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## CITY OF BUSSELTON

### MINUTES FOR THE COUNCIL MEETING HELD ON 10 MAY 2017

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## MINUTES

MINUTES OF A MEETING OF THE A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 10 MAY 2017 AT 5.30PM.

### 1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 5.30pm.

### 2. ATTENDANCE

#### Presiding Member:

Cr Grant Henley Mayor

#### Members:

Cr Coralie Tarbotton Deputy Mayor  
Cr Ross Paine  
Cr Terry Best  
Cr John McCallum  
Cr Rob Bennett  
Cr Paul Carter  
Cr Robert Reekie  
Cr Gordon Bleechmore

#### 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 Cliff Frewing, Director, Finance and Corporate Services  
Miss Kate Dudley, Administration Officer, Governance

#### Apologies

Nil

#### Approved Leave of Absence

Nil

#### Media:

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

#### Public:

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### 3. PRAYER

The prayer was delivered by Pastor Nathan Seinemeier of Hope Church.

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

Nil

**Public Question Time**

Nil

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

Nil

**Announcements by other Members at the invitation of the Presiding Member**

Nil

**6. APPLICATION FOR LEAVE OF ABSENCE**

Nil

**7. PETITIONS AND PRESENTATIONS**

Nil

**8. DISCLOSURE OF INTERESTS**

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

- Cr Paul Carter in relation to agenda Item 12.1 - Kerbside Recycling Contract.

The Mayor advised that in accordance with the Local Government (Rules of Conduct) Regulations 2007 this declaration would be read out immediately before Item 12.1 was discussed.

**9. CONFIRMATION AND RECEIPT OF MINUTES****Previous Council Meetings****9.1 Minutes of the Council Meeting held 26 April 2017****Council Decision****C1705/093**

Moved Councillor T Best, seconded Councillor J McCallum

That the Minutes of the Council Meeting held 26 April 2017 be confirmed as a true and correct record.

**CARRIED 9/0**

**Committee Meetings**9.2 Minutes of the Policy and Legislation Committee held 20 April 2017**Council Decision****C1705/094**

Moved Councillor C Tarbotton, seconded Councillor R Reekie

That the minutes of the Policy and Legislation Committee Meeting held 20 April 2017 be received.

**CARRIED 9/0****ITEMS BROUGHT FORWARD AND 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.

**Council Decision / Committee Recommendation and Officer Recommendation****C1705/095**

Moved Councillor G Bleechmore, seconded Councillor P Carter

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

- 10.1 Policy and Legislation Committee - 20/04/2017 - REVIEW OF LOCAL PLANNING POLICY 9A BUSSELTON HERITAGE CONSERVATION PROVISIONS
- 10.2 Policy and Legislation Committee - 20/04/2017 - CONSOLIDATED PARKING SCHEME AMENDMENT - ALBERT STREET BUS BAYS
- 10.3 Policy and Legislation Committee - 20/04/2017 - REVIEW OF C246 - SHELTERS AND STRUCTURES ON BEACHES
- 10.4 Policy and Legislation Committee - 20/04/2017 - CONSOLIDATED PARKING SCHEME AMENDMENT - YALLINGUP TOWNSITE
- 10.5 Policy and Legislation Committee - 20/04/2017 - REVIEW OF POLICY 003 COMMUNITY RECOGNITION - HONOURS, EVENTS AND WELL WISHES
- 10.6 Policy and Legislation Committee - 20/04/2017 - REVIEW POLICY 005 MEETINGS, INFORMATION SESSIONS AND DECISION-MAKING PROCESSES
- 10.7 Policy and Legislation Committee - 20/04/2017 - MINOR UPDATING OF COUNCIL POLICIES FOLLOWING FURTHER REVIEW PROCESS
- 10.9 Policy and Legislation Committee - 20/04/2017 - REVIEW OF POLICY 098 COUNCILLORS' INDUCTION, TRAINING AND PROFESSIONAL DEVELOPMENT
- 10.10 Policy and Legislation Committee - 20/04/2017 - WITHDRAWN COUNCIL POLICIES FOLLOWING FURTHER REVIEW PROCESS
- 11.1 PROPOSED FORMATION OF 'WESTERN RINGTAIL POSSUM WORKING GROUP'
- 15.1 COUNCILLORS' INFORMATION BULLETIN

**CARRIED 9/0****EN BLOC**

## 10. REPORTS OF COMMITTEE

### 10.1 Policy and Legislation Committee - 20/04/2017 - REVIEW OF LOCAL PLANNING POLICY 9A BUSSELTON HERITAGE CONSERVATION PROVISIONS

<b>SUBJECT INDEX:</b>	Busselton Heritage Conservation Provisions
<b>STRATEGIC OBJECTIVE:</b>	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
<b>BUSINESS UNIT:</b>	Development Services and Policy
<b>ACTIVITY UNIT:</b>	Planning Services
<b>REPORTING OFFICER:</b>	Planning Officer - Stephanie Izzard
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Local Planning Policy 9a - Busselton Heritage Conservation Provisions - amended⇒ Attachment B Summary of Local Governments with Heritage Incentives⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 20 April 2017, the recommendations from which have been included in this report.**

#### PRÉCIS

The City of Busselton Local Planning Policy 9A Busselton Heritage Conservation Provision (LPP9A) was endorsed by the Council at its meeting held on 10 March 2010 and replaced the former Heritage Conservation Policy. While LPP9A is a local planning policy it deals with both matters that are properly local planning policy content (i.e. guiding the exercise of discretion under the town planning scheme), as well as matters that should be dealt with in a Council policy, such as rate concessions for owners of heritage policies.

This report does not provide for a holistic review of the Policy, instead it proposes to remove the rate concessions currently provided for within LPP9A, essentially on the basis that they are not particularly well articulated or understood, and that such policies are, in any case, not considered to be very effective means of encouraging the preservation and conservation of heritage places. It is envisaged that a more comprehensive review of the policy will be undertaken separately, at a later date.

#### BACKGROUND

The former Heritage Conservation Policy, adopted 12 April 2000, was repealed and replaced with the current LPP9A by the Council on 10 March 2010. The Policy provides guidance on the contents of the City's Municipal Heritage Inventory (MHI) and Heritage List, and sets out how development controls applicable to heritage places will be applied. In the main, that guidance is considered to continue to be relevant and useful, especially now that the City's MHI and Heritage List have been substantially reviewed to align the categorisations of heritage places with the approach to development assessment set out in the policy.

LPP9A, reflecting the town planning scheme, outlines incentives for owners of heritage properties and states that discretion to the following areas of development control will be considered when assessing a development application on a heritage property;

- relaxation or modification of parking;
- plot ratio;
- residential density;
- land use permissibility; and/or
- permitting an additional dwelling in rural areas where the existing dwelling is heritage listed.

It should be noted that incentives of these kinds have been effective in recent years in facilitating the preservation, redevelopment and adaptive re-use of two significant heritage buildings/sites in the Busselton City Centre, namely the 'Bovell Building' on the corner of Queen and Duchess Streets, and 'the 'Yoonderup House' site, on Kent Street.

The above incentives are considered appropriate within a local planning policy, as they deal with discretions which may be awarded under the Scheme. However, the Policy also states that in certain circumstances a rate concession will be awarded for conservation works. These types of concessions are not considered appropriate within a local planning policy and should be located within a Council policy as they do not deal with 'planning' content, rather, they relate to the City's functions under the local government legislation.

In relation to rate concessions, the Policy states:

"The City may in certain circumstances allow a reduction of rates in return for conservation works to a heritage place. This will apply in the year the work is carried out or a subsequent year and for the following four years (total of 5 years) at the discretion of the City."

Whilst it is clear, given the context, that such rates concessions would only apply where approved works necessary for the preservation of the place were being undertaken, that is not made explicit, and nor is there much additional guidance around the matter. In particular, it is not clear whether State listed places, which are eligible for grant funding contributions from the Heritage Council of WA, are eligible as well, or whether the concessions relate only to locally listed places. In terms of 'bang for the buck', it is also considered that a grant funding programme would be more effective than a rates concession approach. In addition, for many heritage places, especially residential places, the value of a concession relative to the costs associated with building maintenance, even relatively normal building maintenance costs for non-heritage listed housing, is not especially high, and nor is the value of a rates concession especially high relative to the costs of applying for, assessing and administering such concessions.

A copy of the existing policy, with track changes illustrating the proposed amendments, is included as Attachment A.

## **STATUTORY ENVIRONMENT**

As the provision regarding rate concession is considered to be a council policy matter and not a local planning policy matter the statutory requirements for the preparation of the policy is as per Section 2.7(2)(b) of the Local Government Act 1995 which permits the Council in its role to determine the Local Government's policies. Consultation on the amendment is not considered necessary.

## **RELEVANT PLANS AND POLICIES**

### *Heritage of Western Australia Act 1990*

The *Heritage of Western Australia Act 1990* outlines the Heritage Council's functions and responsibilities. It also provides for a range of regulatory orders that the Heritage Minister may issue to provide special protection for a place. The *Heritage of Western Australia Act 1990* also includes provisions for conservation incentives to be provided for by the Heritage Council of Western Australia. The types of incentives include financial assistance or incentives towards conservation, including recommendation for the remission of rates and taxes. *Clause 36 - Remission of certain taxes and rates for places subject to Heritage Agreements etc. of Part 4 - Heritage Agreements and conservation incentives* provides for the Minister to remit whole or any part of the relevant rates or charges in lieu of rates as follows:

- (1) *Where it appears to the Council in relation to any place that is entered in the Register or is the subject of, or is the subject of negotiations for, a Heritage Agreement —*
- (a) *(i) that the use or continued use of that place is not economically feasible; and*  
*(ii) its conservation is thereby endangered; or*
- (b) *in special cases where in the opinion of the Council the conservation of the place will be secured, the Council may make a report to the Minister recommending that one or more of the powers conferred by subsection (2) be exercised.*

## **FINANCIAL IMPLICATIONS**

The Council at its meeting held 31 October 2007 previously awarded rates concession to the owners of Membenup Homestead, located at 50 Membenup Road, Wonnerup. This concession was awarded under the former Heritage Conservation Policy and a concession of 50% was awarded from 2007/2008 for a maximum period of 5 years. A one year extension was granted to this concession and resulting in a total concession of \$4,499. This concession was awarded following conservation works, including re-roofing, being undertaken on the property.

No other rate concessions have been awarded for heritage properties.

## **STRATEGIC COMMUNITY OBJECTIVES**

The recommendation in this report reflects Community Objective 2.2 of the City's Strategic Community Plan 2013 – 'A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections'.

## **RISK ASSESSMENT**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework, and no risks were identified where the residual risk, once controls are considered, is medium or greater.

## **CONSULTATION**

As the provision regarding rate concession is considered to be a Council policy matter and not a local planning policy matter, the statutory requirements for the preparation of the policy is as per Section 2.7(2)(b) of the *Local Government Act 1995* and therefore consultation in accordance with clause 4 of Part 2 of Schedule 2 - Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* is not a statutory requirement and is not considered necessary in this instance.

## **OFFICER COMMENT**

There are a number of other Councils within Western Australia that offer incentives for conservation works undertaken on heritage properties. An outline of nine local governments within Western Australia that offer a rate concession and/or an alternative grant/programme is provided at Attachment B. Two of the three Councils which do offer a rate concession, the City of Swan and City of Stirling, allocate a maximum rate concession amount of 50% and require the concession to be applied for on an annual basis. The City of Bunbury offers a rate concession for eligible places of 30% per annum on the rates payable on the subject property for a period of five years to a maximum of \$1,000 per year to a maximum total concession of \$5,000. The value of the concession cannot exceed 50% of the total cost of eligible works.

The current wording of LPP9A in relation to property rates concession is considered to be ambiguous as it does not specify the maximum rate concession to be awarded to heritage properties, nor does it not provide any guidance as to the type of works required to be undertaken to qualify for



concessions. It is considered there is insufficient guidance within the Policy currently to ensure that the rate concessions are applied in a fair and equitable manner. As the applicable concessions are subject to the landowner undertaking works, which is out of the City's control, the City is unable to budget for these concessions until such time that the owner has applied for them.

