0010	Domestic Recycling Collections	60,916
G0031	Dunsborough Waste Facility	(40,476)
G0032	Rubbish Sites Development	49,998
G0033	Green Waste	33,718
G0034	External Waste Disposal	37,768
G0042	BTS External Restoration Works	(41,074)
Various	Road Maintenance	(37,837)
Various	Parks, Gardens and Reserves Maintenance	233,960
5280	Transport - Fleet Management	121,677

Utilities:

There is an overall variance in utility charges of \$176K; this variance is spread over 358 individual line items with an average variance of only \$494 per item.

Depreciation:

There is an overall variance in depreciation of \$1.477M, it should be noted that this is a non-cash item and does not impact on the City's surplus position. The variance can be attributed to the fact that Fair Valuation of infrastructure assets was completed post budget adoption and the increase in valuation was unable to be included in the 2018/2018 budget.

Insurance:

There is an YTD variance in insurance costs of \$133K, this is of a timing issue only.

Other Expenditure:

There is an YTD variance in other costs of \$1.138M, considered a timing issue only. The main items affected are listed below:

Cost Code	Cost Code Description / GL Activity	Variance YTD
Finance and Corporate Services		
10000	Members of Council	62,662
10151	Rates Administration	39,975
10221	Finance & Borrowing Prog 04	53,361
10227	Finance & Borrowing Prog 11	35,757
10618	Winderlup Court Aged Housing	30,026
10700	Public Relations	34,726

<u>Community and Commercial Services</u>		
10530	Community Services Administration	109,925
10547	Iron Man	94,998
10567	Cinefest Oz	(47,498)
<u>Planning and Development Services</u>		
10942	Bushfire Risk Management Planning - DFES	(39,283)
Cost Code	Cost Code Description / GL Activity	Variance YTD
11156	Airport Development Operations	750,000
<u>Engineering and Works Services</u>		
B1223	Micro Brewery - Public Ablution	60,000
G0042	BTS External Restoration Works	(142,453)

Non-Operating Grants, Subsidies and Contributions:

Non-Operating Grants, Subsidies and Contributions are less than YTD budget by \$6.573M 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
<u>Finance and Corporate Services</u>		
10239	Contributions - Public Art (Percent for Art)	(673,876)
10240	Contributions - Contribution to Works	(78,713)
-		
<u>Community and Commercial Services</u>		
10900	Cultural Planning - Donated Assets	37,000
C6099	Airport Development - Project Expenses	(5,838,126)
-		
<u>Planning and Development Services</u>		
B9112	Ambergate Bushfire Brigade Shed	(259,656)
-		
<u>Engineering and Works Services</u>		
C0049	Port Geographe Marina Carparking	(85,878)
C3150	Busselton Foreshore Stage 3: Toddler's Playground	(30,504)
C3168	Busselton Foreshore Jetty Precinct	420,769
F1018	Dunsborough Cycleway CBD to Our Lady of the Cape School	(82,502)
S0035	Strelly Street / Barlee Street Roundabout	(30,000)
S0051	Causeway Road / Rosemary Drive Roundabout	(50,002)
S0064	Peel Terrace (Stanley Pl/Cammilleri St Intersection Upgrade)	(33,335)
S0068	Georgiana Molloy Bus Bay Facilities	114,500

Capital Expenditure

As at 30 November 2018 and 31 December 2018, there is a variance of -62.83% or -\$19.749M in total capital expenditure with YTD actual at -\$11.682M against a YTD budget of -\$31.431M.

The airport development makes up for \$8.425M, Busselton Tennis Club – Infrastructure \$1.63M, Plant and Equipment \$1.62M, Council Roads Initiative projects \$1.36M, Eastern Link - Busselton Traffic Study \$1.33M, Dunsborough Land Purchase Parking \$1.3M, Main Roads projects \$1.19M, Parks, Gardens and Reserves \$630K, Sanitation Infrastructure \$465K, Beach Restoration \$384K, Busselton Senior Citizens \$373K, Dunsborough Cycleway CBD to Our Lady of the Cape School \$323K, Furniture and Equipment \$291K, Fire Prevention – Land Purchase Biddle Road \$200K, Busselton Jetty Tourist Park Upgrade \$200K, Beach Front Infrastructure \$73K, Footpath Construction \$51K, GLC - Pool Relining \$50K, Energy Efficiency Initiatives (Various Buildings) \$50K, Townscape Construction - \$107K and Major Projects Busselton Foreshore -\$408K.

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.

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.

November 2018

As at 30th November 2018 the value of the City's invested funds totalled \$82.96M, down from \$83.40M as at 31st October. The decrease is due to the utilisation of Airport Development Funds outweighing an increase in Restricted Assets Funds.

During the month of November three term deposits held with three different institutions totalling \$11.0M matured. All were renewed for a further 151 days at 2.57% (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) increased by \$0.6M.

The balance of the Airport Development ANZ cash account decreased by \$992K as the funds had been utilised on the project.

December 2018

As at 31st December 2018 the value of the City's invested funds totalled \$79.36M, down from \$82.96M as at 30th November 2018. The decrease is due to the withdrawal of funds from the 11am account to meet standard operating costs.

During the month of December four term deposits held with two different institutions totalling \$9.5M matured. All were renewed for a further 136 days at 2.57% (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 \$3.6M with the funds being utilised to meet standard operating costs.

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

The RBA left official rates on hold during November and December. Future movements remain uncertain at this point.

Chief Executive Officer – Corporate Credit Card

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

Date	Amount	Payee	Description
29-Oct-18	\$69.02	Geographe Petrol Busselton	Fuel - Fuel Card Missing From Vehicle
05-Nov-18	\$54.05	Geographe Petrol Busselton	Fuel - Fuel Card Missing From Vehicle
29-Oct-18	\$23.50	Equinox Busselton	Soft Opening Adventure Playground
29-Oct-18	\$100.50	Equinox Busselton	Soft Opening Adventure Playground
29-Oct-18	\$78.20	Equinox Busselton	Soft Opening Adventure Playground
05-Nov-18	\$73.40	Albies Bar & Bistro	C. Frewing Farewell Lunch
06-Nov-18	\$20.16	Wilson Parking	Parking – Bsn Airport Meeting Perth
05-Nov-18	\$84.95	JB Hi Fi	Iphone Cover M. Archer
08-Nov-18	\$45.68	ICTC Society	Cr Paine Conference Registration
15-Nov-18	\$1,003.72	Australian Coastal Councils	Cr McCallum Conference Registration
19-Nov-18	\$582.22	Esplanade Hotel	Accommodation Cr Paine ICTC Conference
27-Nov-18	\$3.88	Wilson Parking Deakin	Parking Fee
26-Nov-18	\$40.44	BP Clarendon	Fuel
28-Nov-18	\$17.00	Queens Terrace Cafe	Meals – CEO – RCA Meeting Canberra
28-Nov-18	\$709.80	Maloney's Real Estate	Accommodation – CEO – RCA Meeting Canberra
29-Nov-18	\$13.44	ACT Cabs Phillip	Taxi Fares - CEO – RCA Meeting Canberra
29-Nov-18	\$8.13	ACT Gov. Parking Canberra	Parking Fees – CEO – RCA Meeting Canberra
30-Nov-18	\$52.00	Coles Express Camden	Fuel – CEO – RCA Meeting Canberra
03-Dec-18	\$76.50	The Dock Kingston	Meals – CEO – RCA Meeting Canberra
04-Dec-18	\$37.07	BP Runway Mascot	Fuel – CEO – RCA Meeting Canberra
19-Dec-18	\$3,000.00	Amelia Park	Councillors Christmas Function
27-Dec-18	\$40.00	Tyrepower Busselton	Tyre Repair

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

+ Allocated against CEO Hospitality Expenses Allowance

CONCLUSION

As at 30 November 2018 and 31 December 2018, the City's financial performance is considered satisfactory.

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**C1901/005**

Moved Councillor C Tarbotton , seconded Councillor J McCallum

That the Council receives the statutory financial activity statement reports for the period ending 30 November 2018 and 31 December 2018, pursuant to Regulation 34(4) of the Local Government (Financial Management) Regulations.

CARRIED 8/0**EN BLOC**

12.4 Finance Committee - 17/01/2019 - APPLICATION FOR RATE EXEMPTION - LAMP INCORPORATED

SUBJECT INDEX:	Exemptions and Appeals (Rates)
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Rates
ACTIVITY UNIT:	Rates
REPORTING OFFICER:	Rates Coordinator - David Nicholson
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Rate Exemption Application  Attachment B Auditors Report  Attachment C Consitution 

This item was considered by the Finance Committee at its meeting on 17 January 2019, the recommendations from which have been included in this report.

PRÉCIS

An application has been received from Lamp Incorporated for rate exemption. On the basis of the application this report recommends that the request for exemption be granted.

BACKGROUND

The Lamp Incorporated organisation is a not for profit/charitable group that purchased a residential property at 13 Billabong Street, Yalyalup in August 2017. The purposes of the property is to provide supported short term accommodation for people with mental illness while they await permanent residency with Housing WA (NE: Department of Housing) or family reunification.

The Annual Information Statement 2017 as lodged with the Australian Charities and Not for Profits Commission (ACNC) details the organisations activities and outcomes as:

“A community support service for people with Mental Health issues, their families and carers. Lamp activities cover a diverse range of community settings including supporting people with severe and persistent mental illness to live independently, to live in their homes, provide education, training and advocacy for carers and families, work with youth in crisis, self-harm and suicide prevention, homelessness, indigenous and family mental health support, work with school and juvenile justice systems providing early intervention for young people at risk. Lamp works with an individualised recovery model and the supports services it offers allows people with mental illness to optimise their lifestyle choices and become active and welcome members of communities.”

Documentation provided in a previous rate exemption application for 226 Bussell Highway, West Busselton that was approved and/or as part of the application includes:

- Application for Rate Exemption including property use Statutory Declaration.
- Constitution and rules for Lamp Inc.
- Australian Charities and Not for Profits Commission (ACNC) registration summary
- ACNC annual information statement 2017
- Australian Tax Office notice of endorsement for charity tax concessions
- Lamp Inc. Financial Report year ending 30 June 2017

Principal funding is provided by grants through such organisations as:

- Disability Services Commission
- Department of Child Protection
- Mental Health Commission
- Department of Health D2D Living Community Program
- Department of Social Services

While it was a different type of property and location, Lamp Incorporated's office location at 226 Bussell Highway, West Busselton was deemed exempt from rates at Council's ordinary meeting held on the 13th June 2018. At this meeting it was resolved:

C1806/110 Moved Councillor J McCallum, seconded Councillor P Carter

That the Council in accordance with Section 6.26 (2)(g) of the Local Government Act 1995 declare 226 Bussell Hwy, West Busselton, as leased by the Lamp Incorporation be declared exempt from rating on the basis that the property is used exclusively for a charitable purpose, with the effective date being the date of application, namely, 28th March 2018.

*CARRIED 9/0
EN BLOC*

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 relevant plans or policies in relation to this item.

FINANCIAL IMPLICATIONS

The rates levied for 13 Billabong Street Yalyalup totalled \$1,651 for the 2018/19 financial year.

An application for rate exemption was lodged on the 22nd August 2018, immediately after the issuance of the 2018/2019 annual rate notice and within the rate objection period. As such, a rate exemption if granted should be effective 1st July 2018 resulting in a \$1,651 reduction to the 2018/2019 rating income and similar amounts for each of the following financial periods.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There will be no significant implication to the City's long term financial plan due to the amount of the proposed rate exemption.

While a broader local government issue, there is a concern 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 recent 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 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 Lamp Incorporated 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 services provided by Lamp Incorporated are, apart from a small once off membership fee of \$60.00 for insurance purposes, provided free of charge. Provision of services to those suffering from mental health issues within the community would meet the “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 as Lamp Incorporated owns the property and uses it exclusively for the purpose of providing accommodation for people with mental illness.

There has been no physical inspection of the property due to its residential purpose and that to do so could cause anxiety to any occupant/s. Included however with the rate exemption application was a statutory declaration stating that the property’s purpose is “*Transitional housing for people with mental illness short term whilst awaiting public housing*”.

The City’s Planning and Development Services Directorate have reviewed this request and determined that the property and its proposed uses do not require further assessment or approvals.

If rate exemption is granted then the applicant will be instructed to confirm by the 30th April annually that the property continues to be used for the purposes stated in 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 Lamp Incorporated, prior rate exemption granted to Lamp Incorporated by Council as well as the legal opinions on charitable purposes, that 13 Billabong Street, Yalyalup is eligible for rate exemption as it is being used exclusive for such charitable purposes.

OPTIONS

Council may decline the rate exemption application on the basis that it considers that Lamp Incorporated is not providing a charitable purpose to the community or that such charitable use is not considered an exclusive use of the property.

Should the application be declined for either of the above reasons then Lamp Incorporated 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 granted would be the 1st July 2018 due to the application being lodged on the 22nd August 2018, immediately after the issuance of the 2018/2019 annual rate notice and within the rate objection period.