Further to the above, as the amount of concession awarded depends on the amount of rates paid, and not the heritage value of the property or the value of the works which have been undertaken to upgrade the property, it is considered that the current provisions of LPP9A do not result in the best conservation outcome for heritage properties. There are, however, a number of grants available for State Registered heritage places for urgent conservation works and/or developing conservation management plans and strategies through the State Heritage Officer. Grants of up to \$100,000 are available.

The more popular incentive amongst other local governments for heritage properties is a grant style programme whereby applicants are able to apply for a grant for eligible properties as part of an annual or bi-annual expression of interest process. In most instances 50% of the total cost of eligible works up to a maximum amount can be awarded. Eligible work is generally considered to be urgent conservation works, and/or conservation works that enhance the heritage significance of a place.

These programmes are structured similarly to the City's current Busselton and Dunsborough Centres Facade Refurbishment Subsidy Programme, which the City allocates \$50,000 per year towards. The City provides successful applicants a grant of up to 50% of the agreed scope of works cost up to a maximum grant of \$5,000.00 for preliminary designs, and up to \$20,000 in a grant for eligible works. This style of Programme is considered to be more equitable in its allocation of funds and is also easier for the City to budget for as a set amount of funds is allocated to the programme each year. Officers consider that, should the Council wish to contribute, in a financial sense, towards the preservation of privately owned heritage places, such an approach would be more effective than a rates concession approach. Officers are not, however, recommending the Council establish such a programme at the present time. Rather, officers envisage a more comprehensive review of the policy will occur in the future, and that issue would be best considered at that time.

## **CONCLUSION**

It is recommended that LPP9A be amended and the following wording, which allows a rate concession, be deleted:

“The City may in certain circumstances allow a reduction of rates in return for conservation works to a heritage place. This will apply in the year the work is carried out or a subsequent year and for the following four years (total of 5 years) at the discretion of the City.”

## **OPTIONS**

The Council may choose to:

1. Modify the proposed amendment to LPP9A and adopt as amended;
2. Not proceed with the proposed amendment to LPP9A.

In addition, the Council may choose to:

1. Initiate the development of an alternative subsidy style programme for eligible works on heritage properties now, rather than considering the issue in future, when a more comprehensive review of the policy takes place.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

If endorsed for the purposes of advertising notice will be arranged within one month of the Council making a resolution consistent with the recommendation.

**Council Decision and Committee Recommendation**

**C1705/096** Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council, resolves to –

1. Amend Local Planning Policy 9A - "Busselton Heritage Conservation Provision", to delete references to rate rebates or concessions, as set out in Attachment A to the agenda report; and
2. Require the presentation to Council of draft guidelines for a 'heritage grants programme' within 12 months.

**CARRIED 9/0**

**EN BLOC**

10.2 Policy and Legislation Committee - 20/04/2017 - CONSOLIDATED PARKING SCHEME  
AMENDMENT - ALBERT STREET BUS BAYS

<b>SUBJECT INDEX:</b>	Minor Parking Scheme Amendments
<b>STRATEGIC OBJECTIVE:</b>	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
<b>BUSINESS UNIT:</b>	Environmental Services
<b>ACTIVITY UNIT:</b>	Ranger and Emergency Services
<b>REPORTING OFFICER:</b>	Ranger & Emergency Services Coordinator - Ian McDowell
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A GIS Map showing proposed location of the bus bay⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 20 April 2017, the recommendations from which have been included in this report.**

### **PRÉCIS**

The purpose of this report is to seek Council endorsement of a proposed variation to the City's Consolidated Parking Scheme to provide a dedicated bus bay for TransWA coach services in Albert Street, Busselton.

### **BACKGROUND**

The City resumed control of the former Geographe Bay Tourist Association (GTBA) building on Peel Terrace, Busselton in 2015 for the purpose of providing a Customer Information Centre for the City during the construction of the City's new administration building, and because the Association (now part of the amalgamated Margaret River-Busselton Tourism Association) was transitioning, via temporary premises on the Busselton Foreshore, to new premises in the 'Railway House' development, also on the Busselton Foreshore. As part of this relocation, concerns have been raised as to the appropriateness of the usage of the carpark adjoining this building by the TransWA coach service for the embarking and disembarking of passengers. It was identified that this would also need to be addressed when the Customer Information Centre relocates back to the new centralised administration building, after which the City is looking to lease the building to other users, whose use of the building may not be consistent with TransWA's continuing use of the car park.

In February 2016 the City considered a number of options for relocation of the TransWA service and decided the better option was to relocate it to Albert Street, thus centralising all bus and coach transfers to one location and creating a 'Bus Precinct'. It is proposed to remove/reallocate the four existing car parking bays opposite the Busselton Liquor Store ('Cellarbrations') in Albert Street, Busselton to facilitate the creation of a dedicated bus bay for TransWA coach services within Busselton. The area in question is identified in Attachment A. The provision of an additional bus bay in Albert Street is also easily accessible being on the fringe of the City Centre and existing footpath networks provide easy walkability and connections back to Queen Street (including TransWA ticketing, through the 'Hello World' travel agent) and in the direction of the Busselton Foreshore. The proximity of nearby public car parking bays also supports those patrons requiring transfers to and from the bus to park easily and safely. Public ablutions are also available within reasonable proximity, as part of the Busselton Library/CRC Precinct, open Monday to Friday 9:30am to 5:30pm (7:00pm on Thursday), and 9:30am to 12:00 noon on Saturday. The TransWA timetable and information relating to their service through Busselton only lists the Bunbury Passenger Terminal as having toilet facilities available. As such users of the service would not expect public ablutions to be available at the Busselton stop.

## **STATUTORY ENVIRONMENT**

Council designates parking and traffic restrictions under the powers of the *Parking Local Law 2011* (the Local Law). The designation of parking stalls, stations and areas occurs under Part 2 of the Local Law; and the Scheme (a large series of plans identifying the location and type of parking restrictions in detail) is adopted pursuant to Part 2, as a means to identify these designations. Designations are given practical effect through on-ground signage and line marking, as well as the issue of public notices.

Section 2.1(1)(g) of the Local Law states: *“That Council may, constitute, determine or vary permitted classes of vehicles which may park in specified parking stalls, parking stations and parking areas”*. This report seeks to make a variation through the reallocation of four existing car bays to one bus bay.

Where Council makes a determination to establish or amend a parking stall, parking stations and parking areas under the Local Law, the Chief Executive Officer (CEO) must give local public notice of, and erect signs to give effect to the determination.

## **RELEVANT PLANS AND POLICIES**

There are no relevant plans and policies associated with this matter.

## **FINANCIAL IMPLICATIONS**

The Public Transport Authority has agreed to meet all costs associated with the bus stop hardstand upgrades including tactile indicators, signage and the provision of a refurbished shelter for the area surrounding the new bus bay.

Resources required for line marking the bus bay with paint are provided for within the City’s overall operational budget and can be absorbed without any budgetary amendments being required.

### **Long-term Financial Plan Implications**

There are no long-term financial implications associated with this matter.

## **STRATEGIC COMMUNITY OBJECTIVES**

The recommendation of this report reflects Community Objective 2.2 of the Strategic Community Plan 2013 (review 2015), which is: *“a City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections”*.

## **RISK ASSESSMENT**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City’s risk assessment framework. There have been no risks identified for this variation to the Parking Scheme.

## **CONSULTATION**

No consultation has been undertaken with any adjoining property owners regarding this proposal. The impact is considered minimal with ample off street parking available for nearby businesses.

The City’s Design and Survey team has worked closely with the Public Transport Authority to achieve the desired outcome.

## OFFICER COMMENT

The roundabout at the intersection of Albert Street, Harris Road and Stanley Place provides the ability for all coaches to seamlessly access the area regardless of which side of the street is required for parking.

The provision of the relocated coach stop to Albert Street will require the installation of tactile indicators, signage and the remarking of the 4 existing parking bays into 1 bus bay. The proposed site also allows for the wheel chair lift to function adequately while retaining adequate pedestrian access. While this proposal does require the removal of 4 existing car parking bays, this is adequately catered for in the public carpark directly opposite the proposed location.

## CONCLUSION

That Council endorse the proposed amendments to the City's Consolidated Parking Scheme to establish a dedicated bus bay for the TransWA coach services in Busselton.

## OPTIONS

Council may support or amend the officer recommendations to vary parking controls in Albert Street or pursue alternative solutions.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Where Council makes a determination to establish or amend a parking stall, parking stations and parking areas under the *Parking Local Law 2011*, the CEO must give local public notice of, and erect signs to give effect to, the determination. Subject to Council endorsement of the officer recommendations local public notice will be advertised and appropriate signage erected as soon as is practicable following Council endorsement.

### Council Decision / Committee Recommendation and Officer Recommendation

**C1705/097** Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council:

1. Amends the Consolidated Parking Scheme, pursuant to the City of Busselton *Parking Local Law 2011* to vary the classification of four car parking bays located in Albert Street, Busselton as identified in Attachment A of this report, to a dedicated bus bay for the use of TransWA coach services.
2. Endorses the CEO to give local public notice of the determination as required by the City of Busselton *Parking Local Law 2011*.

**CARRIED 9/0**

**EN BLOC**

10.3 Policy and Legislation Committee - 20/04/2017 - REVIEW OF C246 - SHELTERS AND STRUCTURES ON BEACHES

<b>SUBJECT INDEX:</b>	Local Government Property Local Law 2010
<b>STRATEGIC OBJECTIVE:</b>	Our natural environment is cared for and enhanced for the enjoyment of the community and visitors.
<b>BUSINESS UNIT:</b>	Environmental Services
<b>ACTIVITY UNIT:</b>	Rangers and Emergency Services
<b>REPORTING OFFICER:</b>	Ranger & Emergency Services Coordinator - Ian McDowell
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A CP246 – Shelters and Structures on Beaches Version 1⇒ Attachment B Local Government Insurance Services (LGIS) advice⇒ Attachment C Pictures of beach shelters and anchoring methods⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 20 April 2017, the recommendations from which have been included in this report.**

### **PRÉCIS**

The purpose of this report is to seek endorsement of the revised Council Policy 246 – Shelters and Structures on Beaches. The policy has been reviewed and amended to provide clarity.

### **BACKGROUND**

The City of Busselton *Local Government Property Local Law 2010* prohibits the retention of beach shelters and windbreaks on local government property outside the hours of daylight, unless a permit has been issued.

In October 2015 a petition containing 540 signatures was received by the City requesting Council to rescind its decision to ban the long term use of beach shelters. Council considered the petition in December 2015 at which time they resolved not to support the placement of shelters for private purposes on beaches overnight and requested a policy be drafted and presented to the Policy and Legislation Committee on the matter.

A policy was drafted and in April 2016 Council adopted Council Policy 246 – Shelters and Structures on Beaches (the Policy). The Policy, underpinned by the City of Busselton *Local Government Property Local Law 2010*, prohibits the retention of structures (including beach shades or windbreaks) on beaches overnight without the owner first obtaining a permit from the City – which the policy indicates the City would only issue in very limited circumstances.

Immediately prior and during the 2016/17 summer period, the City received complaints from a small number of community members and a local business owner in relation to the Policy. The complainants support the retention of structures, and in particular beach shelters, on beaches overnight without the need to apply for a permit; or by application for a permit with a more simplified process and in a wider variety of circumstances than currently exists within the Policy.

This matter was subsequently discussed at a meeting of the Policy and Legislation Committee on 16 February 2017 at which time it was agreed that a further report would be presented to Council through the Policy and Legislation Committee.

## **STATUTORY ENVIRONMENT**

Under section 29(1) of the *Local Government (Functions and General) Regulations 1996*, a contravention of a regulation or a local law made under the *Local Government Act 1995* (the Act) can lead to the impounding of goods involved in the contravention if:

- a. it occurs in a public place; and
- b. either:
  - i. the presence of the goods presents a hazard to public safety, or obstructs the lawful use of any place; or
  - ii. where the regulation or local law prohibits or regulates the placement of goods, the goods are located in a place contrary to that regulation or local law.

Under section 3.14(3)(b) of the City of Busselton Local Government Property Local Law 2010 a person must not without a permit erect any tent, camp, hut or similar structure on local government property other than a beach shelter or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.

## **RELEVANT PLANS AND POLICIES**

CP246 – Shelters and Structures on Beaches Version 1 dated 13 April 2016 (Attachment A).

## **FINANCIAL IMPLICATIONS**

Resources required for implementation of the Local Law, that is to remove shelters left overnight or longer, are currently provided for within the City's overall operational budget and can be achieved without any significant effect on other operational areas.

Changing our approach through the administration of a permit issuing process including the assessment of applications and ongoing monitoring of compliance with the stringent conditions required would have a significant impact on existing resources and would likely result in the need to increase financial and human resources to adequately enforce any new approach.

### **Long-term Financial Plan Implications**

There are no-long term financial plan implications associated with this matter.

## **STRATEGIC COMMUNITY OBJECTIVES**

Consideration of this matter is consistent with Key Goal 5 of the City of Busselton Strategic Community Plan 2013. – Cared For and Enhanced Environment, Community Objective 5.1 – our natural environment is cared for and enhanced for the enjoyment of the community and visitors.

## **RISK ASSESSMENT**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework. There have been no risks identified for this amendment to the Shelters and Structures on Beaches Policy. Should the Council wish to consider a more liberal approach with respect to shelters, however, there are potentially significant risks that would need to be understood and addressed.

## CONSULTATION

Community consultation is not considered necessary. The Policy has been revised to provide clarity and continues to reflect Council's previously established position (December 2015 and April 2016). which does not support the retention of beach shelters and the like on our beaches overnight.

Advice has been sought from the City's Legal Services Coordinator, and the Local Government Insurance Services (LGIS) Risk and Governance Services with regard to the establishment of a permit system that would allow the beach shelters to remain in-situ on public land overnight. The advice provided acknowledges that whilst it is possible to establish a permit system to allow beach shelters to remain in-situ overnight, such a system would prove to be impractical and onerous for the City and applicant alike. A copy of the LGIS advice is attached (Attachment B).

## OFFICER COMMENT

The types of structures being left on our beaches overnight are designed as portable and temporary structures, they are not designed to be permanent structures, or used/erected for more than very short periods at any one time. Two such products from different manufacturers, one a "deluxe gazebo" the other an "ultimate jumbo heavy duty gazebo", come with the same manufacturer and supplier warnings:

- Do not use this gazebo in strong wind and rain
- Wind and rain can damage the gazebo and could result in injury
- Always stake or weigh down the gazebo once set up
- This gazebo is not a permanent structure

Regardless of any systems that may be in place, ignoring the warnings by allowing the structures to remain in-situ overnight or for longer periods, contrary to those warnings, may expose Council to claims of public liability in the event of personal injury or property damage.

In February 2017, an audit of structures that had been left in place on our beaches for extended periods was conducted. At that time, 18 structures had been left in place between Dunsborough and Busselton and were anchored by various means, many of which were unsafe, inadequate or both. Examples of beach shelters left in place and the various methods of anchoring the structures in place are attached (Attachment C).

Council Policy 246 has been reviewed and revised so as to provide greater clarity in the management of structures erected on local government property, including beaches, but the intent of the Policy has remained the same. A copy of the revised draft Policy is as shown in the officer recommendation.

The Local Government Property Local Law that underpins the Policy makes reference to the erection of tents, camps, hut or similar structures on local government property and not only beaches. To avoid possible confusion the scope/title of the revised draft Policy has been changed to Shelters and Structures on Local Government Property. Other changes include:

- The definitions of a beach shelter: a temporary structure being less than 15m<sup>2</sup> in area, and includes but is not limited to windbreaks, beach umbrellas, gazebos or any other manufactured or DIY structure similar in style.
- A link to the definition of an event: as defined in Council Policy 231 – Events.
- A link to the definition of local government property: as defined in the Local Government Property Local Law 2010.



- Clear delineation on how the City will deal with beach shelters and other structures by providing information under separate headings.
- Clear information in relation to the immediate removal by the City of unauthorised structures obstructing community access, or which present an immediate risk to public safety due to structural integrity concerns (either due to its decrepit state or the manner in which it has been erected or anchored).

## CONCLUSION

Endorsement of the revised draft policy will provide for the consistent enforcement of Council's objective with regard to structures on local government property. The revised Policy maintains the previously agreed position of Council that beach shelters and the like should not remain in-situ on local government property overnight or longer; whilst making provision for the use of other structures that may be required as part of a City approved event.

## OPTIONS

The City may:

1. Maintain its current policy and practices.
2. Regulate temporary approvals through a permit system.
3. Review and amend the existing policy to provide clarity.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The revised Policy will be implemented immediately following its adoption by Council.

### **Council Decision / Committee Recommendation and Officer Recommendation**

**C1705/098**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That Council adopts version 2 of Council Policy 246 – Shelters and Structures on Local Government Property:

	<b>Shelters and Structures on Local Government Property</b>	<b>Version 2</b>
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## PURPOSE

The purpose of this policy is to establish a framework for the management of structures erected on local government property within the City of Busselton.

## SCOPE

This policy will guide the community and staff on circumstances when shelters or structures may be erected on local government property and the circumstances in which structures that are considered an obstruction or a risk to public safety may be removed.

## DEFINITIONS

**Beach Shelter:** a temporary structure being less than 15m<sup>2</sup> in area, and includes but is not limited to windbreaks, beach umbrellas, gazebos or any other manufactured or DIY structure similar in style.

**Event:** as defined in Council Policy 231 – Events.

**Local Government Property:** as defined in the *Local Government Property Local Law 2010*.

## POLICY CONTENT

Pursuant to clause 3.14 (3) (b) of the City of Busselton *Local Government Property Local Law 2010* (the Local Law):

*“A person must not without a permit erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day”.*

### Beach Shelters

Under the provisions of the Local Law beach shelters or windbreaks that are erected and dismantled on the same day do not require a permit. The City does not support the retention of these structures on local government land overnight.

### Other Structures

Other structures such as marquees or tents may only be erected on local government property and left overnight where it is necessary for an event organised or approved by the City.

Applications for a permit for the retention of other structures on local government property overnight will form part of the event application process. Such applications will only be supported where the applicant:

1. Demonstrates there is no practical alternative to leaving the structure in place overnight.
2. Demonstrates the structural integrity/safety of the structure.
3. Holds a minimum of \$10m in Public Liability Insurance.

### Unauthorised Structures

Under the *Local Government (Functions and General) Regulations 1996* the City may impound goods on local government property if they present a hazard to public safety; if they obstruct the lawful use of any place; or where a regulation or local law prohibits or regulates the placement of the goods and they are in a place contrary to that regulation or local law.

Where an unauthorised structure is obstructing community access, or presents an immediate risk to public safety due to structural integrity concerns (either due to its decrepit state or the manner in which it has been erected or anchored) the City will remove it immediately.

## Policy Background

Policy Reference No – 246

Owner Unit – Ranger and Emergency Services

Originator – Ranger and Emergency Services Coordinator

Policy Approved by – Council

Date Approved –

Review Frequency – as required

Related Documents – City of Busselton *Local Government Property Local Law 2010*

## History

Council Resolution	Date	Information
C1604/076	13 April 2016	Date of Implementation Version 1
		Policy revised to provide clarity regarding beach shelters, and to expand the scope of the policy to include all local government property Version 2

**CARRIED 9/0**

**EN BLOC**

10.4 Policy and Legislation Committee - 20/04/2017 - CONSOLIDATED PARKING SCHEME AMENDMENT - YALLINGUP TOWNSITE

<b>SUBJECT INDEX:</b>	Minor Parking Scheme Amendments
<b>STRATEGIC OBJECTIVE:</b>	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
<b>BUSINESS UNIT:</b>	Environmental Services
<b>ACTIVITY UNIT:</b>	Rangers and Emergency Services
<b>REPORTING OFFICER:</b>	Ranger & Emergency Services Coordinator - Ian McDowell
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Proposed "No Stopping" September 2016⇒ Attachment B Proposed "No Stopping" April 2017 (overlay)⇒ Attachment C Proposed "No Stopping" April 2017 (no overlay)⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 20 April 2017, the recommendations from which have been included in this report.**

### PRÉCIS

The purpose of this report is to seek Council endorsement of proposed amendments to the City's Consolidated Parking Scheme to establish "no stopping" zones in Yallingup townsite as follows:

- 1) On the western side of Elsegood Avenue, southward from Dawson Drive to the public access way abutting 24 Elsegood Avenue;
- 2) On the western side of Hammond Road, southward from Dawson Drive to the public access way abutting 34 Hammond Road; and
- 3) On the western side of Wardanup Crescent, southward from Dawson Drive to the Public access way abutting 38 Wardanup Crescent

### BACKGROUND

In March 2016, the Department of Fire and Emergency Services (DFES) wrote to the City expressing concerns regarding access for emergency service vehicles within the Yallingup townsite. The letter was co-signed by representatives from the Western Australian Police Service (WAPOL), St John's Ambulance Service and the Yallingup Coastal Bush Fire Service.

The main concern relates to vehicles parked on both sides of Elsegood Avenue, Hammond Road, and Wardanup Crescent impeding the flow of traffic and potentially blocking access to emergency services vehicles responding to emergency incidents in the area.

In their letter the emergency service representatives requested the implementation of parking restrictions on one side of the road. The following are proposed amendments to the Scheme to reflect this request:

- 1) Designate a "no stopping" zone on the western side of Elsegood Avenue, southward from Dawson Drive to the public access way abutting 24 Elsegood Avenue;
- 2) Designate a "no stopping" zone on the western side of Hammond Road, southward from Dawson Drive to the public access way abutting 34 Hammond Road; and

- 3) Designate a “no stopping” zone on the western side of Wardanup Crescent, southward from Dawson Drive to the public access way abutting 38 Wardanup Crescent.

### STATUTORY ENVIRONMENT

Council designates parking and traffic restrictions under the powers of the *Parking Local Law 2011* (the Local Law). The designation of parking stalls, stations and areas occurs under Part 2 of the Local Law; and the Scheme (a large series of plans identifying the location and type of parking restrictions in detail) is adopted pursuant to Part 2, as a means to identify these designations. Designations are given practical effect through on-ground signage and/or line marking, as well as the issuing of public notices.

Where Council makes a determination to establish or amend a parking stall, parking stations and parking areas under the Local Law, the Chief Executive Officer (CEO) must give local public notice of, and erect signs to give effect to the determination.

### RELEVANT PLANS AND POLICIES

There are no relevant plans and policies associated with this matter.

### FINANCIAL IMPLICATIONS

Resources required for implementation of the Local Law, that is to mark parking bays and/or zones with paint and installing signs on posts, are provided for within the City’s overall operational budget and can be absorbed without any budgetary amendments being required.

#### Long-term Financial Plan Implications

There are no long-term financial implications associated with this matter.

### STRATEGIC COMMUNITY OBJECTIVES

The recommendation of this report reflects Community Objective 2.2 of the Strategic Community Plan 2013 (review 2015), which is: *“a City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections”*.

### 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 only ‘downside’ risks. The following table describes identified risks where the residual risk, once controls have been identified, is identified as medium or greater.

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Public Health and Reputational Risk – inadequate vehicle parking control affecting community safety	Implementation of parking management	Minor	Unlikely	Low

### CONSULTATION

In September 2016 the City consulted with the community through the Council for Community newsletter, the City’s website and by writing to 203 affected residents/property owners in the Yallingup townsite. At that time it was proposed that “no stopping” controls be implemented on the

western sides of Elsegood Avenue, Hammond Road, and Wardanup Crescent for the entire length of those roads (refer Attachment A).

The City received 17 responses (8.37% of affected residents/property owners) to this community survey. 10 of the 17 respondents (4.29% of affected residents/property owners) subsequently opposed the proposed “no stopping” restrictions. Although 58.8% of the 17 respondents to the survey opposed the parking restrictions, this number of respondents represents a small percentage of those invited to take part in the consultation process and who would ultimately be affected by the proposed controls.