COUNCIL DECISION/COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1901/006

Moved Councillor C Tarbotton , seconded Councillor J McCallum






That the Council:

1. grant rate exemption under section 6.26 (2)(g) of the *Local Government Act 1995*, “land used exclusively for charitable purposes”, on 13 Billabong Street Yalyalup effective from the 1st July 2018; and
2. determine that the above rate exemption is to continue where Lamp Incorporated confirms in writing by the 30th April annually that the property continues to be used for the purposes stated in the application.

**CARRIED 8/0
EN BLOC**

13. PLANNING AND DEVELOPMENT SERVICES REPORT

13.1 PROPOSED AMENDMENT NO. 37 AND ASSOCIATED STRUCTURE PLAN (BUSSELTON WETLANDS CONSERVATION STRATEGY) - LOT 7 FORREST BEACH ROAD, WONNERUP

SUBJECT INDEX:	Local Planning Scheme 21 Amendments
STRATEGIC OBJECTIVE:	Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.
BUSINESS UNIT:	Strategic Planning
ACTIVITY UNIT:	Strategic Planning
REPORTING OFFICER:	Senior Strategic Planner - Helen Foulds
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Location Plan 
	Attachment B Aerial Photograph 
	Attachment C Scheme Amendment Map 
	Attachment D Structure Plan Map 
	Attachment E Determination of Wetland Boundaries Map 

PRÉCIS

The Council is requested to consider initiating a proposed Scheme Amendment that would facilitate the rezoning of Lot 7 (No. 86) Forrest Beach, Wonnerup from 'Agriculture' to 'Conservation', 'Reserve for Recreation' and 'Reserve for Public Purpose (Water Tank)'.

The amendment includes an associated draft Structure Plan which would facilitate the future subdivision of the land into six lots, being broadly consistent with the voluntary conservation subdivision incentive afforded by the WA Planning Commission's Busselton Wetlands Conservation Strategy (BWCS).

It is recommended that the proposal be supported, and that Amendment No. 37 and the associated draft Structure Plan be initiated/adopted for the purposes of community consultation.

BACKGROUND

The subject land is located approximately 8km east of the Busselton City Centre and is 56 hectares in area. The site is bound by Forrest Beach Road to the north, agricultural land to the east and the existing Wonnerup Estuary foreshore reserve to the south and west. An existing dwelling and two outbuildings are located in proximity to Forrest Beach Road. The remainder of the property is generally cleared grazing land with scattered trees and wetland along the southern and western boundaries. A location plan and aerial photograph are provided at Attachments A and B, respectively.

The proposal comprises a Scheme Amendment and a draft Structure Plan that relate to the rezoning of Lot 7 Forrest Beach Road, Wonnerup from 'Agriculture' to 'Conservation', 'Reserve for Recreation' and 'Reserve for Public Purpose (Water Tank)'. The Scheme Amendment map is provided at Attachment C. The proposal would facilitate the future subdivision of the subject land into six lots, including a large portion of the original landholding reserved for recreation, consistent with the voluntary subdivision incentive available under the BWCS.

The draft Structure Plan indicates the proposed lot layout and indicative building envelopes (Attachment D). A cluster of three lots, each being 2.0 ha in size, is located in the northern portion of the subject land, with direct access available from Forrest Beach Road.

An area of 13.5 ha is proposed to be rezoned to 'Reserve for Recreation', with the Reserve purpose being for Environmental Conservation and a lot of 100m² will accommodate a strategic fire-fighting tank. The remainder of the original lot, being 37.58 ha, will contain the existing residence, outbuildings and continued agricultural purposes (cattle grazing).

The area of the subject land that is classified as the Quindalup Very Wet Saline Flats soil type, plus a minimum 30m buffer (incorporating the Quindalup Wet Flats soil type), and additional low-lying land is designated for conservation purposes and will be ceded to the Crown as part of the subdivision process. The purpose of the 30m buffer is to include a soil type that will provide a degree of nutrient absorption for more nutrient intensive land uses adjacent to the Quindalup Wet or Very Wet soil types. The reserve will be fenced and managed in the future by the Department of Biodiversity, Conservation and Attractions (DBCA). DBCA has provided written agreement for the alignment of the proposed reserve. This boundary alignment is illustrated by the Scheme Amendment map and the draft Structure Plan that form Attachments C and D.

The following information has been provided to support the proposal:

- i. Bushfire Management Plan;
- ii. Determination of Wetland Boundaries

Bushfire Management Plan

The subject land is designated 'bushfire prone' on the State Map of Bushfire Prone Areas. In response a Bushfire Management Plan (BMP) has been prepared for the proposal by a suitably qualified fire consultant in accordance with the *WAPC State Planning Policy 3.7 – Planning in Bushfire Prone Areas 2015/Guidelines for Planning in Bushfire Prone Areas 2017*.

The key findings of the BMP are summarised as follows -

1. All proposed development can achieve a BAL of 29 or lower.
2. The majority of the area within the site is Grassland, with small pockets of native vegetation, posing a Moderate bushfire risk.
3. The managed grassland/gardens within the site pose a Low bushfire hazard due to the lack of remaining vegetation.

Determination of Wetland Boundaries

A consultant engaged by the proponent has determined the alignment of the Quindalup Very Wet Saline Flats soil type and a line 30 metres beyond that alignment, into the subject property, as per the criteria listed in the BWCS. The mapping produced by this assessment is provided as Attachment E.

The wetland at the property has been defined using the following combination of layers:

1. High resolution aerial photography to define the boundary of hydric soils – the hydric soils are easily identified by the darker, smoother shading pattern resulting from seasonal inundation and the typical samphire vegetation layer; and
2. Mapping the 'Quindalup Very Wet Saline Flats' layer – this soil unit occurs in low-lying depressions which are seasonally inundated during winter months and saline in summer.

The consultant found that the above layers corresponded with relative accuracy (± 30 metres). Further discussion on the determination of the proposed Reserve boundary is provided in the Officer Comment, below.

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* 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*, 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 considered to be a ‘standard’ amendment.

The Regulations provide separate processes for the approval of Scheme amendments and structure plans, adherence to which would advance the draft 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 draft Structure Plan will therefore assume the process and timeframes associated with the Amendment.

Local Planning Scheme No. 21

The property is zoned ‘Agriculture’ and is located within the ‘Landscape Value’, ‘Wetland’ and ‘Floodway’ Areas under LPS21.

The Landscape Value Area requires development to be compatible with the maintenance and enhancement of the existing rural and scenic character of the locality.

LPS21 discourages development within the Wetland and Floodway Areas and establishes criteria for consideration of any potential development. All of the land designated as within the Wetland Area, and the vast majority of the land designated as within the Floodway Area, is proposed to be ceded as Reserve for Environmental Conservation.

The proposal is considered to be consistent with the relevant provisions relating to the zoning of the subject land under LPS21.

RELEVANT PLANS AND POLICIES

The key policies relevant to the proposal are:

- I. *State Planning Policy 3.7: Planning for Bushfire Management and Guidelines for Planning in Bushfire Prone Areas 2017;*
- II. *Draft City of Busselton Local Planning Strategy;*
- III. *Local Rural Planning Strategy; and*
- IV. *Busselton Wetlands Conservation Strategy.*

Each is addressed below under appropriate subheadings.

State Planning Policy 3.7: Planning for Bushfire Management and Guidelines for Planning in Bushfire Prone Areas 2017

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

The four elements of the Guidelines are:

- Element 1: Location – to ensure that the subdivision, development or land use is located in areas with the least possible risk from bushfire, to help minimise risk to people, property and infrastructure.
- Element 2: Siting and Design of Development – to ensure that the siting of development minimises the level of bushfire impact. The Bushfire Management Plan (BMP) provided in support of the proposal suggests that bush fire risk to future development can be managed to an acceptable level.
- Element 3: Vehicle Access – to ensure that residents and the community, as well as emergency services, have safe access and egress from both the subdivision and individual houses/development.
- Element 4: Water – ensures adequate water is available to defend against a bushfire.

The BMP finds that the subject land is suitable for subdivision and development consistent with SPP 3.7 and the associated Guidelines.

Draft City of Busselton Local Planning Strategy

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

A relevant strategy of the draft LPS is to support the rationalisation and expansion of the reservation and management of land along the coast and adjacent to waterways, especially around the Vasse River, Vasse-Wonnerup Estuary, New River, Broadwater, Toby Inlet and linking wetlands.

The draft LPS was adopted for final approval by the Council in September 2016 and is currently pending endorsement by the WAPC.

Local Rural Planning Strategy

The property is located in Precinct 2 of the Local Rural Planning Strategy (LRPS) and identified as 'Rural Wetlands'. There is a general presumption against subdivision in this area, except where provided for in the Busselton Conservation and Wetlands Strategy. Subdivision in these areas is to provide for the vesting of significant wetland foreshore reserves, retention of agricultural capacity and protection of natural and rural landscape values.

Busselton Wetlands Conservation Strategy

The *Busselton Wetlands Conservation Strategy* (BWCS) comprises the planning framework for the sustainable land use and management of the environmental values of the Busselton wetlands. The Strategy has been endorsed by the WA Planning Commission.

The property is identified in the BWCS as 'Rural and Wetland Amenity Area' and within the 'Wetland Amenity Line'. The main purpose of the 'Rural and Wetland Amenity Area' is to define the area where future development of intensive agriculture and development of lifestyle lots would be inconsistent with the conservation objectives of the Strategy, and should not occur. The Strategy supports continuation of broad-acre farming within the 'Rural and Wetland Amenity Area' in accordance with the Department of Primary Industries and Regional Development's (Agriculture and Food) *Guidelines for Management of Farmland Adjacent to the Busselton Wetlands* (2002).

The BWCS provides the ability for land identified as partly or entirely 'Rural Wetland Amenity' to be subdivided at a ratio of one additional lot per 20ha to a maximum of 5 additional lots subject to meeting a number of criteria including:

- A conservation, landscape and foreshore protection reserve is to be ceded extending at least 30m from the Quindalup Very Wet Saline Flats;
- Land retained in private ownership being rezoned to 'Conservation' and protected by conservation covenants to ensure the perpetual maintenance of conservation and landscape values;
- Subdivision shall be in a clustered form;
- The rural clustered lots shall be within the range of 1 to 2ha, with the possibility for lots below 1ha where justified;
- Proposed lots should not be located in a 'Rural Wetland Amenity' area, where possible;
- Revegetation with local native species and enhancing appropriate locations adjoining the wetlands;
- Not detract from the ongoing viability of the balance of the lot for long term agricultural uses;
- Not detract from scenic value; and
- Ensure provision of adequate measures for fencing, emergency access and bushfire protection without burdening the values and management of the wetlands.

The amendment is broadly consistent with the subdivision incentive of the BWCS but does propose a variation to the recommended lot ratio. This is discussed further under the 'Officer Comment' section.

The BWCS supports the continuation of agricultural and rural activities in conjunction with conserving the landscape and natural values of the Busselton wetlands. Continuation of grazing and pasture production activities should be carried out in a sustainable manner without adverse effects on the adjoining wetlands. The current land use could be considered to be reasonably intensive and nutrient management should be a key consideration in the ongoing use of the land for this purpose.

FINANCIAL IMPLICATIONS

There are not considered to be any long term financial implications for the City arising from the proposal.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

Nil.

STRATEGIC COMMUNITY OBJECTIVES

The Officer Recommendation is consistent with Key Goal Area 3.2 of the *City of Busselton Strategic Community Plan 2017*, which is – ‘natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations’.

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 publicly advertising the proposed Scheme Amendment and associated draft Structure Plan in accordance with the Regulations. In this regard, there are no significant risks identified.

CONSULTATION

If the Council resolves to initiate the proposed Amendment and associated Structure Plan, the relevant amendment documentation would be referred to the Environmental Protection Authority for consideration of the need for formal assessment under Part IV of the *Environmental Protection Act 1986*. Should the EPA resolve that the Amendment does not require formal assessment, both documents will be advertised for 42 days in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

OFFICER COMMENT

The proposed rezoning framework would facilitate the subdivision of the land generally in accordance with the voluntary conservation incentive available under the BWCS. The proposal has been assessed as being generally consistent with the relevant State and local planning policy and statutory framework and would deliver significant environmental benefits consistent with the objectives and desirable outcomes of the BWCS and the LRPS.

There are a number of matters relevant to the proposal that require further consideration. These matters relate to:

- the proposed lot ratio;
- determination of the Reserve boundary;
- the continuation of the current use of the land as it relates to the proposed zoning framework and nutrient management;
- the requirement for a Wetland Revegetation Plan; and
- drainage.

These elements are detailed below.

Lot Ratio

The Amendment is broadly consistent with the subdivision incentive of the BWCS, but does propose a variation to the recommended lot ratio of one additional lot per 20 hectares to a maximum of 5 additional lots. As Lot 7 has a total area of 56.02 hectares, a strict interpretation of the BWCS would therefore limit any additional lots to 2 (as potential for an additional 2.8 lots would be calculated under the Strategy).

A discrepancy of 0.2 in the lot calculation is considered to be justified by the provision of an additional environmental benefit. Therefore, an additional lot is proposed, totalling 4 lots after subdivision, including the balance lot.

The additional environmental benefit is proposed by ceding a total 13.5 ha of land to Reserve, where a strict interpretation of the BWCS would otherwise result in a 9.90 ha Reserve. This larger area has been derived in consultation with officers at DBCA and based on the BWCS criteria of a 30m minimum setback from the Quindalup Very Wet Saline Flats soil type and incorporating remnant vegetation. The boundary also encompasses a portion of fringing wetland not mapped as Quindalup Very Wet Saline Flats and an alignment that should be easily fenced without regularly crossing water flow path depressions.

The proposed Reserve boundary increases the 'buffer' between the grazing of livestock and the estuarine wetland system, thereby further reducing any negative environmental impacts caused by the ongoing use of the land for grazing that the BWCS is attempting to mitigate. The 'island' of trees in the south-west corner of the property would also offer additional environmental consolidation and conservation enhancement opportunities in an environmentally sensitive part of the landholding were it to be also incorporated within the fenced wetland reservation area.

This increase in the wetland reservation area will further benefit the highly important estuarine wetland system and more closely reflect the stated intentions and purpose of the subdivision incentive written into the BWCS.

Determination of Reserve Boundary

Further to the abovementioned additional area applied to the proposed wetland reserve, a minor variation to the 30 metre buffer criteria under the BWCS is recommended.

A strip of Quindalup Very Wet Saline Flats soil type runs across the northern portion of the property, roughly parallel to the Forrest Beach Road alignment. This area of the land has been heavily modified over the previous decades and due to its location, DBCA has acknowledged that it is unlikely to be set aside as wetland reserve, but would remain in freehold with other protections outlined in the BWCS. The proposed Scheme Amendment identifies this portion of the subject land as being rezoned from 'Agriculture' to 'Conservation' rather than 'Reserve for Recreation' and it is also where the proposed new lots have been located due to the ease of servicing, being directly adjacent to Forrest Beach Road.

Near to the existing residence the consultant's assessment on the determination of wetland boundaries identified the 30 metre minimum setback line from the Quindalup Very Wet Saline Flats soils as encroaching over one of the outbuildings. Preliminary DBCA mapping in this area identifies an acceptable Reserve alignment that does not encroach on the buildings and allows for access to the grazing area of the proposed balance lot. This alignment represents a more practical outcome for the ongoing use of the land.

Current Use of the Land

The land is currently developed for the grazing of cattle, which meets the definition of 'Agriculture – Extensive' under the Scheme. 'Agriculture – Extensive' is a 'P' use (i.e. a use that is permitted) within the Agriculture zone and a 'D' use (i.e. a use that requires development approval) within the Conservation zone. This aspect is not considered to be an impediment to the proposal being supported.

It is important to note that both the BWCS and the LRPS recognise the historic, economic and social importance of rural activities in this area. Both policy documents support the continuation of agricultural and rural activities in a sustainable manner, in conjunction with conserving the landscape and natural values of the Busselton wetlands.

The BWCS suggests that any continuation of grazing and pasture production activities should be carried out in a sustainable manner without adverse effects on the adjoining wetlands. Given the high nutrient producing nature of cattle grazing, nutrient management should be a key consideration in the ongoing use of the land for this purpose. For this reason the draft Structure Plan includes a condition requiring this concern to be addressed via the preparation and implementation of a nutrient management plan.

Wetland Revegetation Plan

One criterion of the BWCS subdivision incentive requirements is for the revegetation and enhancement of appropriate locations adjoining the wetlands. Given the revegetation of the large area of wetland to be ceded as a Reserve may be an onerous task, there is instead potential for nodal areas to be revegetated. These areas would provide habitat and provide a seed source for natural regeneration and/or can be built upon in future revegetation efforts. Following referral to government agencies and full assessment of the Structure Plan, this requirement may be recommended as a condition of the Structure Plan, to be completed at the time of subdivision.

Drainage

The man-made lake that exists on the property was created by a previous landowner to essentially provide water for stock. The current landowner has since installed water troughs for this purpose. After experiencing issues with mosquito breeding within the man-made lake area, and following advice from authorities, the landowner has commenced filling this area.

With the excavation for the lake and the subsequent filling in of the lake, the topography and hydrogeology of the land will have been altered. This could have potentially changed the hydraulic regime and overland flow paths and it is important that the hydraulic regime and overland flood flow paths are not altered such that they have an adverse impact on the proposed new allotments.

The proponent has advised that, although low lying, the remainder of the property is generally not subject to inundation, with relatively well draining soils as well as natural drainage channels installed by the previous owners.

The subject proposal generally contains sufficient information to enable it to be progressed to public advertising and referral to relevant advisory agencies. As such, the recommendation of this report is to progress this proposal to the referral and notification stage.

CONCLUSION

Officers are of the view that the proposal is generally consistent with the objectives and relevant outcomes of the State and local planning policy framework. It is recommended that the Amendment and the associated draft Structure Plan be initiated/adopted for public consultation.

OPTIONS

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

1. To request that the applicant modify the proposal(s) before advertising.
2. To decline the initiation of the proposed Amendment and adoption of the associated Structure Plan for advertising for reasons to be identified and explained.

Officer assessments have not revealed any substantive issue or reasonable grounds that would support either of the above options.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will include advising the applicant of the Council resolution and referring the Amendment to the Environmental Protection Authority, which will occur within one month of the date of the delegated decision.

COUNCIL DECISION AND OFFICER RECOMMENADTION**C1901/007**

Moved Councillor C Tarbotton , seconded Councillor J McCallum

That the Council:

1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, initiates Amendment 37 to the City of Busselton Local Planning Scheme 21 for the purposes of:
 - a) Rezoning Lot 7 (No. 86) Forrest Beach Road, Wonnerup from ‘Agriculture’ zone to ‘Conservation’ zone, ‘Reserve for Recreation’ and ‘Reserve for Public Purpose (Water Tank)’;
 - 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 proposed 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 draft Structure Plan for Lot 7 (No. 86) Forrest Beach Road, Wonnerup, 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

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17. CHIEF EXECUTIVE OFFICER'S REPORT**17.1 COUNCILLORS INFORMATION BULLETIN**

SUBJECT INDEX:	Councillors Information Bulletin
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Administration Officer - Governance - Kate Dudley
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

PRÉCIS

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

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

INFORMATION BULLETIN**17.1.1 2018/2019 Tenders****RFT13/18 PROVISION OF GYM EQUIPMENT FOR GEOGRAPHE LEISURE CENTRE, BUSSELTON**

- Requirement – provision of gym equipment for the Geographe Leisure Centre in Busselton.
- The evaluation has been completed and a preferred tenderer has been recommended.
- A contract was awarded by the CEO in December 2018 to Technogym Australia Pty Ltd.

RFT15/18 CONSTRUCTION OF FREIGHT HUB CIVIL AND SERVICES INFRASTRUCTURE

- Requirement – the construction of the freight hub civil and services infrastructure at Busselton-Margaret River Airport.
- The value of the contract is expected to exceed the CEO's delegated authority under Delegation LG3J.
- Council endorsed the officer recommendation to delegate authority to the CEO to negotiate and agree final terms and conditions and to award a contract with Ertech Pty Ltd and that if, in the discretion of the CEO, agreement cannot be reached with Ertech Pty Ltd then the CEO may negotiate and agree final terms and conditions and enter into a contract with APH Contractors Pty Ltd.
- A contract was awarded by the CEO (under delegated authority) in December 2018 to Ertech Pty Ltd.

RFT16/18 OLD BUTTER FACTORY REPAIR WORKS

- Requirement – repair and rectification works to the Old Butter Factory following fire damage to the building.
- A Request for Tender was advertised on 20 October 2018 with a closing date of 9 November 2018.

- No submissions were received.
- The CEO determined that a private request for quotation be made in respect of the works.
- One response was received in respect of the request for quotation.
- Officers are currently completing an evaluation and it is anticipated a recommendation for award of contract will be made in January 2019.

RFT17/18 PORT GEOGRAPHE FINGER JETTY REPLACEMENT

- Requirement – the demolition of existing finger jetty or jetties (as determined by the City) located at the Port Geographe Marina boat launching facility in Busselton and the replacement of such jetty or jetties with floating pontoon style finger jetty or jetties.
- A Request for Tender was advertised on 3 November 2018 with a closing date of 20 November 2018.
- The value of the contract is not expected to exceed the CEO's delegated authority under Delegation LG3J.
- It is anticipated that a contract will be awarded in January 2019.

RFT18/18 EQUIPMENT FINANCE LEASE FOR NETWORK SERVERS

- Requirement – financing of network servers by way of an equipment finance lease.
- A Request for Tender was advertised on 15 December 2018 with a closing date of 10 January 2019.
- The value of the contract is not expected to exceed the CEO's delegated authority under Delegation LG3J.
- It is anticipated that a contract will be awarded in January 2019.

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

- Requirement – Construction of the City Centre Eastern Link Stage 1.
- An Expression of Interest was advertised on 15 December 2018 with a closing date of 22 January 2019.
- It is anticipated that the process for making a preliminary selection among prospective will be completed in February 2019.
- It is anticipated that the tender phase for acceptable tenderers will commence early in February 2019.

17.1.2 Donations Contributions and Subsidies Fund – November and December 2018

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

Five applications were supported in November 2018, totalling \$1,550.00 and four applications were supported in December 2018, totalling \$3,550.00 as outlined in the tables below:

App. No.	Recipient	Purpose	Amount
November 2018			
35/1819	Vasse Primary School	Year 6 graduation assembly award.	\$100.00
36/1819	Hannah Bowden	Funding to assist with associated travel expenses to join the highly prestigious International Youth leadership Conference being held in Prague in January 2019.	\$350.00
37/1819	Charlee Langridge	Selected to partake in the 2018 Australasian Show Horse and Rider Championships. Funding to assist with associated travel expenses.	\$300.00
38/1819	Dunsborough Art Society	Funds to assist with covering cost to hire Yallingup Hall as the venue for their ten day art exhibition commencing 3 January 2019.	\$500.00
39/1819	Caelin Winchcobe	Selected to represent WA at the Oceania Laser Dinghy Championships in Devonport, Tasmania in January 2019. Funds to assist with associated travel expenses.	\$300.00
		November Total	\$1,550.00

App. No.	Recipient	Purpose	Amount
December 2018			
40/1819	Busselton Tennis Club	Funding to assist with costs associated with court preparation, umpires, trophies & catering required whilst hosting the Busselton Junior Open tennis Tournament in January 2019. The three day event is allocated by Tennis Australia, attracting local and state wide competitors.	\$1,000.00
41/1819	Busselton Tennis Club	Funds will assist with costs associated with court preparation, umpires, trophies & catering required whilst hosting the Busselton Junior Open tennis Tournament in March 2019. The three day event is allocated by Tennis Australia, attracting local and state wide competitors.	\$1,000.00

45/1819	Acting Up Academy of Performing Arts Inc.	Funding to assist with covering the cost of running five drama and musical theatre workshops & one drama audience participation performance as part of 'Summer Shorts 2019' - a short summer school of creative workshops for all ages being held in the ArtGEO precinct. The funding contribution provides opportunities for children and adults to participate in the workshops at an affordable cost (from \$10-\$20per person).	\$500.00
46/1819	Ocean Edge Performance Writers	Funding to assist with covering the cost of running two workshops for script writing and performance as part of 'Summer Shorts 2019' - a short summer school of creative workshops for all ages being held in the ArtGEO precinct. The funding contribution provides opportunities for children and adults to participate in the workshops at an affordable cost (\$10per person).	\$750.00
47/1819	Charles Sissoev	Selected to represent WA as a member of the U15 Country Men's development team competing at the Southern Cross challenge (basketball) being held in Melbourne, VIC 18-21 January 2019.	\$300.00
		December Total	\$3,550.00

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1901/008 Moved Councillor C Tarbotton , seconded Councillor J McCallum

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

- [17.1.1 2018/2019 Tenders](#)
- [17.1.2 Donations Contributions and Subsidies Fund – November and December 2018](#)

CARRIED 8/0

EN BLOC

ADOPTION BY EXCEPTION RESOLUTION ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**12. REPORTS OF COMMITTEE MEETINGS****12.1 Finance Committee - 17/01/2019 - BUDGET AMENDMENT REQUEST / REVIEW**

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

This item was considered by the Finance Committee at its meeting on 17 January 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. Trial of the Spectur HD5 Shark Warning System
2. Vasse Hall Building Requirements
3. Holiday Homes Compliance Officer

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. “Trial of the Spectur HD5 Shark Warning System

The Spectur HD5 shark warning system is a solar powered, cloud based system that provides a remotely activated pre-recorded message and flashing lights alerting beach-goers that a shark has been sighted in waters off the beach on which they are visiting. It is a stand-alone, battery and solar powered unit with its own 3G/4G connection to the Cloud.

Recently, the Shire of Augusta Margaret River commenced a three-month trial of two of these units, and, following a recent demonstration of their product to Councillors by Spectur, the City of Busselton has also decided to proceed with a three-month trial of two units at beaches under our care and control, yet to be determined.