During the initial consultation process, concerns were expressed by members of the Yallingup Residents’ Association (YRA) that the extent of the proposed parking controls, being the entire lengths of the three roads, was excessive and that it was mainly the northern end of the three roads that presented a risk during peak periods. As a result of this feedback, the City subsequently met with members of the YRA, DFES and the Yallingup Coastal Bush Fire Brigade and agreed a modified solution as recommended by this report and shown on Attachments B and C.

The YRA also expressed concerns regarding the installation of additional signage in the townsite as a means of enforcing the proposed parking restrictions. They suggested additional signs may not be conducive with the natural amenity of the area. In lieu of this concern and pursuant to section 142 of the *Road Traffic Code 2000*, and section 4.1(4) of the *Parking Local Law 2011* ‘A driver must not stop at the side of a carriageway marked with a continuous yellow edge line.’ This will allow the City to implement the desired parking controls by painting continuous yellow edge lines without the need to install signage but still ensure the enforcement of ‘no stopping’ in this area.

#### **OFFICER COMMENT**

Although the matter of emergency vehicle access in the Yallingup townsite has been raised as a safety risk by emergency services, there have not been any recorded incidents where emergency services were not able to access properties or streets within the townsite when responding to emergency calls. That being said, a drive through Yallingup and the evidentiary pictures provided by emergency services indicate there is potential for emergency services access to be restricted where two vehicles are parked adjacent to each other on opposite sides of the street. The risk of this occurring increases during peak periods where people using the nearby beaches cannot find a place to park their cars in the car parks provided and park in nearby streets.

Feedback from the YRA suggests that during peak periods, where beach goers cannot find a park in the beach car parks they are more likely to use the northern ends of Elsegood Avenue, Hammond Road, and Wardanup Crescent to park rather than the middle or southern end of these roads. Accordingly, it is recommended that the “no stopping” restrictions only be implemented at the northern end of these streets, southward from Dawson Drive to the pedestrian access way (PAW) adjacent to 24 Elsegood Avenue, 34 Hammond Road, and 38 Wardanup Crescent.

#### **CONCLUSION**

That Council endorse the proposed amendments to the City’s Consolidated Parking Scheme to establish “no stopping” zones in the identified roads in Yallingup townsite, to facilitate the safe passage of emergency vehicles as required.

#### **OPTIONS**

Council may support or amend the officer recommendations to implement parking controls in the designated streets within the Yallingup townsite. Alternatively, they may resolve not to support the implementation of parking controls at all.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Where Council makes a determination to establish or amend a parking stall, parking stations and parking areas under the Parking Local Law 2011, the CEO must give local public notice of, and erect temporary signs to give effect to, the determination. Subject to Council endorsement of the officer recommendations local public notice will be advertised and appropriate temporary signage erected prior to the beginning of September 2017.

**Council Decision / Committee Recommendation and Officer Recommendation**

**C1705/099** Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council:

1. Amends the Consolidated Parking Scheme, pursuant to the City of Busselton *Parking Local Law 2011*, to include “no stopping” zones in the following areas within the Yallingup townsite:
  - a. on the western side of Elsegood Avenue, southward from Dawson Drive to the public access way abutting 24 Elsegood Avenue;
  - b. on the western side of Hammond Road, southward from Dawson Drive to the public access way abutting 34 Hammond Road; and
  - c. on the western side of Wardanup Crescent, southward from Dawson Drive to the public access way abutting 38 Wardanup Crescent;
2. Notes that the “no stopping” zones will be designated by a continuous yellow edge line along the side of the affected carriageways; and
3. Endorses the CEO to give local public notice of the determination as required by the City of Busselton *Parking Local Law 2011*.

**CARRIED 9/0**

**EN BLOC**

10.5 Policy and Legislation Committee - 20/04/2017 - REVIEW OF POLICY 003 COMMUNITY RECOGNITION - HONOURS, EVENTS AND WELL WISHES

<b>SUBJECT INDEX:</b>	Policies, Plans and Procedures
<b>STRATEGIC OBJECTIVE:</b>	An organisation that is managed effectively and achieves positive outcomes for the community.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Executive Assistant - Christine Garratt
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Revised Policy 003 Community Recognition - Honours and Significant Events⇒ Attachment B Revised Policy 003 Community Recognition - Honours and Significant Events showing proposed tracking changes⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 20 April 2017, the recommendations from which have been included in this report.**

### **PRÉCIS**

As part of Council's ongoing policy review, a review of Policy 003 Community Recognition – Honours, Events and Well wishes has been conducted. As a result of this review minor amendments are proposed to the policy.

### **BACKGROUND**

This policy was last before the Council in November 2014 at which time an amendment was made in which the requirements of Policy 003 "Well Wishes" was combined with Policy 035 "Community Recognition Honours and Events" to become the "Community Recognition – Honours, Events and Well Wishes" policy. The amended policy was endorsed by Council at that time (C1411/297).

The Policy and Legislation Committee has endorsed an ongoing policy review process, whereby individual policies are reviewed with a view to determining their ongoing applicability along with standardisation and reduction. This report presents the review of Policy 003 Community Recognition – Honours, Events and Well Wishes.

### **STATUTORY ENVIRONMENT**

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

### **RELEVANT PLANS AND POLICIES**

This report proposes updates of Policy 003 Community Recognition – Honours, Events and Well Wishes.

### **FINANCIAL IMPLICATIONS**

The Council's adopted budget includes provision for various awards, events and gifts with all decisions made having due regard to budget availability

#### **Long-term Financial Plan Implications**

There are no long-term financial plan implications associated with this matter.

## **STRATEGIC COMMUNITY OBJECTIVES**

This policy aligns with and supports the Council's Key Goal Area 6 – 'Open and Collaborative Leadership' and more specifically Community Objective 6.3 – 'An organisation that is managed effectively and achieves positive outcomes for the community'.

## **RISK ASSESSMENT**

Not required for review of this Council policy.

## **CONSULTATION**

As a policy with an internal focus, this policy is not considered to require any public consultation.

## **OFFICER COMMENT**

As a result of this review minor amendments are proposed to the Policy. Officers are recommending that a provision be included in the General Awards and Recognition Process for the ability for referrals of General Award nominations and/or Civic Reception requests to be submitted to include the *Deputy Mayor and the CEO* for consideration. Currently the policy only has provision for referrals to be submitted to the Mayor.

As part of the High Honours Awards and Recognition Process, nominations received by the Mayor and subsequently considered worthy of receipt of the High Honour Award, are referred to Council for a decision. Officers are also recommending that *All Councillors* are provided with the opportunity to deem a nominee worthy of consideration for this higher honour as part of this process.

In addition Officers are recommending that the title of Policy 003 Community Recognition – Honours, Events and Well Wishes be updated to reflect current relevant practices. The new title proposed is Policy 003 Community Recognition – Honours and Significant Events.

A revised policy showing the proposed amendments is attached (*Attachment B*).

## **CONCLUSION**

As part of the regular practice of reviewing Council policies, a review of Policy 003 Community Recognition – Honours, Events and Well Wishes has been conducted. Following this review Officers are recommending minor amendments are made to the policy.

## **OPTIONS**

The Council may not agree to endorsement of the revised Policy and may seek to retain the existing policy in its current format.

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

The policy would be effective immediately upon adoption of Council.

## **Council Decision / Committee Recommendation and Officer Recommendation**

**C1705/100**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council adopts the revised Policy 003 Community Recognition – Honours and Significant Events as shown in Attachment A.

**CARRIED 9/0**

**EN BLOC**



10.6 Policy and Legislation Committee - 20/04/2017 - REVIEW POLICY 005 MEETINGS, INFORMATION SESSIONS AND DECISION-MAKING PROCESSES

<b>SUBJECT INDEX:</b>	Policies, Plans and Procedures
<b>STRATEGIC OBJECTIVE:</b>	An organisation that is managed effectively and achieves positive outcomes for the community.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Executive Assistant - Christine Garratt
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Revised Policy 005 Meetings, Information Sessions and Decision-Making Processes⇒ Attachment B Revised Policy 005 Meetings, Information Sessions and Decision-Making Processes showing proposed tracking changes⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 20 April 2017, the recommendations from which have been included in this report.**

#### **PRÉCIS**

As part of Council's ongoing policy review, a review of Policy 005 Meetings, Information Sessions and Decision-Making Processes has been conducted. As a result of this review minor amendments are proposed to the Policy.

#### **BACKGROUND**

This policy was last before the Council in May 2015 at which time the policy was assessed as requiring no change with the exception of updating terminology to City. The amended policy was endorsed by Council endorsed at that time (C1505/112).

The Policy and Legislation Committee has endorsed an ongoing policy review process, whereby individual policies are reviewed with a view to determining their ongoing applicability along with standardisation and reduction. This report presents the review of Policy 005 Meetings, Information Sessions and Decision-Making Processes.

#### **STATUTORY ENVIRONMENT**

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

#### **RELEVANT PLANS AND POLICIES**

Department of Local Government and Communities Local Government Operational Guidelines Number 5 – January 2004 'Council Forums'.

#### **FINANCIAL IMPLICATIONS**

Nil.

**Long-term Financial Plan Implications**

There are no long term financial plan implications associated with this matter.

**STRATEGIC COMMUNITY OBJECTIVES**

This policy aligns with and supports the Council's Key Goal Area 6 – 'Open and Collaborative Leadership' and more specifically Community Objective 6.3 – 'An organisation that is managed effectively and achieves positive outcomes for the community'.

**RISK ASSESSMENT**

The lack of provision of all relevant information provided to Councillors could mitigate a risk in that Councillors do not have all the required information to ensure informed decisions are made.

**CONSULTATION**

This policy is not considered to require any public consultation as it only seeks to make minor changes and relates to the internal requirements to ensure Councillors are fully informed to participate in formal decision-making processes.

**OFFICER COMMENT**

As a result of this review, minor amendments are proposed to the Policy. Officers are recommending that as part of the process of information provision to Councillors that a provision be incorporated for Councillors to be provided with the ability to request personal information of a private nature to be provided on a "Private and Confidential" basis.

Officers are proposing additional minor amendments to the wording of the Policy, however, these are of an aesthetic nature and do not alter the fundamental principles of the Policy.

A revised policy showing the proposed amendments is attached (*Attachment B*).

**CONCLUSION**

As part of the regular practice of reviewing Council policies, a review of Policy 005 Meetings, Information Sessions and Decision-making Processes has been conducted. Following this review Officers are recommending minor amendments are made to the policy.

**OPTIONS**

The Council may not agree to endorsement of the revised Policy and may seek to retain the existing policy in its current format.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The revised policy would become effective immediately upon adoption of Council.

**Council Decision / Committee Recommendation and Officer Recommendation****C1705/101**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council adopts the revised Policy 005 Meetings, Information Sessions and Decision-Making Processes as shown in Attachment A.

**CARRIED 9/0****EN BLOC**

10.7 Policy and Legislation Committee - 20/04/2017 - MINOR UPDATING OF COUNCIL POLICIES FOLLOWING FURTHER REVIEW PROCESS

<b>SUBJECT INDEX:</b>	Policies and Procedures
<b>STRATEGIC OBJECTIVE:</b>	An organisation that is managed effectively and achieves positive outcomes for the community.
<b>BUSINESS UNIT:</b>	Engineering and Works Services
<b>ACTIVITY UNIT:</b>	Engineering & Works Services
<b>REPORTING OFFICER:</b>	Director, Engineering and Works Services - Oliver Darby
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Revised Policy 244 Nature Verges for Urban Areas⇒ Attachment B Revised Policy 244 Nature Verges for Urban Areas - Tracking Changes⇒ Attachment C Revised Policy 144/3 Early Subdivision Clearance and Charges⇒ Attachment D Revised Policy 144/3 Early Subdivision Clearance and Charges - Tracking Changes⇒ Attachment E Revised Policy 211 Current Refuse Collection Service⇒ Attachment F Revised Policy 211 Current Refuse Collection Service - Tracking Changes⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 20 April 2017, the recommendations from which have been included in this report.**

## PRÉCIS

The City's rolling review of Council policies continues via the Policy and Legislation Committee. This report presents a range of policies that have been thoroughly reviewed by the responsible officers and assessed as requiring, withdrawal, minimal change with the exception of updating terminology to City. While no substantial changes are recommended, the operation of each policy has been examined in detail to ensure no other changes are required.