Planned Expenditure Item

Officers propose to fund the trial from the Council Budget Contingency Surplus.

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>Proposed Amended Budget</i>
Expenditure				
441-10980-3331-0000	Subscriptions	2,600	3,900	6,500

Income					
100-10001-3680-0000	Budget Surplus Holding Account	Contingency	43,698	-3,900	39,798
Net Total			46,298	0	46,298

2. "Vasse Hall Building Requirements"

Urgent, unforeseen rectification works are required to a non-compliant concrete ramp at the rear entrance of the Vasse Hall (B1108) which currently presents as a trip hazard to hall users. A cost estimate has been obtained for the works of \$4,350.

The original allocated budget of \$1,200.00 under 522-B1108-3280-0000 is available for the works, leaving a shortfall of \$3,150.00, which is requested to be allocated from the Building Asset Reserve.

Planned Expenditure Items

The amendments shown in Table 2 will allow for rectification works to be undertaken.

Table 2:

<i>Cost Code</i>	<i>Description</i>	Current Budget	Change	Proposed Amended Budget
B1108	Vasse Hall	1,200	3,150	4,350
Equity	Building Asset Renewal Reserve	1,422,879	-3,150	1,419,729
Net Total		1,424,079	0	1,424,079

3. "Holiday Homes Compliance Officer"

During the Council Briefing on 21 November 2018, Council considered the option to employ a Holiday Home Compliance Officer on a fixed term contract for a period of 3 months. This will allow the targeted compliance investigation of holiday homes that are advertising online that have not met the requirements of the Holiday Homes Local Law 2012 and associated Planning requirements.

The Holiday Home Compliance Officer position will consist of two 0.5FTE part time officers and will include work during weekends. The position will commence on 7 January 2019 and conclude on 26 April 2019.

The position will be self-supporting to the extent that an increase in compliance, that is number of registrations completed, will result in the extra revenue required to staff the positions. There will also be an ongoing revenue increase as the registrations will also initiate additional property rates being charged for the newly compliant holiday homes commencing in 2019/20.

Planned Expenditure Items

Officers propose that the additional expenditure will be drawn from the following accounts as shown in Table 3 below:

Table 3:

<i>Cost Code</i>	<i>Description</i>	Current Budget	Change	Proposed Amended Budget
Expenditure				
440-10920-3001-0000	Salaries - Normal	609,800	33,000	642,800

Income				
440-10920-1566-0000	Holiday Home Renewal Fee	-160,000	-33,000	-193,000
Net Total		449,800	0	449,800

Proposed Outcome

An increase in holiday homes advertised on online platforms being compliant with the *Holiday Homes Local Law 2012* and registered with the City.

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 OFFICE RECOMMENDATION

C1901/009

Moved Councillor P Carter, seconded Councillor J McCallum

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That Council endorse the requested budget amendments outlined in tables 1 to 3 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>Proposed Amended Budget</i>
Expenditure				
441-10980-3331-0000	Subscriptions	2,600	3,900	6,500
Income				
100-10001-3680-0000	Budget Surplus Contingency Holding Account	43,698	-3,900	39,798
Net Total		46,298	0	46,298

Table 2:

<i>Cost Code</i>	<i>Description</i>	<i>Current Budget</i>	<i>Change</i>	<i>Proposed Amended Budget</i>
B1108	Vasse Hall	1,200	3,150	4,350
Equity	Building Asset Renewal Reserve	1,422,879	-3,150	1,419,729
Net Total		1,424,079	0	1,424,079



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Table 3:

<i>Cost Code</i>	<i>Description</i>	Current Budget	Change	Proposed Amended Budget
Expenditure				
440-10920-3001-0000	Salaries - Normal	609,800	33,000	642,800
Income				
440-10920-1566-0000	Holiday Home Renewal Fee	-160,000	-33,000	-193,000
	Net Total	449,800	0	449,800

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

15. COMMUNITY AND COMMERCIAL SERVICES REPORT**15.1 DUNSBOROUGH FOOTBALL CLUB FUNDING AND SELF SUPPORTING LOAN**

SUBJECT INDEX:	Sport & Recreation
STRATEGIC OBJECTIVE:	A community with access to a range of cultural and art, social and recreational facilities and experiences.
BUSINESS UNIT:	Community Services
ACTIVITY UNIT:	Community Services
REPORTING OFFICER:	Manager, Community Services - Maxine Palmer
AUTHORISING OFFICER:	Director, Community and Commercial Services - Naomi Searle
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A DFC Proposal for further funding  Attachment B Recognition of DFC funding letter 

PRÉCIS

The Dunsborough Football Club Inc. (DFC) has requested the City of Busselton provide a further funding contribution of \$25,000 and a self-supporting loan for \$75,000, for a term of 10 years, to complete the John Edward's Pavilion (JEP) extension including all fixtures and fittings and the bar and kitchen relocation and refit.

BACKGROUND

In August 2017, the DFC submitted a proposal to extend the JEP to improve the condition and the amenities of the building and render it suitable for use by the DFC and other local sporting groups. Via a notice of motion issued by the Mayor, Council considered the DFC'S proposal and an associated budget amendment and resolved (in part) as follows:

C1709/226:

"That the Council:

- 1. approves a budget amendment for a contribution of \$100,000 from the Infrastructure Development Reserve to co-fund the extension to the John Edwards Pavilion at the Dunsborough Playing Fields (within the 2017/2018 Budget).*
- 2. delegates authority to the CEO to enter into negotiations with the Dunsborough Sharks Football Club for a lease for the John Edwards Pavilion, including provisions that ensure reasonable access for other user groups including but not limited to netball and an orderly transition to future facilities.*
- 3. Delegates authority to the CEO to formalise a Funding Agreement with the Dunsborough Sharks Football Club outlining the necessary terms and conditions to be granted the \$100,000 contribution including the required acquittal process"*

Whilst the resolution above refers to the Dunsborough *Sharks* Football Club, the leading incorporated association is the Dunsborough Football Club Inc. who are a collective of the Dunsborough Sharks (Juniors), the Dunsborough-Yallingup Mulies (Mens), the Dunsborough Ducks (Masters) and the Dunsborough Dragon Slayers (Womens).

City officers worked with representatives of the DFC concerning the terms of the proposed lease, the funding arrangement and the scope of works proposed in relation to the extension and improvement of the JEP. On 31 January 2018, Council resolved (C1801/008):

That the Council:

1. *Subject to the consent of the Minister for Lands, authorises the CEO to enter into a lease with the Dunsborough Football Club Inc. for the occupation of the building known as the John Edwards Pavilion which stands on a portion of Lot 4979, Plan 19038, Volume LR3103, Folio 341, Caves Road on Reserve 43008 as shown on Attachment 1 subject to the following:*
 - a) *The annual rent being \$210 inclusive of GST with annual CPI rent review*
 - b) *The term of the lease will be 5 years with a further 5 year option; and*
 - c) *The lease will be consistent with the City' standard community and sporting group lease with the exception of a provision that requires the lessee to obtain the prior approval of the City to their schedule of facility hire charges for the purpose of ensuring the availability of the leased premises for other sporting groups wishing to use the facility.*

2. *Authorises the CEO to enter into formal funding arrangements with the Dunsborough Football Club Inc. detailing the means by which funds are to be secured and administered for the purpose of expansion and improvements to the John Edwards Pavilion.*

On 9 July 2018, the Lease and Funding Agreement were signed by both parties.

On 8 January 2019, the City received a proposal dated 8 December 2018, from the DFC requesting a further funding contribution by the City of \$50,000. The letter is attachment A.

On 16 January 2018, a meeting with the DFC President, City Mayor and Officers took place to discuss the options outlined in the letter. The meeting concluded with the City offering to consider a further \$25,000 in funding and provision of a self-supporting loan to the DFC to fund the remainder of the total works to complete the full extension. The outcomes from this meeting were discussed at the Finance Committee meeting on 17 January and are further summarised in this report.

STATUTORY ENVIRONMENT

Section 6.8 of the Local Government Act 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

Council Policy 048 – Loans is applicable in offering the DFC a Self-supporting Loan.

FINANCIAL IMPLICATIONS

The letter received from the DFC on 8 January 2019, requested a further \$50,000 contribution from the City to the John Edward's Pavilion extension to relocate and fit out the bar and kitchen areas.

After consideration, the proposal is to provide \$25,000 in additional cash funding and support the Club to complete the entire project, including fit out, with a self-supporting loan of up to \$75,000. The Club may not utilise this full amount, however the increased amount will fund the entire works that the DFC would like to undertake, rather than stage the works dependent upon securing finance for each stage.

Council made a general allocation of \$150,000 in the 2018/19 Annual Budget for Self Supporting loans. The fact that the proposed borrowing will be established as a self-supporting loan, with regular payments by the DFC will result in no net effect on the budget position. In addition the loan will not affect Council's ability to borrow as self-supporting loans are not included in the debt ratio calculation.

At the time of writing this report, the DFC had not yet provided a copy of their financial statements to allow Council Officers to establish whether the Club has the ability to service the loan repayments. Based on verbal advice it is assumed the Club is well placed to service the loan repayments over a ten year period, subject to their ability to maintain their operations at current levels and keep pace with inflation. The extension will also provide increased opportunity for the Club to grow income streams through improved kiosk and bar sales and venue hire.

Officers are proposing that the loan be internally funded through the City's New Infrastructure Development Reserve. The additional \$25,000 cash contribution is proposed to be funded from the Budget Surplus Contingency Holding Account. This arrangement would require a Budget amendment as follows:

<i>Cost Code</i>	<i>Description</i>	Current Budget	Change	Proposed Amended Budget
Expenditure				
Self-Supporting Loan Dunsborough Football Club Inc.	Self-supporting Loan Funding	0	75,000	75,000
330-10530-3640-0000	Donations, Contributions and Subsidies - Dunsborough Football Club Inc. \$25,000	237,930	25,000	262,930
100-10001-3680-0000	Budget Surplus Contingency Holding Account	39,798	-25,000	14,798
Equity Transfer				
Transfer from Reserve	New Infrastructure Development Reserve	809,332	-75,000	734,332
Net Total		1,087,060	0	1,087,060

The loan would be granted on the basis of the prevailing Western Australian Treasury Corporation (WATC) lending rate including Government Guarantee Fee at the time of actual Funding of the loan. The WATC have advised that the current borrowing rate for 10 years is 3.13%, noting that this rate is subject to change up until the time of the borrowing.

All interest and principal repayments would be formally agreed to prior to release of any funding.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

The DFC previously requested that recognition be given to the monetary contribution they are making to the improvements to the JEP in the event of their exclusion from the JEP in favour of a non-football related sporting group such as cricket or netball, once new facilities planned for Lot 10 Commonage Road are made available. A copy of the letter documenting the DFC contribution dated 14 March 2018 is in attachment B.

For the sake of clarity there is no suggestion that the financial contribution made by the DFC be taken into consideration should the DFC either disband or choose to vacate the JEP of their own accord during the term of the lease. Further, there will be no requirement for DFC's financial contribution to be offset in the future if none of the other sporting groups are required to make a contribution to the fit out of alternative facilities. Equally, should the DFC effectively be operating out of both the JEP and the new facilities at Lot 10, no element of the contribution made to the JEP will be offset towards fit-out of the new clubhouse.

STRATEGIC COMMUNITY OBJECTIVES

Key Goal Area 2:

Well Planned, Vibrant and Active Places:

Our Community Objectives are:

2.1 A City where the community has access to quality cultural, recreation, leisure facilities and services.

Council strategies to support achievement of community objectives -

- > Enhance our foreshores and reserves to provide a place where people can come together and engage in a range of social and recreational activity, and
- > Ensure our sporting and recreational facilities meet the needs of our growing community.

RISK ASSESSMENT

At the time of writing this report, the DFC had not yet provided a copy of their financial statements to allow Council Officers to establish whether the Club has the ability to service the loan repayments. However, verbal advice indicated they have capacity to meet the repayments on the proposed loan, furthermore their membership and sponsorship is increasing which will further improve their existing sound financial position. Any default on the loan is therefore considered low risk, however if on receipt of the Club's financial statements higher risks are identified, these will be raised with Council.

CONSULTATION

The DFC has consulted with their membership with respect to this proposal.

OFFICER COMMENT

The scope of works upon which the City's previous funding contribution and agreement is based was for a 120m² extension to the JEP at a total project cost of \$200,000 with the DFC contributing \$100,000 which included \$40,000 of in kind support and \$60,000 cash.

The letter received from the DFC on 8 January 2019, requested a further \$50,000 contribution from the City to enable the extension to increase by a further 17m² by relocating the bar and kitchen. These areas were previously out of the scope of works and were planned to be a later stage. The letter also outlined other unforeseen costs, other unsuccessful funding applications made and a new total project cost of \$300,000.

The revised proposal provides a number of benefits. It minimises impact to the Club's operations and provides cost efficiencies for the build. The kitchen is better located to ease congestion within the building and provide improved ease of service delivery adjacent to the bar area. The new locations of the bar and kitchen free up a larger more flexible social space which will assist with any repurposing of the building in the future.