## BACKGROUND

The Policy and Legislation Committee has endorsed an ongoing policy review process, whereby all policies of the Council will be reviewed, with the aim of determining the ongoing applicability of the policies, along with standardisation and reduction.

## STATUTORY ENVIRONMENT

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

Each policy referred to in this report has been developed in accordance with and reviewed being aware of the relevant enabling legislation.

## RELEVANT PLANS AND POLICIES

This report proposes the minor update of a series of existing policies of the Council.

**FINANCIAL IMPLICATIONS**

There are no financial implications arising from the review of these policies.

**Long-term Financial Plan Implications**

Not applicable.

**STRATEGIC COMMUNITY OBJECTIVES**

The ongoing review of Council policies helps achieve governance systems that deliver responsible, ethical and accountable decision-making.

**RISK ASSESSMENT**

Having a policy relating to any matter is an effective risk mitigation strategy and there are no risks remaining at a sufficient level for further individual assessment.

**CONSULTATION**

Not Required

**OFFICER COMMENT**

In the main, it is the considered view of the relevant officers that the policies included in this report have been operating efficiently and effectively since the previous review was undertaken by the Policy and Legislation Committee and the Council.

This report presents a range of policies that have been thoroughly reviewed by the responsible officers and assessed as requiring minimal change with the exception of updating terminology to City. While no substantial changes are recommended, the operation of each policy has been examined in detail to ensure no other changes are required. A brief comment on the changes associated with each policy is provided below:

**Council Policy 244 – Nature Verges for Urban Areas**

The policy was last reviewed on 23 April 2008. The purpose of this policy to provide opportunities for residents within the City of Busselton to minimise the use of water, reduce nutrient runoff into waterways etc. Changes to this policy are only amending the name from Shire to City.

**Council Policy 144/3 – Early Subdivision Clearance and Charges**

The policy was last reviewed on 12 May 2010. The purpose of this report is to allow the City to approve early clearance of subdivisions subject to the payment of bonds to cover the value of all outstanding works and conditions plus a 100% contingency on the value of outstanding works. The update includes minor clarification to the associated requirements for early clearance, the removal of table 1 which is ambiguous in the context of the policy and minor grammatical and text errors.

**Council Policy 211 – Refuse Collection Services**

The policy was last reviewed on 25 January 2012. This policy is designed to provide guidance and consistency on kerbside waste and recycling collection for domestic and commercial services. The

policy has been updated to provide clarification on waste collection on private property and to include the current and most appropriate terminology associated with waste services.

### **CONCLUSION**

The three policies have provided consistent guidance to City decision-making processes, however other than minor updates there are no substantial changes.

### **OPTIONS**

The Committee may recommend and the Council may determine that a policy or policies are not required or that further changes are necessary.

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

The policies remain effective and the updated versions will take effect as soon as a decision is made by the Council.

### **Council Decision / Committee Recommendation and Officer Recommendation**

**C1705/102** Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council:

1. Adopts the Nature Verges Policy for Urban Areas as shown in Attachment A.
2. Adopts the following updated Early Subdivision Clearance and Charges as shown in Attachment C.
3. Adopts the following updated Refuse Collection Services Policy as shown in Attachment E.

**CARRIED 9/0**

**EN BLOC**

10.9 Policy and Legislation Committee - 20/04/2017 - REVIEW OF POLICY 098 COUNCILLORS' INDUCTION, TRAINING AND PROFESSIONAL DEVELOPMENT

<b>SUBJECT INDEX:</b>	Plans, Policies and Procedures
<b>STRATEGIC OBJECTIVE:</b>	Governance systems that deliver responsible, ethical and accountable decision-making.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Existing Policy 098 Councillor Induction, Training and Professional Development⇒ Attachment B Existing Policy 013 Specific Requirements for Development Opportunities Involving Significant Travel⇒ Attachment C Revised Policy 098 Councillors Induction, Training and Professional Development⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 20 April 2017, the recommendations from which have been included in this report.**

#### **PRÉCIS**

As part of the ongoing policy review process, Policies 013 – *Specific Requirements for Development Opportunities involving significant Travel* and 098 - *Councillors Induction, Training and Professional Development* have been reviewed. There is duplication between the policies and it is appropriate that the policies be combined with Policy 013 - *Elected Members Training & Development* being revoked as it is not necessary.

#### **BACKGROUND**

The Policy and Legislation Committee has endorsed an ongoing policy review process, whereby all policies of the Council will be reviewed, with the aim of determining the ongoing applicability of the policies, along with standardisation and reduction.

#### **STATUTORY ENVIRONMENT**

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

Each policy referred to in this report has been developed in accordance with and reviewed being aware of the relevant enabling legislation.

#### **RELEVANT PLANS AND POLICIES**

Policy 013 – *Specific Requirements for Development Opportunities involving significant Travel*; and Policy 098 - *Councillors Induction, Training and Professional Development*

#### **FINANCIAL IMPLICATIONS**

There are no financial implications contained in this report.

**Long-term Financial Plan Implications**

Nil

**STRATEGIC COMMUNITY OBJECTIVES**

The ongoing review of Council policies helps achieve governance systems that deliver responsible, ethical and accountable decision-making.

**RISK ASSESSMENT**

Having a policy relating to any matter is an effective risk mitigation strategy and there are no risks remaining at a sufficient level for further individual assessment.

**CONSULTATION**

There is no requirement or benefit seen in participating in any external consultation.

**OFFICER COMMENT**

Policies 013 – *Specific Requirements for Development Opportunities involving significant Travel* and 098 - *Councillors Induction, Training and Professional Development* have been reviewed during the ordinary course of the ongoing review process.

Policy 013 – *Specific Requirements for Development Opportunities involving significant Travel* was last reviewed in July 2013. The Policy covers overseas travel guidelines for both Councillors and Officers. Other than travelling in relation to Sister City visits and State sponsored travel there is very little overseas travel. In both of these instances travel arrangements are reported to Council or discussed at Council briefings and this would continue in the future.

On this basis, it is considered that if there was an opportunity for a Councillor to participate in overseas travel for purposes other than those mentioned above, Council approval would be required. This requirement has therefore been included in a revision to Policy 098 which specifically deals with Councillors training and development. Any travel by officers outside of those mentioned above would also require a separate report and approval.

As both policies contained similar approval criteria and other information, an amalgamation of the policies is deemed appropriate. The proposed Policy 098 now is only relevant to elected members.

**CONCLUSION**

An amalgamation of the two policies combines the essential elements of the policies and is now specific to elected members only making interpretation and application easier resulting in a need to cancel policy 013.

**OPTIONS**

Council may decide to not make changes to either policy, make changes to one or both of the existing policies and retaining them both or make changes to the proposed the new policy.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The new Policy will become effective once it is adopted.

**Council Decision / Committee Recommendation and Officer Recommendation**

**C1705/103** Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council:

1. Adopt Policy 098 - *Councillors Induction, Training and Professional Development*; and
2. Revoke Policy 013 - *Specific Requirements for Development Opportunities involving significant Travel*

**CARRIED 9/0**

**EN BLOC**



10.10 Policy and Legislation Committee - 20/04/2017 - WITHDRAWN COUNCIL POLICIES  
FOLLOWING FURTHER REVIEW PROCESS

<b>SUBJECT INDEX:</b>	Policy and Procedures
<b>STRATEGIC OBJECTIVE:</b>	An organisation that is managed effectively and achieves positive outcomes for the community.
<b>BUSINESS UNIT:</b>	Engineering and Works Services
<b>ACTIVITY UNIT:</b>	Engineering & Work Services
<b>REPORTING OFFICER:</b>	Director, Engineering and Works Services - Oliver Darby
<b>AUTHORISING OFFICER:</b>	Director, Engineering and Works Services - Oliver Darby
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Existing Policy 026 Road Asset Renewal⇒ Attachment B Existing Policy 142 Roadside Advertising⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 20 April 2017, the recommendations from which have been included in this report.**

### **PRÉCIS**

The City's rolling review of Council policies continues via the Policy and Legislation Committee. This report presents a range of policies that have been thoroughly reviewed by the responsible officers and assessed as requiring, withdrawal, minimal change with the exception of updating terminology to City. While no substantial changes are recommended, the operation of each policy has been examined in detail to ensure no other changes are required.

### **BACKGROUND**

The Policy and Legislation Committee has endorsed an ongoing policy review process, whereby all policies of the Council will be reviewed, with the aim of determining the ongoing applicability of the policies, along with standardisation and reduction.

### **STATUTORY ENVIRONMENT**

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

Each policy referred to in this report has been developed in accordance with and reviewed being aware of the relevant enabling legislation.

### **RELEVANT PLANS AND POLICIES**

This report proposes withdrawing a series of existing policies of the Council.

### **FINANCIAL IMPLICATIONS**

There are no financial implications arising from the review of these policies.

### **Long-term Financial Plan Implications**

Not applicable.

## **STRATEGIC COMMUNITY OBJECTIVES**

The ongoing review of Council policies helps achieve governance systems that deliver responsible, ethical and accountable decision-making.

## **RISK ASSESSMENT**

Having a policy relating to any matter is an effective risk mitigation strategy and there are no risks remaining at a sufficient level for further individual assessment.

## **CONSULTATION**

Not Required

## **OFFICER COMMENT**

In the main, it is the considered view of the relevant officers that the policies included in this report are obsolete since the previous review was undertaken by the Policy and Legislation Committee and the Council.

This report presents a range of policies that have been thoroughly reviewed by the responsible officers and assessed as requiring withdrawal.

### Council Policy 026 – Road Asset Renewal

The policy was last reviewed on 24 July 2013. This Policy is no longer required. The intention of this policy was to ensure that all funds generated by the asset renewal rate increase as per the Council's Long Term financial Plan, plus any surplus of Council's existing own source renewal funding be transferred to and from the Road Asset Renewal Reserve. This provided a clear understanding of the amount of funds generated and where they are spent and also allow for longer term planning of works to take place. As the context and actions associated with the Policy are now detailed and included in the endorsed long term financial plan.

### Council Policy 142 – Roadside Advertising

The policy was last reviewed on [date] This Policy is no longer required. The Council's policy in this instance was to consider applications for roadside advertising. This was done by the calling of a public tender where interest has been shown, and / or where the Council believed the outcome would have a net public benefit. The Council was to consider only advertising on bus shelters, street bins, and street seats in urban areas.

Over the past years the City under the direction of the Council has removed street side advertising associated with this policy and there is currently no intention to allow street advertising of this type in the future. Should the city be approached in the future with this type of request it will be dealt with on a case by case basis.

## **CONCLUSION**

The two policies have provided consistent guidance to City decision-making processes however in undertaking the review it is considered that they are no longer considered relevant and can be withdrawn.

**OPTIONS**

The Council may decide to not revoke either policy, make changes to one or both of the existing policies and retaining them both or revoke one or both of the policies.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The policies remain effective and the withdrawal will take effect as soon as a decision is made by the Council.

**Council Decision / Committee Recommendation and Officer Recommendation****C1705/104**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council:

1. Revoke Policy 026 - Road Asset Renewal as shown in Attachment A.
2. Revoke Policy 142 - Roadside Advertising as shown in Attachment B.

**CARRIED 9/0****EN BLOC**

## **11. PLANNING AND DEVELOPMENT SERVICES REPORT**

### **11.1 PROPOSED FORMATION OF 'WESTERN RINGTAIL POSSUM WORKING GROUP'**

<b>SUBJECT INDEX:</b>	Environmental Projects & Programmes
<b>STRATEGIC OBJECTIVE:</b>	Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.
<b>BUSINESS UNIT:</b>	Planning and Development Services
<b>ACTIVITY UNIT:</b>	Environmental Management
<b>REPORTING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

#### **PRÉCIS**

The Council is asked to consider supporting the formation of a 'Western Ringtail Possum Working Group', with the presentation of this report following a recent informal briefing of Councillors by the Department of Parks & Wildlife (DPaW) relating to the status and protection of Western Ringtail Possums (WRP).