Whilst there are future plans to build new ovals, clubrooms and associated facilities in Dunsborough Lakes at Lot 10 Commonage Road, the shared clubhouse is some years away. Based on this, and given the current demands associated with the existing playing fields, the future growth of football and other sporting groups and the current condition of the JEP, Council has already supported the proposed expansion to meet the immediate needs of the Dunsborough community. Opportunities also exist to repurpose the facility in line with future planning for the Naturaliste Community Centre (NCC) and the surrounding area.

At 17 January 2019 Finance Committee meeting, the further cash funding of \$25,000 from the City's New Infrastructure Development Reserve and a self-supporting loan of \$75,000 to the DFC was discussed and supported.

The loan would be granted on the basis of the prevailing WATC lending rate including Government Guarantee Fee at the time of actual Funding of the loan. The WATC have advised that the current borrowing rate for 10 years is 3.13%, noting that this rate is subject to change up until the time of the borrowing. The loan would be subject to receipt of a Quantity Surveyor's Report, to confirm the total project cost and work scope, and an assessment of the Club's financial statements, which at the time of writing this report had not yet been received. However, verbal advice about the Club's current and projected financial position indicated that the Club would be well placed to service the loan repayments over a ten year period.

It is also recommended that approval of the funding be subject to a requirement to amend the Lease of the JEP. This Lease should provide that in the event of default in respect of the proposed loan repayments this would be regarded as default under the Lease which could result in termination of the Lease.

City Officers also recommend an amendment to the Funding Agreement that reflects the revised project costs, confirmed with a QS report from the Club, and the additional funding contribution from the City, if agreed. In light of the increased capital expenditure and scope it is also recommended that the acquittal provisions for the cash and in kind contributions be amended to require submission of a spreadsheet in a similar manner to the grant acquittal provisions linked to the Community Sport and Recreation Facilities Fund.

The DFC would like to commence works on 14 February and conclude the expansion and improvement works in time for the commencement of the 2019 season in April. Whilst City officers will do everything within their control to support this, these timeframes are subject to the DFC obtaining a Building Permit and the execution of an amended Lease and Funding Agreement.

CONCLUSION

Further funding of \$25,000 to the DFC from the City's New Infrastructure Development Reserve will bring the City's cash contribution to the JEP extension to \$125,000. Further support from the City by way of a self-supporting loan of \$75,000 will enable the whole project to be completed without the need for further fundraising and staging. This achieves economies, reduces impact, supports improved service delivery and provides a more flexible, convertible space for the future. Furthermore, the costs associated with the internal funding of the loan are offset by the income to be received from the DFC as per a Loan Repayment Agreement. Officers recommend that the request be approved.

OPTIONS

Should Council not approve the request from DFC, they may consider the following options:

1. Proceed in line with the original scope of works and executed Lease and Funding Agreement
2. Provision of a self-supporting loan only for the total amount requested, i.e. no City cash contribution or
3. Other funding or loan options

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should the request be approved, action will be taken immediately to implement the recommendations of the Council.

COUNCIL DECISION/COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**C1901/010**

Moved Councillor P Carter, seconded Councillor J McCallum

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Subject to the assessment of the Club's Financial Statements and the submission of a Quantity Surveyor's report, confirming the total project cost, approve for the purposes of extending the building known as the John Edwards Pavilion, which stands on a portion of Lot 4979, Plan 19038, Volume LR3103, Folio 341, Caves Road on Reserve 43008 as shown in Attachment 1:
 - a) an additional \$25,000 cash contribution funded from the Budget Surplus Contingency Holding Account and,
 - b) a self-supporting loan, to be internally funded, to the Dunsborough Football Club Inc., for the amount of \$75,000 for a term of up to ten (10) years.
2. Advise the Dunsborough Football Club Inc. that it must obtain all relevant development and building approvals from the City prior to any loan funds being disbursed,
3. Authorises the CEO to enter into a Loan Repayment Agreement with the Dunsborough Football Club Inc. where,
 - i. The club acknowledges it is responsible for reimbursement to the City of Busselton of full costs associated with the loan,
 - ii. The Loan repayment calculations are on the basis of the prevailing Western Australian Treasury Corporation lending rate including Government Guarantee Fee at the time of actual funding of the loan.
4. Authorises the CEO to enter into an amended Lease providing that default in respect of the Loan Repayment Agreement could result in termination of the Lease.
5. Authorises the CEO to enter into an amended Funding Agreement reflecting the increase in the contribution made available to the Dunsborough Football Club and the inclusion of additional acquittal provisions in relation to the in kind and cash contributions.

6. Amends the 2018/2019 Municipal Budget as follows to recognise the relevant income, expenditure and any associated loan movements; noting that there will be no net impact on Councils projected Surplus position:

<i>Cost Code</i>	<i>Description</i>	Current Budget	Change	Proposed Amended Budget
Expenditure				
Self-Supporting Loan Dunsborough Football Club Inc.	Self-supporting Loan Funding	0	75,000	75,000
330-10530-3640-0000	Donations, Contributions and Subsidies - Dunsborough Football Club Inc. \$25,000	237,930	25,000	262,930
100-10001-3680-0000	Budget Surplus Contingency Holding Account	39,798	-25,000	14,798
Equity Transfer				
Transfer from Reserve	New Infrastructure Development Reserve	809,332	-75,000	734,332
Net Total		1,087,060	0	1,087,060

CARRIED 8/0

BY ABSOLUTE MAJORITY

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16. FINANCE AND CORPORATE SERVICES REPORT

16.1 COUNCILLOR CARTER - REMOTE ATTENDANCE

SUBJECT INDEX:	Remote Attendance
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Administration Officer - Governance - Kate Dudley
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

PRÉCIS

The purpose of this report is to recommend to Council that they consider 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) for the remainder of the financial year. This will require Council to also determine a "suitable place", in addition to approving the arrangement.

BACKGROUND

Cr Carter commenced employment with BHP, working at the Yandi mine site, located 90kms North West of the town of Newman, Western Australia on 4 September 2018 working a 14 days on, 7 days off roster. Cr Carter is now working an 8 days on, 6 days off roster.

In September 2018 the Council resolved a conference / meeting room or Cr Carters private accommodation lodgings at Yandi Accommodation Village to be a suitable place in accordance with regulation 14A of the Local Government (Administration) Regulations 1996 and approved the arrangement for Councillor Paul Carter to attend by telephone etc the Finance Committee meeting held on 15 November 2018.

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.

Based on Cr Carter's current roster he will be away for the Finance Committee meetings held on 21 February 2019, 21 March 2019, 18 April 2019, 16 May 2019, and 20 June 2019.

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.

Yandi Accommodation Village (YAV) is not located in a townsite. Independent legal advice has previously confirmed however that there are strong grounds to conclude that it would meet the 'other residential area' requirements of the regulation. As such, Council has previously determined YAV to be a 'suitable place'.

RELEVANT PLANS AND POLICIES

There are 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 meets 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 (within this financial year) being held on 21 February, 21 March, 18 April, 16 May, and 20 June 2019.

Council previously resolved (C1809/193) to approve Cr Carter's remote attendance for the Finance Committee meeting of the 15 November 2018.

That the Council resolves

1. *that a conference / meeting room or Cr Carters private accommodation lodgings at Yandi Accommodation Village to be a suitable place in accordance with regulation 14A of the Local Government (Administration) Regulations 1996.*
2. *approves the arrangement outlined in this report for Councillor Paul Carter to attend by telephone etc the Ordinary Council Meetings held on 24 October, 14 November and 28 November 2018 and the Finance Committee meeting held on 15 November 2018.*

Council cannot give approval under sub-regulation (1)(c) for a Councillor to remotely attend more than half of the meetings of the committee in a financial year. As such this report recommends that Council approve Cr Carter's remote attendance for the meetings being held in this financial year on 21 February, 21 March, 18 April, and 16 May 2019. Cr Carter will have to submit an apology for the 20 June 2019 meeting or by agreement of Presiding Member the meeting could be moved.

It is proposed that Cr Carter could video conference into the meetings using the zoom technology in the Committee Room. This will enable Cr Carter to visually as well as audibly attend the meetings.

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

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

- 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.

Cr Carter has confirmed that he has continued access to use these facilities.

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 (within this financial year) being held on 21 February, 21 March, 18 April, 16 May, and 20 June 2019. In accordance with the Regulations, officers recommend that Council re-approve a conference / meeting room or Cr Carters private accommodation lodgings at YAV 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 as not being a suitable place and / or could decide not to approve the arrangement and instead request Cr Carter be an apology for the Finance Committee Meetings held on 21 February 2019, 21 March 2019, 18 April 2019 and 16 May 2019. Cr Carter

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

COUNCIL DECISION AND OFFICER RECOMMENDATION**C1901/011**

Moved Councillor P Carter, seconded Councillor J McCallum

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council resolves







1. that a conference / meeting room or Cr Carters private accommodation lodgings at Yandi Accommodation Village to be a suitable place in accordance with regulation 14A of the *Local Government (Administration) Regulations 1996*
2. approves the arrangement outlined in this report for Councillor Paul Carter to attend by telephone etc the Finance Committee Meetings held on 21 February 2019, 21 March 2019, 18 April 2019, and 16 May 2019

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

ITEMS FOR DEBATE

14. ENGINEERING AND WORKS SERVICES REPORT

14.1 PROPOSAL TO CLOSE PERMANENTLY PAW LOT 8000 CURRAWONG DRIVE

SUBJECT INDEX:	Thoroughfares
STRATEGIC OBJECTIVE:	Assets are well maintained and responsibly managed.
BUSINESS UNIT:	Engineering and Facilities Services
ACTIVITY UNIT:	Land Matters
REPORTING OFFICER:	Land and Infrastructure Officer - Andrew Scott
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Deposited Plan 44210 
	Attachment B Certificate of title - Lot 8000 
	Attachment C Extract from Broadwater Structure Plan - June 2005 
	Attachment D Aerial plan 
	Attachment E Photos of the PAW 
	Attachment F Walkability catchment area map 

PRÉCIS

PAW Lot 8000 Currawong Drive, Broadwater, is a 255sqm parcel of land held by the State, and located between properties at 19 and 21 Currawong Drive. This report considers a proposal to close the PAW permanently for amalgamation of the land with adjoining property, pursuant to the *Land Administration Act 1997*.

This report recommends supporting the proposal, subject to a few conditions.

BACKGROUND

In a letter to the City, Altus Planning (acting on behalf of adjoining property owners), propose that PAW (pedestrian access way) Lot 8000 Currawong Drive, Broadwater, is closed permanently so that it may be amalgamated with adjoining property. This report considers that proposal.

PAWs generally – How created, function and closure procedure

The Landgate [Land Titles Registration Policy and Procedure Guides](#) 'ROA-03 Roads and their Closure', states (section 6):

PAWs... are created as part of a land planning requirement in new subdivisions to provide access for a number of users and for access to a range of facilities. Local Government must assess the impact of closing a PAW... and in considering a closure request, a balance needs to be found between resident accessibility to facilities and public transport, and security and amenity. Where Local Government proceeds with a closure request, it is required to prepare a summary report for DPI [sic] that also includes confirmation that the Local Government has resolved to recommend the closure.

On a resolution of the Council, a formal PAW closure request may be made to the Department of Planning, Lands and Heritage (representing the Minister for Lands). On receiving a request, the Department will assess the request to determine whether the closure and disposal can proceed. Should the Department determine that the closure may proceed, it will arrange the closure and disposal of the PAW pursuant to the [Land Administration Act 1997](#).

The subject PAW – Lot 8000 Currawong Drive, Broadwater

The dimensions of the PAW are 31.9m x 8.0m, for an area of 255sqm. No path has been constructed on the PAW, and there is no indication that public utility services (gas, electricity, water, etc.) run through the PAW.

PAW Lot 8000 was created on Deposited Plan 44210 during 2005 and was subsequently vested in the Crown under section 20A of the [Town Planning and Development Act 1928](#) (Attachments A and B). The subdivision that led to the creation of the PAW was guided by 'Broadwater Structure Plan – Precinct No. 1', June 2005. The structure plan (Attachment C) shows the requirement for a 'potential road link' from Currawong Drive to Lot 12 'Aged Persons Housing'. At 8m wide, the PAW is consistent with current planning guidelines that address issues relating to anti-social behaviour in PAWs.

The PAW lies between residential properties at 19 and 21 Currawong Drive (Attachment D). To the north of the PAW is a residential care facility (William Carey Court, owned by Baptistcare Inc.) and then Bussell Highway. To the south of the PAW is Currawong Drive and then Lot 5588 of Crown Reserve 48426, a reserve for public recreation and drainage purposes.

Aerial photographs from 2001 show buildings on Lot 12 immediately north of PAW Lot 8000. The year 2001 is well before the subdivision that led to PAW Lot 8000 being created, indicating that the planning intent for the PAW was to provide access to and from the already built residential care facility. But the PAW has not been used for pedestrian access since it was created during 2005. This is due to the fence (Attachment E) on the northern boundary of the PAW with the residential care facility which has not been opened since the PAW was created.