It is proposed that the Working Group consist of interested Councillors and relevant staff, and that the Group be charged with researching and investigating the issues and identifying what the City's role and approach to WRP issues should be, both in terms of actions by the City itself, but also in terms of advocating for action at State and/or Federal level.

It is envisaged that the Group would undertake research and receive briefings on WRP issues, including briefings from relevant government agencies, interested/engaged community groups or community members, as well as from relevant industry groups/stakeholders (e.g. developers, real estate sector).

The rationale for the proposed formation of the Working Group is summarised in the 'Background' section of this report.

#### **BACKGROUND**

Parts of the City, especially parts of our urban areas, are a significant proportion of the remaining range and habitat of WRP, the conservation status of which has been upgraded in recent years from 'Threatened', to 'Endangered' and, last year, to 'Critically Endangered' – this is the highest conservation status before species are considered to be 'Extinct in the Wild' or 'Extinct'. Within the last decade, WRP numbers in some inland/forest areas are estimated to have declined by 95-99%.

There has been a substantial amount of research undertaken into WRP and their habitat, and there are a number of issues that we do not yet fully understand. It is thought likely, though, that WRP, without a sustained and significant conservation effort, may become extinct in the next decade or so. Habitat in the urban areas of Busselton and Dunsborough is particularly important because WRP exist at substantially higher densities there than in natural/forest environments. It is understood a key reason for that is that urban gardens and parks are watered through the summer, thereby increasing the carrying capacity of the landscape and mitigating the effects of the drying climate.

DPaW, together with the Federal Environment Department and other stakeholders (such as local government), have developed WRP 'recovery plans'. The success of any such plan, however, is likely to require a broader response, involving all levels of government, multiple agencies, the community and industry. Because of the importance of habitat in the City, the City will need to be involved. It is considered, however, that further work and discussion is necessary to determine exactly what the City's role and approach should be, and that the proposed Working Group would play a key role in that.

## **STATUTORY ENVIRONMENT**

Legislation relevant to this issue includes –

- *Planning and Development Act 2005* and associated subsidiary regulations, including the *City of Busselton Local Planning Scheme 21*
- *Environmental Protection Act 1986* and associated subsidiary regulations, including the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*
- *Biodiversity Conservation Act 2016*
- *Wildlife Conservation Act 1950* and associated subsidiary regulations
- (Commonwealth) *Environmental Protection and Biodiversity Conservation Act 1999* and associated subsidiary regulations

## **RELEVANT PLANS AND POLICIES**

Action 1.2 of the Environment Strategy is; "Continue improvement of planning mechanisms for the protection of biodiversity and habitat. Review and finalise the draft Western Ringtail Possum Habitat Protection and Enhancement Strategy".

## **FINANCIAL IMPLICATIONS**

There will be a need to support the Working Group with relevant staff resources. That will be achieved using existing resources.

### **Long-term Financial Plan Implications**

Nil.

## **STRATEGIC COMMUNITY OBJECTIVES**

The recommendations of this report reflect Strategic Objective 3.2 of the City's *Community Strategic Plan*, which is; "Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations".

## **RISK ASSESSMENT**

There are no significant risks associated with the recommendations of this report.

## **CONSULTATION**

Consultation associated with the most recent reviews of both the *Community Strategic Plan* and the *Environment Strategy* has indicated a degree of community interest and concern related to WRP issues. The proposed formation of the Working Group would assist in addressing those concerns. It is also envisaged the Working Group would consult with a range of stakeholders, including relevant government agencies, interested/engaged community groups or community members, as well as relevant industry groups/stakeholders (e.g. developers, real estate sector).

## OFFICER COMMENT

The presentation of this report follows a recent informal briefing of Councillors by DPaW relating to the status and protection of WRP. It is considered that WRP issues are significant public policy matters for the City and our community. It is further considered that a focused and careful approach is warranted, and that the proposed Working Group will provide a basis to do that. In some respects, what is proposed is similar to the approach taken by the Council in forming the 'Lower Vasse River Taskforce', which ultimately was an important part of the various steps which led to the formation of the 'Vasse Ministerial Taskforce' and 'Revitalising Geographe Waterways' initiatives.

To ensure that the Working Group can operate in an informal, flexible and responsive fashion, it is not proposed that the Working Group be constituted as a formal committee of the Council. Instead, it is asked that the Council resolve to support the CEO in forming the Working Group as an informal working group, consisting of interested Councillors and relevant officers. Whilst community and other stakeholder input will also be vital, it is envisaged that occur through briefings from stakeholders, rather than through stakeholder involvement on the Working Group itself.

Once the Working Group has formed a view on what the City's role and approach should be, it is envisaged that the Working Group would brief the rest of the Council and, if necessary, a formal report may be presented to the Council. It is envisaged that the Working Group would consist of 2-4 Councillors, and a similar number of officers.

## CONCLUSION

It is recommended that the Council support the formation of a 'Western Ringtail Possum Working Group', as described in this report.

## OPTIONS

The Council could decide not to form a working group and/or to adopt a different approach to determining the City's role and approach to WRP issues.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

It is envisaged that the CEO would form the Working Group within one month, and that the Working Group would form a view on what the City's role and approach should be, and brief the rest of the Council, before the end of the 2017 calendar year.

### Council Decision and Officer Recommendation

**C1705/105** Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council support the formation by the CEO of a 'Western Ringtail Possum Working Group', with the membership and role of the Group to be as follows -

1. Membership - Interested Councillors and relevant staff; and
2. Role -
  - a) Researching and receiving briefings from stakeholders on WRP issues;
  - b) Forming a view on what the City's role and approach to WRP issues should be, both in terms of actions by the City itself, but also in terms of but also in terms of advocating for action at State and/or Federal level; and
  - c) Briefing and seeking Council support for the Group's findings and proposed direction.

**CARRIED 9/0**

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## **15. CHIEF EXECUTIVE OFFICER'S REPORT**

### **15.1 COUNCILLORS' INFORMATION BULLETIN**

<b>SUBJECT INDEX:</b>	Councillors' Information
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Executive Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Reporting Officers - Various
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Planning Applications Received 1 April 2017 - 15 April 2017⇒
	Attachment B Planning Applications Determined 1 April 2017 - 15 April 2017⇒
	Attachment C Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement ⇒
	Attachment D Minister for Seniors and Ageing; Volunteering; Sport and Recreation⇒

### **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**

#### **15.1.1 Planning and Development Statistics**

Attachment A is a report detailing all Planning Applications received by the City between 1 April 2017 and 15 April 2017. Thirty seven formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 1 April 2017 and 15 April 2017. A total of 43 applications (including subdivision referrals) were determined by the City during this period with 43 approved / supported and 0 refused / not supported.

#### **15.1.2 Current Active Tenders**

#### **RFT01/17 KERBSIDE RECYCLING SERVICES**

The City invited tenders for the collection of material from yellow top recycling bins and related services within the City of Busselton. The tender was advertised on 28 January 2017, with a closing date of 10 March 2017. A total of 3 tenders were received. The value of the contract will exceed the CEO's delegated authority and a recommendation report will be presented to Council in May 2017.

**RFT02/17 KING STREET BEACH CAR PARK – SEAWALL REFURBISHMENT**

The City of Busselton invited tenders for the upgrade of the geotextile sand containers seawall at the King Street Beach Car Park. The tender was advertised on 18 February 2017, with a closing date of 15 March 2017. A total of 6 tenders were received. The evaluation has been completed and the contract awarded by the CEO under delegated authority to BCP Contractors Pty Ltd for the Contract sum of \$197,706.

**RFT03/17 DETAILED DESIGN AND CONSTRUCTION OF TODDLER'S PLAYGROUND, BUSSELTON FORESHORE**

The City of Busselton invited tenders for the detailed design and construction of a toddler's playground at the Busselton foreshore. The tender was advertised on 18 March 2017, with a closing date of 18 April 2017. A total of 2 tenders were received. The value of the contract will not exceed the CEO's delegated authority. The evaluation is expected to be completed and a recommendation report expected to be presented to the CEO in May 2017.

**RFT04/17 DEVELOPMENT AND DETAILED DESIGN OF THE BUSSELTON FORESHORE JETTY PRECINCT PLAY SPACE**

The City of Busselton invited tenders for the detailed design and construction of the Busselton Foreshore Jetty precinct play space. The tender was advertised on 8 April 2017, with a closing date of 4 May 2017. The value of the contract is not expected to exceed the CEO's delegated authority.

**RFT05/17 BUSSELTON FORESHORE CENTRAL EAST CAR PARK**

The City of Busselton invited tenders for the construction of a new car park located at the Busselton foreshore known as the Busselton Foreshore Central East Car Park. The tender was advertised on 18 March 2017, with a closing date of 4 April 2017. A total of 7 tenders were received. The value of the contract is not expected to exceed the CEO's delegated authority. The evaluation is expected to be completed and a recommendation report expected to be represented to the CEO in May 2017.

**15.1.3 Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement**

Attachment C is an acknowledgment letter from Hon Bill Johnston MLA.

**15.1.4 Minister for Seniors and Ageing; Volunteering; Sport and Recreation**

Attachment C is an acknowledgment letter from Hon Mick Murray MLA.

**Council Decision and Officer Recommendation**

**C1705/106** Moved Councillor G Bleachmore, seconded Councillor P Carter

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

- 15.1.1 Planning and Development Statistics
- 15.1.2 Current Active Tenders
- 15.1.3 Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement
- 15.1.4 Minister for Seniors and Ageing; Volunteering; Sport and Recreation

**CARRIED 9/0**

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**16. COMMUNITY AND COMMERCIAL SERVICES REPORT**

Nil

**17. FINANCE AND CORPORATE SERVICES REPORT**

Nil

## 12. ENGINEERING AND WORKS SERVICES REPORT

### 12.1 KERBSIDE RECYCLING CONTRACT

<b>SUBJECT INDEX:</b>	Waste Management
<b>STRATEGIC OBJECTIVE:</b>	Development is managed sustainably and our environment valued.
<b>BUSINESS UNIT:</b>	Waste and Fleet Services
<b>ACTIVITY UNIT:</b>	Waste Management
<b>REPORTING OFFICER:</b>	Manager, Waste and Fleet Services - Vitor Martins
<b>AUTHORISING OFFICER:</b>	Director, Engineering and Works Services - Oliver Darby
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Confidential Tender Evaluation and Recommendation Report

DISCLOSURE OF INTEREST	
<b>Date</b>	10 May 2017
<b>Meeting</b>	Council
<b>Name/Position</b>	Paul Carter, Councillor
<b>Item No./Subject</b>	12.1 – Kerbside Recycling Contract
<b>Type of Interest</b>	Financial Interest
<b>Nature of Interest</b>	My employer, First National Real Estate manages the property that Suez leases.

5:34pm At this time Councillor P Carter left the meeting.

### PRÉCIS

The City of Busselton invited RFT 1/17 Kerbside Recycling Services and received 3 submissions. This report summarises the tender responses and makes recommendation to award the tender.

### BACKGROUND

The objective of this Request for Tender is to appoint a suitably qualified contractor for the provision of kerbside recycling services. The current contract is due to expire on 31/6/2017 and the new contract needs to be signed and the contractor appointed in order to ensure a seamless transition.

This Request for Tender specified the requirements of the City and invited suitably qualified and experienced respondents to submit bids to enter into a Contract for the provision of kerbside recycling services.

The requirements of for the service include for the fortnightly collection of material from 240L yellow-top recycling bins, recycling of Recyclables, and the delivery of new recycling bins and repairs to existing bins, within the Collection Area.

The successful tenderer will be reporting to the Director of Engineering and Works Services to fulfil the requirements as described in this report

The request for tender for Kerbside Recycling Services was advertised from 28 January 2017 to 8 February 2017, with a closing date of 10 March 2017.

The City received 4 requests for the tender documents and received four (3) tender responses, from 2 tenderers. A tender evaluation panel was formed to evaluate all tenders submissions and prior to the evaluation meeting, each panel member was provided with a copy of each submitted tender and

a copy of the Evaluation Score sheet and Panel Guide. Each panel member then scored each tender, with the scores being averaged to determine a final score.

The Evaluation Panel met on 6 April 2017 to discuss and evaluate each tender submission. The basis for the scoring and rationale for each score was discussed and final comments for the averaged scores agreed upon.

A rating scale of zero to five (0 – 5) was used for evaluating each Tender Submission in accordance with the Qualitative Criteria, with 0 being lowest and 5 being highest. The scoring has taken place in accordance with the RFT – Evaluation Scoring Guide and Procedural Fairness Guidelines as published by WALGA.

A comprehensive summary of these responses and pricing schedules has been included in the confidential attachment.

### **STATUTORY ENVIRONMENT**

Section 3.57 of *Local Government Act 1995* requires “A local government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods and services”.

Part 4 (Tenders) of the *Local Government (Functions and General) Regulations 1996* require that tenders be publicly invited for such contracts where the estimated cost of providing the total service exceeds \$ 150,000.

Compliance with the *Local Government Act 1995* section 3.57 is required in the issuing and tendering of contracts.

### **RELEVANT PLANS AND POLICIES**

The City’s purchasing, tender selection criteria and occupational health and safety standards and specifications, were all relevant to this tender and have been adhered to in the process of requesting and evaluating tenders.

Council Policy 211 Refuse Collection Service was taken in consideration in setting up the tender and contract requirements in respect to the extension of the waste (and kerbside recycling) collection prescribed area.

### **FINANCIAL IMPLICATIONS**

As indicated in the background section of this report, tenderers were requested to price three (3) options. Baseline scenario was for 26 (fortnightly) collections per year. Alternative scenario 1 was for 52 (weekly) collections per year. Alternative scenario 3 was for 29 collections per annum (which included fortnightly collections, with weekly collections during Christmas-New Year/Summer School Holiday period).

Moreover, for the fortnightly collections scenarios (or periods), tenderers were given the option of splitting the prescribed area in two and collecting those two sub-areas in alternate weeks.

The tender panel has evaluated the baseline alternative of submissions only, as this was the overall preferred outcome for the services procured, from a total cost perspective – as detailed in the officer recommendation section of this report.

Based on the existing number of services and forecasted growth, the estimated tender contract value will be \$912,400.00 (exc GST) for the first year, which is within the existing budget for the 2017/2018

financial year. The surplus generated by this saving will contribute to balance the Waste Management Facility and Plant Reserve on the basis of the Council decision to endorse the Long Term Financial Plan reducing the Waste Disposal Charge authorised under the provisions of the Waste Avoidance and Recovery Act 2007.

### **Long-term Financial Plan Implications**

Kerbside recycling services are funded directly from service charges (Recycling Collection Charge) and budgeted accordingly and, therefore, will have no impact on municipal funds and related budgets and long term plans.

### **STRATEGIC COMMUNITY OBJECTIVES**

Kerbside Recycling services are provided in accordance with the following strategic Objective of the City of Busselton's Strategic Community Plan (2017):

Key goal area 3: Development is managed sustainably and our environment valued

### **RISK ASSESSMENT**

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
The contractor fails to provide the services in accordance with the contract	The proposed contract contains provisions to allow the City engage an alternative contractor and recoup any additional costs	Moderate	Unlikely	Medium
The costs associated with the service are over the Council endorsed budget due to variations to the contractors scope of work	Tender contract terms & conditions; Weekly project meetings to monitor progress and any variations to scope.	Moderate	Unlikely	Medium

### **CONSULTATION**

Nil

### **OFFICER COMMENT**

The tender assessment was carried out by a tender review panel consisting of Vitor Martins – Manager Waste and Fleet Services, Allan Miller – Waste Management Officer and Lisa McDonald – Contract and Tendering Officer. Tender submissions were received from the following organisations:

- Cleanaway
- Suez Environment

Suez Environment submitted two tenders: a conforming tender and an alternative tender.

The alternative tender submission from Suez was not considered advantageous to the City, as the pricing structure was still more expensive than that submitted by Cleanaway in the conforming tender

Tenderers were requested to price three alternative kerbside collection scenarios:

- (1) 26 collections per year, as the baseline scenario
- (2) 52 collections per year, as alternative scenario 1; and
- (3) 29 collections per year (additional collections during peak season), as alternative scenario 2.

Based on the current number of services and the two conforming tenders, the additional cost of scenario: 52 collections per year, as compared to the current 26 collections (baseline scenario), would range from \$275,600 to \$972,400. The additional cost of scenario 2: 29 collections per year, as compared to the current 26, would range from \$151,800 to \$209,200.

Given that:

- peak waste generation (i.e. during Summer) in excess of current bin capacity seems to affect primarily holiday homes, and
- property owners can actually request an additional recycling bin service or store recyclables from one fortnight to the next without imposing an additional burden on the vast majority of properties, which do not require additional servicing (of note, presentation rates for recycling bins are just over 60%;

the City providing an additional level of service across the district seems to be disproportionate, expensive and thus, inefficient. Scenarios 2 and 3 are, therefore, not recommended. Kerbside recycling services should be undertaken 26 times per year, in line with existing demand.

All tenders except Suez' alternative tender were found to comply with the terms and conditions and mandatory requirements of the RFT. Accordingly, each complying tender was scored in line with the qualitative criteria endorsed by Council and included in the tender documentation as follows:

#### Criteria Weighting

(a)	Relevant Experience	20%
(b)	Key Personnel Skills and Experience	0%
(c)	Tenderer's Resources	10%
(d)	Demonstrated Understanding	20%

The net tendered price, worth the remainder 50%, was scored using the 'Average Based Scoring Method' recommended by WALGA in the 'Local Government Purchasing and Tender Guide'.

The panel members individually assessed the compliance and qualitative criteria and then applied an average to provide a final rating. The scores were then added together to indicate the rankings for the tender. The Confidential report attached provides further detail in relation to the relative merits of each of the individual tenderers. Following this evaluation, Cleanaway is the preferred tenderer for the reasons outlined in the confidential report.

As is normal practice with contracts of this nature, Cleanaway has requested a few contract departures, some acceptable and some requiring negotiation. We anticipate that the City will be able to reach an agreement with the contractor.

## CONCLUSION

The tender evaluation panel have completed their assessment in line with the City's tender process and Officers now recommend the Council award RFT 1/17 Kerbside Recycling Services to Cleanaway, subject to successful completion of final contract negotiations.

## OPTIONS

The Council may consider the following alternate options:

1. The Council choose not to accept the Officers Recommendation and award the Tender to an alternate tenderer. In the view of the Officer's this could result in a Tender being awarded to a tenderer that has not presented the "best value" for money offer.
2. The Council may choose not to accept the Officers Recommendation and not award the tender. This would mean going back out to tender, resulting in significant delays to the contract award and potential significant delays to the provision of kerbside recycling services, which would have to be interrupted from 1/7/2017 to the date of the commencement of the new contract resulting from the new tendering process.
3. The Council may choose to award the tender on the basis of any of the alternative scenarios referred to in the officer comment section.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The award of the tender can be made immediately after the Council has endorsed the Officer's recommendation. Subject to finalisation of a number of minor contractual points, the successful tenderer will receive formal written notification within seven (7) days of the resolution. The unsuccessful tender applicant will also be notified at this time.

### Council Decision and Officer Recommendation

**C1705/107** Moved Councillor G Bleechmore, seconded Councillor J McCallum

That the Council:

1. Endorses the outcomes of the Evaluation Panel's assessment in relation to RFT01/17 for the provision of kerbside recycling services, which has resulted in Cleanaway being ranked as the best value for money tender.
2. Delegates authority to the CEO, following further negotiations, to award a contract for the kerbside recycling services.

**CARRIED 9/0**

**5.35pm** At this time Councillor P Carter returned to the meeting.

10.8 Policy and Legislation Committee - 20/04/2017 - REVIEW OF LOCAL PLANNING POLICY 6B PERCENT FOR ART PROVISIONS

<b>SUBJECT INDEX:</b>	Percent for Art Provisions
<b>STRATEGIC OBJECTIVE:</b>	A City where the community has access to quality cultural, recreation, leisure facilities and services.
<b>BUSINESS UNIT:</b>	Development Services and Policy
<b>ACTIVITY UNIT:</b>	Statutory Planning
<b>REPORTING OFFICER:</b>	Planning Officer - Stephanie Izzard
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Current Local Planning Policy 6B - Percent for Art Provisions ➡ Attachment B Amended Local Planning Policy 6B - Percent for Art Provisions ➡

**This item was considered by the Policy and Legislation Committee at its meeting on 20 April 2017, the recommendations from which have been included in this report.**

### PRÉCIS

The City of Busselton Local Planning Policy 6B Percent for Art Provisions (LPP6B) was originally adopted in 2008 in response to the City's desire to protect and enhance the utility, amenity and identity of the public domain of places such as town/village centres, commercial nodes, main streets, entry points, squares, foreshores and parks within the District. A copy of the current Policy is provided at Attachment A.

The Policy generally encourages developers to meet their percent for art requirements through on-site works, and that is generally what occurs. The Policy also, however, allows the meeting of the percent for art requirements through a cash payment in lieu of on-site works ('cash-in-lieu option'), and some developers have chosen this option. Under the cash-in-lieu option, the Policy allocates funds to be spent in one two precincts ('Busselton' – specifically for the Settlement Art Project – and 'Dunsborough' – to be spent in the Dunsborough Town Centre). Changes to this approach are recommended, to create separate 'Yallingup' and 'Vasse' precincts, and to reflect the fact that the Settlement Art Project is now fully funded and largely complete. This report also sets out proposed direction in terms of how cash-in-lieu contributions in each of the precincts might be utilised in future.

In addition, this report also proposes amendments to the criteria that determine what developments are subject of the policy, to exclude all residential development and/or the residential components of mixed-use development.

### BACKGROUND

The City of Busselton Local Planning Policy 6B Percent for Art Provisions (LPP6B) was originally adopted in 2008 in response to the City's desire to protect and enhance the utility, amenity and identity of the public domain of places such as town/village centres, commercial nodes, main streets, entry points, squares, foreshores and parks within its municipality. Development with an estimated cost of development in excess of \$1M is required to provide art work on site equal to 1% of the estimated cost of development. Alternatively, should the applicant not wish to provide this art work on site, they make a cash-in-lieu payment (cash-in-lieu option) to the City for the same amount.

Currently LPP6B prescribed two precincts, the Busselton Precinct and the Dunsborough Precinct. Contributions which are collected under the Policy are required to be spent within the precinct which

the development is located. It is proposed as part of this amendment to create two additional two precincts – ‘Yallingup’ and ‘Vasse’. The reasons for that are essentially because contributions have been received from development in the Yallingup townsite itself, and it is considered appropriate such funds be utilised in that location, rather than in Dunsborough Town Centre, and contributions have been received and are expected to be received associated with development in the Vasse Village Centre, and it is similarly considered appropriate that such funds be applied in the Village Centre itself, rather than on the Busselton Foreshore or in the Busselton City Centre.

Under the current LPP6B, funds collected within the Busselton Precinct are to be expended on the Settlement Artwork Project. As funding for this project has now been allocated it is considered a review of this provision is necessary to provide guidance for further contributions received under the Policy. It is considered that ideas/themes for the projects specified in the policy should come from a community consultation process. This would need to be undertaken before an amended policy regarding this matter could be endorsed by the Council for the purposes of advertising, and therefore this report only proposes to commence the preliminary community consultation on this aspect of the Policy and not an amended policy at this stage.

Under LPP6B proposals eligible for Public Arts Contribution include multiple dwellings, grouped dwellings, mixed use, commercial, civic, institutional, educational projects or public works of a value greater than \$1M. Single house development (i.e. building one house on one lot) is exempt, but any other development with a value in excess of \$1M is subject of the policy. It is, however, proposed that the policy be amended to exclude all residential development and/or the residential components of mixed-use development

There are two related reasons for that recommended change. Firstly and most importantly, because most residential development is in the form of single houses, or grouped dwelling developments with a total construction cost of under \$1M, most residential development is not subject of the policy, and therefore only a very small proportion of residential development is subject of the policy – meaning that such development does not have a ‘level playing field’ relative to other, similar development. Secondly, the type of residential development most likely to be subject of the policy is multiple dwelling development (i.e. flats/apartments), and there is a pressing need for development of more of that kind of housing option, which the current approach discriminates against, in a financial sense.