STATUTORY ENVIRONMENT

PAWs (pedestrian access ways) are created under section 152 of the [Planning and Development Act 2005](#), and under section 20A of the ceased [Town Planning and Development Act 1928](#).

Being Crown land, PAWs are subject to the [Land Administration Act 1997](#). Under that legislation, PAWs fall within the definition of a 'private road' and may be closed and disposed. Section 87 of the Act allows the sale of Crown land for amalgamation with adjoining land.

Under section 3.53 of the [Local Government Act 1995](#), local government is, by default, responsible for controlling and managing pedestrian access ways.

RELEVANT PLANS AND POLICIES

The WAPC (Western Australian Planning Commission) operational policy [Liveable Neighbourhoods](#) is relevant to the function of PAWs (pedestrian access ways) as part of a movement network that encourages walking and bicycling to nearby places compared with using a motor vehicle. The policy also outlines proximity of residential properties to POS (public open space) based on a walking distance, and provides a method for determining a walkability catchment area of services and facilities within a neighbourhood.

The Landgate [Land Titles Registration Policy and Procedure Guides](#) applies to the closure of PAWs, specifically section 6 of 'ROA-03 Roads and their Closure'.

Given PAWs are created as a condition of subdivision, WAPC guidelines apply, specifically:

- [Procedure for the Closure of Pedestrian Access Ways](#), October 2009
- [Reducing Crime and Anti-Social Behaviour in Pedestrian Access Ways](#), October 2009

The Officer Comment section of this report discusses further the application of the above policies and guidelines to PAW Lot 8000.

FINANCIAL IMPLICATIONS

As per the officer recommendation, the City should not be held liable for any costs associated with the closure and disposal of PAW Lot 8000. Costs of closure and disposal should be borne by the proponent and not the City.

Given the PAW is Crown land, revenue from any sale of the PAW would be to State Revenue.

Closure and disposal of the PAW may result in a marginal cost saving as the City would not be responsible for maintaining the PAW.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

Closure and disposal of PAW Lot 8000 would have negligible impact on the long term financial plan.

STRATEGIC COMMUNITY OBJECTIVES

This matter primarily aligns with the following Key Goal Areas and Community Objectives of the Strategic Community Plan 2017:

Key goal area	Community objective
5. Transport	5.3 Cycleways that connect our communities and provide alternative transport choices
6. Leadership	6.4 Assets are well maintained and responsibility managed

RISK ASSESSMENT

The City should not be made liable for costs associated with the proposed closure and disposal of the PAW, so there should be no financial risk. There are additionally no other risks identified of a medium or greater level.

CONSULTATION

A notice of the proposal to close permanently PAW Lot 8000 Currawong Drive was published in the 19 October 2018 edition of the Busselton Dunsborough Times, and in the 24 October 2018 edition of the Busselton-Dunsborough Mail.

Written notices were posted to the owners and the residents of 45 properties listed on Deposited Plan 44210 (the same as the PAW), the residential care facility (to the north of the PAW) plus four other properties within the vicinity of the PAW. One hundred written notices were handed to the administration of the residential care facility for distribution to the residents. The public utilities were also notified of the proposal.

The City received no objections to the proposal. Submissions were received from the public utilities and an adjoining land owner advising that they did not object to the proposal.

A submission was also received from Baptistcare Inc., owner of Lot 12 and the residential care facility to the north of PAW Lot 8000. In a letter to the City, Baptistcare Inc. advise that they:

"...support the closure of the Public [sic] Access Way and the amalgamation of the land into the adjoining property. Furthermore Baptistcare have no strategic intentions of ever putting the Public [sic] Access Way into use."

OFFICER COMMENT

Function and benefits of PAWs

PAWs are created to fulfil an important function within the community. Guided by State Planning 'Liveable Neighbourhoods' policy, PAWs encourage residents to be more active by walking and bicycle riding (rather than driving) to services and making use of nearby parks and recreational facilities. They also benefit members of the community who are not able to or not willing to drive. For people without an option to drive a vehicle, the walking distance to a service or facility may determine whether or not they will use that service or facility. If they are not able to use a service or facility (due to the walking distance), they may become disadvantaged.

Planning guidelines relating to PAWs

According to the WAPC (Western Australian Planning Commission) document 'Liveable Neighbourhoods Draft 2015' (page 33):

Walkable neighbourhoods are typically characterised by having a range of community services within 5-10 minutes (400-800 metres) walking distance of residential areas which residents may access on foot. Liveable Neighbourhoods encourages a reduction in travel by private motor vehicles through the creation of mixed-use neighbourhoods with interconnected street patterns, where community services and facilities are within walking distance of most residents.

WAPC has published guideline documents for PAWs. Referring to the document 'Procedure for Closure of Pedestrian Access Ways', in considering requests for closure of a PAW, the default position should be for PAWs to remain open, and their closure should be the exception.

With respect to access to POS (public open space), Liveable Neighbourhoods Draft 2015 requires that residential properties are located within 300m walk distance of 'small' or 'local' POS up to area of 1Ha; and within 800m walk of 'neighbourhood' POS of an area 1Ha to 5Ha (referring to Table 1, page 94).

Impact of permanent closure of PAW Lot 8000

Given PAW Lot 8000 was created to service Lot 12 (a residential care facility to the north of the PAW), the impact of *permanent* closure of the PAW would be on pedestrian access to and from Lot 12 to facilities and services south of the PAW.

Referring to Attachment F 'Walkability catchment area map', facilities and services that are within a walkability catchment area south of Lot 12 are:

- (a) public open space,
- (b) bus routes, and
- (c) the residential care facility itself.

Other facilities or services such as shopping centres or schools do not fall within the walkability catchment area of the PAW.

The PAW does not form part of any broader strategic pedestrian or bicycle network so these do not factor in considering closure of the PAW.

A. Impact of permanent closure of the PAW on public open space...

The following table shows the public open space that falls within the walkability catchment area of Lot 12 to the north of PAW Lot 8000, and the impact (extra walking distance) should the PAW be closed permanently.

Reserve No.	Type	Location	Walk distance through PAW (m)	Walk distance PAW closed (m)
48426	Small	Currawong Dr	190	605
30111	Neighbourhood	Barnard Rd	323	Same
44373	Small	Parrot Way	421	677
50223	Small	Finch St	492	727
3882	Local	Bussell Hwy	492	same
49388	Neighbourhood	Milkman Ave	542	684
45481	Local	Adjacent wetlands	654	988
22624	District	Alan St	809	same

Only one park, R48426, falls within the Liveable Neighbourhoods requirement that residents are within 300m walk distance of public open space. R48426 is a small park with playground facilities located south of PAW Lot 8000, and conveniently placed for access from the residential care facility north of the PAW. Residents need only cross Currawong Drive to access the park. Closing the PAW *permanently* increases the walk distance to R48426 from 190m to 605m. This extra distance would exceed the typical five minute (400m) walk, so people would be less inclined to walk to the park (conflicting with the objectives of Liveable Neighbourhoods).

Located north of the residential care facility however (so not affected by the PAW) is R30111 a larger 'neighbourhood' park. At a walk distance of 323m, R30111 is slightly more than Liveable Neighbourhoods' requirement (of 300m). It should be noted that the walking route to R30111 involves crossing Bussell Highway (which has a small median near to the residential care facility to assist pedestrians cross the highway).

B. Impact of permanent closure of the PAW on access to bus routes...

Closing PAW Lot 8000 permanently would have no impact on access to bus routes within the vicinity of the PAW. Two bus stops (numbered 70513 and 70514) on Broadwater Boulevard may be accessed from Lot 12 via the PAW. But there is shorter walk route via the north of Lot 12 to two other bus stops (numbered 70512 and 70626) also placed on Busselton Boulevard.

Other bus routes (within walkability catchment area of Lot 12) run along Bussell Highway so the PAW is not relevant to accessing those routes from Lot 12.

C. Impact of permanent closure of the PAW on access to Lot 12, the residential care facility...

The residential care facility on Lot 12 is a significant facility that could be accessed via PAW Lot 8000 (if the fence on the northern boundary was opened). People living south of the PAW might access the residential care facility to visit family and friends at the facility, to work at the facility, or to volunteer their time to assist with the care of residents (should this be allowed by the facility).

There are over 200 residential properties south of the PAW within a five minute (400m) walkability catchment area of Lot 12. Within a ten minute (800m) walkability catchment area, there are over 400 residential properties.

Although closing PAW Lot 8000 may not meet the walkability objectives of 'Liveable Neighbourhoods', notices of the proposed closure to owners and occupiers of property south of the PAW did not result in any objections to the proposal. This tends to indicate that there is no or limited need from the neighbourhood south of the PAW to access the residential care facility via the PAW.

Realising the benefits of PAW Lot 8000

The impacts of *permanently* closing PAW Lot 8000 described above are based on the PAW being useable. But the PAW has not been used for its intended purpose since it was created, due to the fence remaining along the northern boundary with Lot 12 (the residential care facility).

For there to be any benefit from the PAW, the fence along the northern boundary would need to be opened and a path constructed through the PAW. Following are a few constraints to that objective:

- To address security concerns for the residents, the northern boundary of the PAW should be fenced with a gated opening to the PAW. A solid fence however (like the present fence) would introduce an entrapment point at the gate which is to be avoided (according to planning guidelines). The fence would therefore need to allow clear visibility through the fence (without assisting climbing over it) which may then introduce privacy concerns for the residents of the residential care facility.
- The PAW is poorly placed relative to the buildings to the north. Referring to Attachment D, the space between the fence line and the buildings is narrow requiring an immediate left or right turn through the opening in the fence line. To better demonstrate this point, if the PAW was placed to the west of Lot 305 (rather than west of Lot 304), the PAW would lead directly to an open corridor between buildings within the residential care facility providing a clear view through to the PAW and Currawong Drive, and allow for a straight wide path from the PAW and into the residential care facility. This issue of poor PAW placement might be addressed by setting a new fence line further into the PAW, but that fence would exclude public access to a northern portion of the PAW, possibly requiring a lease, easement or similar arrangement over part of the PAW to the benefit of Lot 12.
- Baptistcare Inc. (owner of Lot 12 and managers of William Carey Court) would need to agree to a fence and gate design, and to the use of the PAW from the residential care facility. In a written submission to the City, Baptistcare Inc. support the closure of the PAW and advised they have not strategic intentions to use the PAW.
- Funding to design and construct a fence, secure gate, path and signage. Funding may also be required to install lighting (for added security during hours of darkness) and to improve the landscaping of the area.
- Commitment from the residents of the neighbourhood (including residents of the residential care facility) to actually use the PAW. This should be attained before constructing a path and opening the PAW. Otherwise, the PAW might be opened and not be used (particularly when considering the City do not receive any submissions that might indicate a need for the PAW).

Disposal of Lot 8000 on closure of the PAW

Should Lot 8000 be closed as a pedestrian access way, the whole of Lot 8000 should be amalgamated with either of adjoining Lots 303 or 304, or subdivided into parcels and then amalgamated with Lots 303 and 304.

City officers do not consider there is a need for Lot 8000 to be used for an alternative public works such as drainage or a community purpose. And no public utility has expressed an interest in Lot 8000 (in their submissions to the notice of the proposal to close the PAW).

No part of Lot 8000 should be disposed as a private freehold lot. Amalgamation of Lot 8000 with Lot 12 should be avoided as this may adversely affect the streetscape of Currawong Drive.

Proceeds from any sale of Lot 8000 would be directed to State Revenue, as the PAW is Crown land.

CONCLUSION

PAW Lot 8000 has not been used for its intended purpose since the PAW was created during 2005. The City has received a proposal from Altus Planning (on behalf of adjoining property owners) to close the PAW so that the land may be amalgamated with adjoining property. Consultation in relation to that proposal has not identified any community objections. Furthermore, the PAW is poorly positioned relative to the position of buildings immediately north of the PAW.

This report recommends that the Council supports the proposal to permanently close Lot 8000 on Deposited Plan 44210 as a pedestrian access way, and the land amalgamated with adjoining Lot 303 or 304 or both. The Council's endorsement of the PAW closure should be subject to the City not being liable for any costs associated with the closure and disposal of the PAW.

On the Council's endorsement of the PAW closure, the City may make a formal request for closure to the Department of Planning, Lands and Heritage (for the Minister for Lands) who will assess the request and deal with closure and disposal of the PAW.

OPTIONS

The Council might resolve that Lot 8000 on Deposited Plan 44210 remains open as a pedestrian access way for provision of a pedestrian and bicycle link for future development of Lot 12 to the north and the small park and the residential properties to the south.

This option is not recommended as it would commit the City to maintaining Lot 8000 indefinitely, as land that is likely to remain dormant for the foreseeable future.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

A letter to the Department of Planning, Lands and Heritage requesting the closure of PAW Lot 8000 may be forwarded to the Department within two weeks of the Council meeting minutes being published.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1901/012 Moved Councillor J McCallum, seconded Councillor P Carter

That the Council endorses, pursuant to the *Land Administration Act 1997*:

1. permanent closure of Lot 8000 on Deposited Plan 44210, Currawong Drive, Broadwater, as a pedestrian access way;
2. disposal of Lot 8000 on Deposited Plan 44210 by amalgamation with adjoining Lots 303 or 304 or both;
3. closure and disposal of Lot 8000 on Deposited Plan 44210 being subject to:
 - a) the City not being liable for any costs associated with closure of the pedestrian access way and the disposal of the land; and
 - b) the whole (and not part) of Lot 8000 on Deposited Plan 44210 is closed as a pedestrian access way and disposed.

Voting:







For the motion: Councillor G Henley, Councillor P Carter, Councillor L Miles, Councillor J McCallum, Councillor C Tarbotton , Councillor R Reekie and Councillor K Hick.

Against the motion: Councillor R Paine.

CARRIED 7/1

15. REPORTS OF COMMITTEE

12.3 Finance Committee - 17/01/2019 - APPLICATION FOR RATE EXEMPTION - ACCESS HOUSING AUSTRALIA LTD

SUBJECT INDEX:	Exemptions and Appeals (Rates)
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Rates
ACTIVITY UNIT:	Rates
REPORTING OFFICER:	Rates Coordinator - David Nicholson
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Rate Exemption Application - Owned Properties 
	Attachment B Rate Exemption Application - Leased Properties 
	Attachment C Rate Exemption Statutory Declaration - Owned Properties 
	Attachment D Rate Exemption Statutory Declaration - Leased Properties 
	Attachment E Rate Exemption Application Covering Letter 
	Attachment F Rate Exemption Supporting Documentation 

This item was considered by the Finance Committee at its meeting on 17 January 2019, the recommendations from which have been included in this report.

PRÉCIS

Applications have been received from Access Housing Australia Ltd (AHA) for rate exemptions on residential properties they own and lease from the WA Housing Authority (WAHA). On the basis of the applications and known rate exemption eligibility legal opinions, this report recommends that the request for exemptions be granted.

BACKGROUND

AHA is a not for profit Community Housing Organisation (CHO), a registered charity and public benevolent institution. It is one of WA's largest non-government social housing tenancy / property managers, with more than 1,800 properties across the Perth metropolitan area, Peel and South West regions under management. Its tenants include seniors, people living with a disability or mental health illness, families and singles.

As a not-for-profit organisation, AHA reinvests any profits made through its core business into servicing its property portfolio, developing and purchasing additional affordable homes and funding programs to support tenants to access education, training and employment options which assist with increasing financial resilience and break welfare dependency. This approach allows the organisation to facilitate pathways into and out of the social housing system for current and prospective tenants, while also providing a high quality, customer focused service.

The applications for rate exemptions are for residential properties that AHA own and lease from the WAHA as per the following schedule. These properties are leased from the WAHA, managed by the organisation and are rated via four assessments.

SCHEDULE OF WAHA LEASED PROPERTIES

Number	Street	Suburb	Program*	Control	Rent F/night
66	College Avenue	West Busselton	CDHP	Managed Lease	\$360.16
2/3	Elliott Street	Busselton	CDHP	Managed Lease	\$335.28
12	Melville Court	Busselton	CDHP	Managed Lease	\$515.56
*6A	Whitton Street	West Busselton	CDHP	Managed Lease	\$451.81
*6B	Whitton Street	West Busselton	CDHP	Managed Lease	\$334.28

* Rated as 2-6 Whitton Street, West Busselton

Community Disability Housing Program (CDHP) Details

- Disability independent living units
- Transitional housing and support program managed by the Drug and Alcohol Program
- Housing for people with mental health support needs through the Independent Living Program (ILP), Independent Supported Accommodation (ISA) or Mental Health Housing Strategy

SCHEDULE OF AHA OWNED PROPERTIES

Number	Street	Suburb	Program*	Control	Rent F/night
*1/85	Dorset Street	West Busselton	CH	Self	\$334.28
*2/85	Dorset Street	West Busselton	CH	Self	\$337.66
*3/85	Dorset Street	West Busselton	CH	Self	\$351.32
*4/85	Dorset Street	West Busselton	CH	Self	\$338.30
*5/85	Dorset Street	West Busselton	CH	Self	\$330.08
*6/85	Dorset Street	West Busselton	CH	Self	\$334.60
*7/85	Dorset Street	West Busselton	CH	Self	\$335.76
*8/85	Dorset Street	West Busselton	CH	Self	\$361.83
*9/85	Dorset Street	West Busselton	CH	Self	\$351.33
*10/85	Dorset Street	West Busselton	CH	Self	\$334.28
*11/85	Dorset Street	West Busselton	CH	Self	\$334.28
*12/85	Dorset Street	West Busselton	CH	Self	\$330.08
2/76	Kent Street	Busselton	CH	Self	\$334.28
3/76	Kent Street	Busselton	CH	Self	\$399.04

* Rated as 85 Dorset Street, West Busselton

Community Housing Program (CH) Details

- Subsidised rental housing for Eligible Person on very low, to low, to moderate income

AHA lease these properties to tenants deemed eligible by the WAHA and sourced from their Joint Wait List. Lease payments are calculated based on 25% to 30% of the primary tenant's eligible assessable income to a maximum of 74.9% of market rental values.

Documentation provided as part of the applications includes:

- Applications for Rate Exemptions Including Property Use Statutory Declarations.
- Rate Exemption Application Covering Letter
- Supporting Document - Organisation Certificate of Registration and Constitution, Australian Tax Office Notice of Endorsement for Charity Tax Concessions and Financial Report Year Ending 30 June 2017 and 30 June 2016

Due to privacy issues copies of the lease agreements between AHA and tenants were not able to be provided. The rental amount derived is included within the schedule of properties table above.

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

Rates levied on the properties totalled \$25,251 for the 2018/19 financial year. Applications for rate exemptions were lodged in July 2018. As such, rate exemptions if granted should be effective 1st July 2018, resulting in a \$25,251 reduction to the 2018/2019 rating income and similar amounts for each of the following financial periods.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There will be no significant implication to the City’s long term financial plan as the rate exemption amounts are not considered large when compared to the overall annual and interim rating income.

While a broader local government issue, there is a concern 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 recent 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 applications for rate exemption then staffing and/or legal costs may be incurred if the applicant refers the matter to the State Administrative Tribunal for 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 AHA 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 leased properties are being used by AHA for their Community Disability Housing Program (CDHP) and so they are considered to meet the "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 due to the properties, while leased from WAHA, being used for providing accommodation for people with disabilities, drug and alcohol issues and mental illness.

There has been no physical inspection of the properties due to their residential purpose and that the tenant would need to be interviewed to determine if they meet the CDHP program. Also it is known that other Councils have obtained legal opinions concluding that services provided by AHA and other CHO's are considered to be a charitable in nature and therefore eligible for rate exemptions. An in house survey of other Councils within WA reveal that the majority are permitting a rate exemption to AHA.

In terms of the current usage of the properties there are no known planning, health or building compliance issues.

If rate exemptions are approved then the applicant will be instructed to confirm by the 30th April annually that the properties continues to be used for the purposes stated in the applications. 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 applications and associated documentation provided by AHA, legal opinions obtained by other Councils, that the properties listed in the "Schedules" are eligible for rate exemption due to their use being exclusive for charitable purposes.

OPTIONS

Council may decline the rate exemption applications on the basis that it considers that the properties leased and/or owned by Access Housing Australia Ltd are not providing a charitable service to the community or that the properties are not being used exclusive use of the property.

Should the applications be declined for either of the above reasons then AHA 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 exemptions if approved would be the 1st July 2018 due to the applications being lodged in July 2018, prior to the issuance of the 2018/2019 annual rate notice.

OFFICER RECOMMENDATION

That the Council:

1. approve Access Housing Australia Ltd rate exemption applications under section 6.26 (2)(g) of the *Local Government Act 1995*, "land used exclusively for charitable purposes", for properties at:
 - a) 66 College Avenue West Busselton;
 - b) 2/3 Elliot Street Busselton;
 - c) 12 Melville Court Busselton;
 - d) 2-6 Whitton Street West Busselton;
 - e) 85 Dorset Street West Busselton;
 - f) 2/176 Kent Street Busselton; and
 - g) 3/176 Kent Street Busselton.

effective from the 1st July 2018.

1. Agree that this rate exemption is to continue whilst Access Housing Australia Ltd continues to lease and/or own these properties and confirms in writing by the 30th April annually of lease continuation and that the properties continue to be used for the purposes stated in the applications.

COMMITTEE RECOMMENDATION

That the Council:

1. approve Access Housing Australia Ltd rate exemption applications under section 6.26 (2)(g) of the *Local Government Act 1995*, "land used exclusively for charitable purposes", for properties at:
 - a) 66 College Avenue West Busselton;
 - b) 2/3 Elliot Street Busselton;
 - c) 12 Melville Court Busselton;
 - d) 2-6 Whitton Street West Busselton;
 - e) 85 Dorset Street West Busselton;
 - f) 2/176 Kent Street Busselton; and
 - g) 3/176 Kent Street Busselton.

effective from the 1st July 2018.

2. agree that this rate exemption is to continue whilst Access Housing Australia Ltd continues to lease and/or own these properties and confirms in writing by the 30th April annually of lease continuation and that the properties continue to be used for the purposes stated in the applications.
3. agree to write to the Premier and the Ministers for Housing, Local Government and the Western Australian Local Government Association, outlining its concern regarding the alternate approach being undertaken by the State Government to lease their properties to organisations such as Access Housing is having a detrimental impact to the local government's rate base and ability to provide services to the community.

LAPSED FOR WANT OF A MOVER

COUNCIL DECISION AND AMENDED OFFICER RECOMMENDATION**C1901/013**

Moved Councillor C Tarbotton , seconded Councillor R Paine

That the Council:

1. approve Access Housing Australia Ltd rate exemption applications under section 6.26 (2)(g) of the *Local Government Act 1995*, "land used exclusively for charitable purposes", for properties at:
 - a) 66 College Avenue West Busselton;
 - b) 2/3 Elliot Street Busselton;
 - c) 12 Melville Court Busselton;
 - d) 2-6 Whitton Street West Busselton;
 - e) 85 Dorset Street West Busselton;
 - f) 2/176 Kent Street Busselton; and
 - g) 3/176 Kent Street Busselton.

effective from the 1st July 2018.

4. agree that this rate exemption is to continue whilst Access Housing Australia Ltd continues to lease and/or own these properties and confirms in writing by the 30th April annually of lease continuation and that the properties continue to be used for the purposes stated in the applications.
3. agree to write to the Premier, Minister for Housing, Minister for Local Government and the Western Australian Local Government Association, outlining its concern regarding the more recent approach being undertaken by the State Government to lease their properties to Community Housing Organisations such as Access Housing, as it is having a detrimental impact to the local government's rate base and ability to provide services to the community.
4. request that the State Government establish a requirement in all new and renewed lease agreements, when state government housing portfolios are being disposed of to Community Housing Organisations, that the Community Housing Organisation be made responsible for the payment of local government rates to the relevant Councils.

CARRIED 8/0

16. FINANCE AND CORPORATE SERVICES REPORT

16.2 PROPOSED DEVELOPMENT OF A FAMILY RESTAURANT/MICROBREWERY/FUNCTION

SUBJECT INDEX:	Microbrewery
STRATEGIC OBJECTIVE:	An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Legal Services Coordinator - Cobus Botha
AUTHORISING OFFICER:	Director, Community and Commercial Services - Naomi Searle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

PRÉCIS

This report seeks Council's consideration to extend the deadline of 31 January 2019 for Geographe Bay Brewing Company Pty Ltd (**Proponent**) to satisfy or waive the outstanding conditions under an Agreement to Sublease (**Development Agreement**) entered into between the City and the Proponent in relation to the proposed development of a family restaurant/microbrewery/function centre on the Busselton foreshore (**Proposed Development**).

BACKGROUND

The Development Agreement provides, among other things, for the Proponent to obtain a loan from a reputable financial institution to undertake the Proposed Development. At a number of occasions in the past the Proponent has requested (and the City has granted) extension of time to satisfy this condition. On 14 November 2018 Council resolved as follows:

That the Council resolves to:

1. *Set 31 January 2019 as the deadline for the Geographe Brewing Company Pty Ltd (Proponent) to satisfy (or waive) all Conditions Precedent under the Agreement to Sublease between the City and the Proponent and to formally enter unconditionally into the sublease with the City.*
2. *Should the Proponent meet the deadline in resolution (1), negotiate and agree with the Proponent an extended date for commencement of the sublease and other corresponding milestones in the sublease.*
3. *Should the Proponent fail to meet the deadline in resolution (1):*
 - a) *The Proponent's 'preferred proponent' status for this project be discontinued by the City;*
 - b) *The City commences an expression of interest process seeking commercial interest for a family restaurant/microbrewery development on a portion of Lot 561 on the Busselton foreshore (in accordance with the Busselton Foreshore Master Plan); and*
 - c) *The Proponent not be disqualified from participating in or submitting an expression of interest under the process mentioned in resolution 3 (b).*
4. *Authorise the Chief Executive Officer to take such action as is required or appropriate for implementing resolutions (1), (2) and/or (3), including but not limited to:*
 - a) *Varying or discharging the Agreement to Sublease in accordance with resolutions (1) and (2);*

- b) *Commencing the expression of interest process in accordance with resolution 3(b); and*
- c) *Signing on behalf of the City such documents as necessary for the purposes of resolution (4).*

On 22 January 2019 the Proponent advised the City that they:

- Are committed to progress in good faith completion of construction of the Proposed Development as soon as it's practically achievable;
- Have reached in principle agreement with a local family group/developer (**Prospective Equity Partner**) who are interested in becoming an equity partner in and co-fund the Proposed Development; and
- Request an extension of time of above-mentioned 31 January 2019 deadline to formalise their agreement with the Prospective Equity Partner.

Representatives of the Prospective Equity Partner have since met with City officers and:

- Advised of their interest in becoming an equity partner in and co-fund the Proposed Development;
- Indicated that, subject to them being able to formalise their arrangement with the Proponent within the next few months, the Proposed Development could be completed by spring of 2020; and
- Requested an extension of above-mentioned 31 January 2019 deadline by 60 days.

This report seeks Council's consideration to extend the deadline of 31 January 2019 as proposed by the Proponent and the Prospective Equity Partner.

STATUTORY ENVIRONMENT

Section 3.58 of the *Local Government Act 1995 (Act)* requires that before agreeing to dispose of property, the local government is required to give local public notice of the proposed disposition and invite and consider submissions received prior to proceeding with the proposed disposal. The City duly complied with Section 3.58 of the Act.

The Proponent and the Prospective Equity Partner indicated that:

- The parties do not intend to change the legal structure of the Proponent (that is Geographe Bay Brewing Company Pty Ltd will continue to be the contracting party and sublessee); and
- The Prospective Equity Partner does not intend to acquire more than a 50% beneficial interest in the Proposed Development.

The Development Agreement does allow the Proponent to dispose of up to 50 % of its shares without the City's consent. Therefore the proposed engagement of the Prospective Equity Partner by the Proponent is considered to be consistent with the Development Agreement.

In terms of Section 9.49B of the Act a person acting under the authority of a local government may make, vary or discharge a contract in the name of or on behalf of the local government in the same manner as if that contract was made, varied or discharged by a natural person. In terms of the 14 November 2018 Council resolution Council authorised the Chief Executive Officer to undertake certain contract formalities in relation to the extended deadline on behalf of the City and, as part of the Officer Recommendation in this report, it is recommended that Council extend this authorisation.

RELEVANT PLANS AND POLICIES

All actions to date have been consistent with the contents of the Busselton Foreshore Master Plan where activation of the Busselton foreshore is identified as a key priority.

FINANCIAL IMPLICATIONS

There are no immediate direct financial implications arising as a result of the Officer Recommendation of this report.

The City entered into a head lease with the State of Western Australia in respect to the land where the Proposed Development will be located (**Lease Area**). The rent under the head lease is nominal (\$1,000 + GST per year). The head lease is considered an asset to the City as it secures tenancy of the Lease Area in a prominent location.

The head lease allows the City to grant a sublease of the Lease Area to the Proponent. Lease revenue from the sublease will, when received, be directed to the Jetty Maintenance Reserve in accordance with the terms of the head lease. This will result in a reduced reliance on municipal revenue to fund the City's commitment to jetty maintenance.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

The Long Term Financial Plan will recognise an appropriate income stream from the Lease Area when the sublease has been entered into.

STRATEGIC COMMUNITY OBJECTIVES

The Proposed Development and the Officer Recommendation in this report aligns with:

- Key Goal Area 2 of the City's Corporate Business Plan 2018- 2022 – Places & Spaces (and specifically community objective 2.2: Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities).
- Key Goal Area 6 of the City's Corporate Business Plan 2018- 2022 – Leadership (and specifically community objective 6.4 – Assets are well maintained and responsibly managed); and
- Council's strategy – 'Continue to develop the foreshore reserves as family friendly places'.

RISK ASSESSMENT

Should Council adopt the Officer Recommendation, there are no residual risks rated as medium or high in relation to the Proponent or the Proposed Development.

CONSULTATION

Extensive community consultation occurred when Council developed the Busselton Foreshore Master Plan. Public submissions were invited and considered by Council prior to resolving on 23 July 2014 to proceed with the Proposed Development.

The City has on an ongoing basis liaised with representatives from Department of Planning, Lands and Heritage with regard to excision of the Lease Area from the existing foreshore reserve and the subsequent head lease and sub leasing arrangements.

OFFICER COMMENT

Since the 14 November 2018 Council resolution (establishing the 31 January 2019 deadline) the Proponent obtained revised planning approval for the redesigned building. That left funding for the Proposed Development and obtaining a building permit by the Proponent as the only two outstanding conditions under the Development Agreement. Obtaining a building permit is not considered to be a material issue as the Proponent indicated they may be prepared accept the risk in relation to obtaining a building permit and as such agree to waive this as a condition precedent.

Both the Proponent and the Prospective Equity Partner indicated that significant up-front capital required for delivering the Proposed Project is a major issue. This, together with other considerations as outlined in the 14 November 2018 Council report, is having an adverse impact on the Proponent's ability to obtain finance for the Proposed Development. Future proponents are likely to experience similar difficulties should the Development Agreement be terminated and the City proceed with a new expression of interest process.

City officers are satisfied that the Prospective Equity Partner's interest is bona fide and sincere. The Prospective Equity Partner also indicated that, subject to final agreement being reached with the Proponent, they are willing and able to meet the Proponent's funding requirements for the Proposed Development.

The Prospective Equity Partner indicated that they require a period of 60 days (that is until 31 March 2019) to allow them to undertake their due diligence and reach final agreement with the Proponent as to their involvement in the Proposed Development. Final agreement between the Proponent and the Prospective Equity Partner will allow the Proponent to:

- Satisfy or waive the outstanding conditions under the Development Agreement;
- Enter unconditionally into the proposed sublease;
- Proceed without further delay with construction of the buildings; and
- Be in a position to open their doors for business by the spring of 2020.

Given the circumstances City officers consider reasonable extension of the 31 January 2019 to be in the City's best interest. Significant time and resources have been expended by the City in negotiating and approving the current building design, securing tenancy of Crown land for the Lease Area and negotiating and finalising the terms and conditions of the sublease (between the City and the Proponent). Should the Development Agreement be terminated and a new expression of interest process be commenced, all of the above will have to be renegotiated with a new proponent which could delay delivery of the Proposed Development by 12 – 18 months (that is until 2021/22).

Although the request is for 60 days extension of the 31 January 2019 deadline, at officer level the view is that an extension until 28 February 2019:

- Should provide the Proponent and the Prospective Equity Partner with adequate time to finalise their negotiations; and
- Given the history of this project, is fair and reasonable.

Therefore the Officer Recommendation recommends extension of the 31 January 2019 deadline until 28 February 2019 and termination of the Development Agreement should all outstanding conditions not be satisfied by that date. The Officer Recommendation will also allow the City to proceed with a new expression of interest process without further delay should the Development Agreement terminate on 28 February 2019 (or such other date as determined by Council).

CONCLUSION

By allowing the requested extension of time Council may, in the short term, risk delaying a new expression of interest process by a month or two (that is if the Proponent fails to satisfy all outstanding conditions by 28 February 2019 or such other date as determined by Council). However, should the Proponent succeed, such an extension could result in the Proposed Development being completed by the spring of 2020, estimated to be 12 – 18 months earlier as the case would be under a new expression of interest process.

OPTIONS

The Council has the following options as alternative to the OFFICER RECOMMENDATION:

Option 1

Resolve to extend the 31 January 2019 deadline (as determined under the 14 November 2019 Council resolution) by more or less than the 28 February 2019 deadline recommended at officer level; or

Option 2

Resolve for the status quo to remain, which means that, should the Proponent fail to meet the 31 January 2019 deadline, the Development Agreement will be terminated and a new expression interest process will commence.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If the Officer Recommendation is adopted:

- The City and the Proponent will need to enter into an amended Development Agreement by no later than 31 January 2019 to formalise the extended deadline; and
- Depending on whether the Proponent satisfies or waives all outstanding conditions by the extended deadline, the City will either finalise and enter into the sublease with the Proponent or terminate the Development Agreement and commence a new expression of interest process during or about April 2019.

OFFICER RECOMMENDATION

That the Council resolves:

1. To extend to 28 February 2019 the 31 January 2019 deadline, set under Council resolution C1811/231, as the deadline for the Geographe Brewing Company Pty Ltd (Proponent) to satisfy (or waive) all Conditions Precedent under the Agreement to Sublease between the City and the Proponent.
2. That resolutions (2) – (4) under the 14 November 2019 Council resolution (C1811/231) apply mutatis mutandis (that is with the necessary changes as required by the context) to resolution (1) above.

Cr Carter moved an amended motion.

As seconder of the amended motion Cr Hick subsequently foreshadowed an amendment to Cr Carters Amended motion to include “no later than”. Cr Carter accepted the amendment.

COUNCIL DECISION AND AMENDED MOTION

C1901/014 Moved Councillor P Carter, seconded Councillor K Hick

That the Council resolves:

1. To extend to, no later than, 1 April 2019 the 31 January 2019 deadline, set under Council resolution C1811/231, as the deadline for the Geographe Brewing Company Pty Ltd (Proponent) to satisfy (or waive) all Conditions Precedent under the Agreement to Sublease between the City and the Proponent.
2. That resolutions (2) – (4) under the 14 November 2018 Council resolution (C1811/231) apply mutatis mutandis (that is with the necessary changes as required by the context) to resolution (1) above.

Voting:

For the motion: Councillor G Henley, Councillor P Carter, Councillor R Paine, Councillor L Miles, Councillor R Reekie and Councillor K Hick.

Against the motion: Councillor J McCallum and Councillor C Tarbotton .

CARRIED 6/2

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. URGENT BUSINESS

Nil

20. CONFIDENTIAL REPORTS

The reports listed below are of a confidential nature, in accordance with section 5.23(2) of the *Local Government Act 1995*. These reports have been provided to Councillors, the Chief Executive Officer and Directors only.

20.1 RFT 16-18 OLD BUTTER FACTORY REPAIR WORKS

SUBJECT INDEX:	RFT 16-18 OLD BUTTER FACTORY REPAIR WORKS
STRATEGIC OBJECTIVE:	Assets are well maintained and responsibly managed.
BUSINESS UNIT:	Major Projects and Facilities
ACTIVITY UNIT:	Major Projects and Facilities
REPORTING OFFICER:	Administration Officer - Carley O'Neil
AUTHORISING OFFICER:	Manager Major Projects and Facilities - Meg Delahoy
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Confidential RFT16-18 - Evaluation and Recommendation Report
	Attachment B Confidential RFT16-18 Appendix A – Tender Evaluation – Panel Consensus
	Attachment C Confidential RFT16-18 Appendix B – Tender Evaluation – Evaluation Sheet

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

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1901/015 Moved Councillor P Carter, seconded Councillor K Hick

That the Council:

1. Endorse the outcomes of the evaluation panel's assessment in relation to Tender RFT16/18 Old Butter Factory Repair Works, which has resulted in the tender submitted by Clinton Long Project Management Pty Ltd being recommended as the most advantageous to the City.
2. Delegate authority to the CEO to negotiate and agree final terms and conditions with and to award a contract for a finalised contract price to Clinton Long Project Management Pty Ltd for the Old Butter Factory Repair Works in accordance with the terms and conditions contained within RFT16/18.
3. For purposes of:
 - a) finalising negotiations and awarding a contract pursuant to resolution 2 above; and
 - b) execution of the contract and successful delivery of the works

delegate authority to the CEO to negotiate and agree on variations in accordance with Regulations 20 and 21A of the *Local Government (Functions and General) Regulations 1996* subject to such variations not to exceed the overall works budget.

4. Endorse the total budget allocation of \$891,240.00 (ex GST) for all works associated with the fire damage (that will be reimbursed by LGISWA) and including the recommended Maintenance Works not associated with the fire damage (that will not be reimbursed by LGISWA).

5. adopt an amendment to the 2018/19 annual budget to facilitate the Old Butter Factory repairs as follows:

<i>Cost Code</i>	<i>Description</i>	<i>Current Budget</i>	<i>Change</i>	<i>Proposed Amended Budget</i>
Income				
522-B1401-1509-4029	Insurance Reimbursement	0	-866,240	-866,240
Equity Transfer				
Reserve	Transfer from Building Asset Renewal Reserve	1442570	-25000	1417570
Expenditure				
522-B1401-3280-4029	Building Facilities Maintenance – Old Butter Factory Buildings – Fire Damage Repairs		891,240	891,240
Net Total		1,419,729	0	1,419,729

CARRIED 8/0

21. CLOSURE

The Presiding Member closed the meeting at 6.01pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 74 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 13 FEBRUARY 2019.

DATE: _____ PRESIDING MEMBER: _____