One example of this lack of a level of playing field is the situation of the planned National Lifestyle Village (NLV) development in Vasse versus the planned Novacare aged persons housing development in Dunsborough where, because of differences in how the projects are actually being delivered, there would be no percent for art requirement for the actual housing component of the NLV project, but there would for the Novacare project. Note that, in both cases, however, the central and shared facilities elements of both projects would be subject of a percent for art requirement.

A copy of the proposed policy, with track changes illustrated relative to the existing policy, is provided as Attachment B.

## **STATUTORY ENVIRONMENT**

Part 2 - Local Planning Framework of Schedule 2 - Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* enables the City to make, amend and/or repeal a local planning policy. The procedure of amending a local planning policy is contained within clause 5 of Part 2 and permits the local government to not advertise an amendment to a local planning policy where, in the opinion of the local government, the amendment is minor.

Should the amendment not be considered minor advertising is required in accordance with clause 4 of Part 2 and shall be for a period of not less than 21 days via notice in a newspaper circulating within



the Scheme area. Officers do not consider the amendment to be sufficiently minor to not advertise, and, as such, consultation is recommended.

At the conclusion of the advertising period the Council may resolve to -

- (i) proceed with the policy without modification; or
- (ii) proceed with the policy with modification; or
- (iii) not to proceed with the policy.

## **RELEVANT PLANS AND POLICIES**

### City of Busselton Local Cultural Planning Strategy 2011

The City of Busselton adopted a Local Cultural Planning Strategy (LCPS) on 24 August 2011 and was noted by the Western Australian Planning Commission on 25 May 2012. The aim of the strategy is to conserve the key cultural elements of the City's towns and rural areas and to maintain these elements over time.

The LCPS forms a component of the City's local planning framework and is a strategic tool informing the development and interpretation of the Local Planning Strateg. Due regard to the Strategy's recommendations is to be given in making planning decisions and in the consideration of rezoning proposals, draft structure plans, development applications and subdivision proposals, as well as policy formulation and review.

## **FINANCIAL IMPLICATIONS**

The proposed amendments to the Policy will result in changes to the manner in which the Percent for Art contributions are collected and distributed. It is considered that the changes to the eligible development are in keeping with previous decisions made by the Council in relation to similar applications and therefore the amount of contributions collect will not alter however the provisions within the Policy will provide clarity for developers.

## **STRATEGIC COMMUNITY OBJECTIVES**

The recommendation in this report reflects Community Objective 2.2 of the City's Strategic Community Plan 2013 – 'A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections'.

## **RISK ASSESSMENT**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework, and no risks were identified where the residual risk, once controls are considered, is medium or greater.

## **CONSULTATION**

Should the Council choose to progress with the amendment to the Precincts within LPP6B and endorse the amended Policy for the purposes of advertising it is proposed that advertising will be undertaken in accordance with clause 4 of Part 2 of Schedule 2 - Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The amended Policy is to be advertised for 21 days via a notice in the local newspaper, notice on the City's website and notice at the City's Customer Information Centre and libraries. It is envisaged that, in parallel with that, consultation on the projects/themes/locations to which cash-in-lieu funds might

best be applied would occur, and that may result in further, minor modifications to the policy, when the matter is further considered by the Council, after consultation.

## OFFICER COMMENT

### Changes to precinct boundaries

Currently funding is split between two precincts, the Busselton Precinct and the Dunsborough Precinct. This report proposes to amend the two precinct boundaries and add an additional two precincts, Yallingup and Vasse.

Due to the development within the Vasse Village Centre it is considered the addition of this as its own precinct is appropriate in allowing funds collected in Vasse to be spent on projects within the Village Centre. It is anticipated that would be done in partnership with the Vasse JV developers, and if a clear strategy were articulated, that may assist in encouraging the developers of individual sites to meet their percent for art obligations via the cash-in-lieu option, and deliver an integrated and high quality approach to public art in the Village Centre.

Further to this, it is considered that the addition of a Yallingup precinct is appropriate to ensure that contributions collected within the Yallingup townsite are able to be spent there. The City has already received one such contribution from the "Surfside" development located at 10 Valley Road Yallingup. The City is currently working with members of the community to determine the best allocation of this funding towards a suitable public art project.

An amended Precinct Plan is provided as part of the amended Policy provided at Attachment B.

### Descriptions of proposal eligible for Public Arts Contribution

Part 3.2.1 and 4.1.1 Proposals Eligible of LPP6B proposals eligible for Public Arts Contribution states:

#### *3.2.1 Proposals Eligible*

*All development proposals for multiple dwellings, grouped dwellings, mixed use, commercial, civic, institutional, educational projects or public works of a value greater than \$1,000,000 (one million dollars) shall be regarded as eligible proposals under these provisions.*

#### *4.1 Public Art Contribution Rate*

*The cost of any Public Art provided under these provisions shall be no less than one percent of the value of the eligible proposal.*

It is recommended that the policy be amended as follows:

#### *3.2.1 Proposals Eligible*

*All development proposals with a value greater than \$1,000,000 excluding:*

- Permanently occupied (i.e. lawfully able to be permanently occupied) residential development, including single house, grouped dwellings, aged persons dwellings and multiple dwellings;*
- Extractive Industry; and*
- Agricultural development, excluding wineries, cellar doors, restaurants or similar development on rural land that is not directly associated with agricultural pursuits (i.e. the actual growing of crops or rearing of livestock).*

~~for multiple dwellings, grouped dwellings, mixed use commercial, civic, institutional, educational projects or public works of a value greater than \$1,000,000 (one million dollars) shall be regarded as eligible proposals under these provisions.~~

#### 4.1 Public Art Contribution Rate

*The cost of any Public Art provided under these provisions shall be no less than one percent of the value of the eligible proposal.*

*For any eligible proposals comprising a permanently occupied residential component, including but not limited to, mixed use development, aged persons dwellings and/or retirement villages, the Public Art Contribution Rate is to be based only on the value of the non-residential component, central/communal facilities, and the proportionate value of supporting infrastructure works, such as the costs of fill, drainage, wastewater, water, electricity, telecommunications, pedestrian and vehicular accessways, parking and landscaping.*

It is considered that the proposed changes will improve consistency and fairness in the manner in which the contributions are applied. For example, under the current provisions of the Policy, grouped dwellings which are applied for individually are able to avoid the Percent for Art Contributions if the estimated cost of each elements of development works is less than \$1 million. However if a number of grouped dwellings are applied for under one development application and the value of the works exceeds \$1 million, they are required to make a contribution under the Policy. The same issue occurs for retirement villages and aged persons dwellings.

#### **Projects/themes/locations for art works in the Busselton and Dunsborough precincts**

Under LPP6B funds collected within the Busselton Precinct are to be expended on the Settlement Artwork Project. As funding for this project has now been allocated it is considered a review of this provision is necessary to provide guidance for future contributions received under the Policy. Currently, the Policy does not stipulate a specific project which the contributions collected within the Dunsborough Precinct are to be allocated towards however states that the contributions are to be expended on art work within the Dunsborough Town Centre and/or Foreshore. It is noted that to date no contributions have been received within the Dunsborough Precinct.

It is considered that ideas/themes for the projects specified in the Policy should be developed in conjunction with the community. Community consultation will required to be undertaken before an amended policy regarding this provision could be endorsed by the Council for the purposes of formal advertising. Therefore this report only proposes to commence the development and initial community consultation on this aspect of the Policy and not an amendment to this provision of the policy at this stage.

Specifying the projects/themes/locations for which the contributions are to be allocated has a number of benefits including providing certainty for developers as to what projects their contributions will be funding and therefore providing an additional incentive to make the contribution. Further to this it prevents several projects progressing at the same time resulting with inadequate funding and uncertainty as to which projects will be allocated the contributions.

In addition, by developing the projects which the contributions will be allocated towards this allows for a charitable trust be set up for that project, such as the case for the Busselton Settlement Art Project. This allows for the contributions to be tax refundable.

## CONCLUSION

It is recommended that LPP6B be amended as outlined in Attachment B, including amended Precinct Plans provided in Attachment C and that development of new provisions, which will involve community consultation, for the ideas/themes for the projects specified in Policy be initiated.

## OPTIONS

The Council may choose to:

1. Modify the proposed amendment to LPP6B and advertise these modifications;
2. Not proceed with the proposed amendment to LPP6B.

## ADDENDUM (added to address question taken on notice at the Committee meeting)

**At the Committee meeting, Cr Paine asked a question about clause 8.4 of the Policy (i.e. both the current and revised policy), which relates to copyright issues. Clause 8.4 reads as follows –**

### 8.4 Copyright of Artwork

Once an artwork has been completed and accepted by the City, copyright will be held jointly by the City and the artist. In practical terms this means that the City has the right to reproduce extracts from the design documentation and photographic images of the artwork for non-commercial purposes, such as annual reports, information brochures about the City and information brochures about the artwork. The artist will have the right to reproduce extracts from the design documentation or photographic images of the artwork in books or other publications associated with the artist or artwork.

**Upon review of this clause, in the context of the policy as a whole, it appears that the clause primarily relates to situations where the City is commissioning an artist utilising cash-in-lieu funds, where a developer has chosen to meet their percent for art obligation through a cash-in-lieu payment, rather than situations where a developer is commissioning an artist, having chosen to meet their percent for art obligation through on-site works (which is the more common method). The policy is, however, not entirely clear in that respect, and the policy could be interpreted as requiring the developer to extend limited copyright to the City, even where the artwork will not be on City land, or owned or managed by the City in any way. That is not considered reasonable, and has not been the practice.**

**Further, clause 8.4 could be interpreted as meaning that, where a developer does choose to meeting their percent for art obligation through a cash-in-lieu payment, t in spending the funds on public art, that the City should only secure very limited copyright in relation to the artwork – i.e. non-commercial copyright only. That is also not considered reasonable, and has also not been the practice. There are a number of instances where the City may want to secure broader or even exclusive copyright in public art. The clause would also mean that different copyright requirements would potentially apply to artwork funded through cash-in-lieu payments, as opposed to artwork funded from other sources – which would be particularly difficult if a single artwork had multiple sources of funding.**

**Given the above, it is considered that clause 8.4 should be removed from the policy. Copyright issues would then be for the artist and the commissioner of the artwork (whether that is the City or a developer) to determine on a case-by-case basis.**

Officers have also reviewed the other aspects of part 8 of the policy, and are comfortable that the balance of part 8 remains appropriate. Particular note is made of clause 8.1, which requires a developer, when meeting their percent for art obligation through on-site works, to provide the City with a copy of the contract with the artist. Whilst that generally does not occur in practice, it is seen as useful to have the clause in the policy, such that a copy of the contract can be requested where there may be a concern about the adequacy of the works proposed, including in terms of their cost/value.

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

If endorsed for the purposes of advertising notice will be arranged within one month of the Council making a resolution consistent with the recommendation.

#### **Original Committee Recommendation and Officer Recommendation**

That the Council –

1. Pursuant to clause 5 of Part 2 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, proceeds with the amendment to Local Planning Policy 6B Percent for Art Provisions as outlined in Attachment B of this report;
2. Pursuant to clause 4 of Part 2 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, advertises the amendment to Local Planning Policy 6B Percent for Art Provisions; and
3. In parallel with point 2 above, undertakes community consultation to assist in developing new themes/ideas/locations for projects which contributions collected under the Policy in the Busselton and Dunsborough Precincts shall be allocated towards in the future.

#### **Council Decision and Amended Officer Recommendation**

**C1705/108**

Moved Councillor R Paine, seconded Councillor P Carter

That the Council –

1. Pursuant to clause 5 of Part 2 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, proceeds with the amendment to Local Planning Policy 6B Percent for Art Provisions as outlined in Attachment B of this report, **further modified through the removal of clause 8.4 and the renumbering of subsequent clauses accordingly;**
2. Pursuant to clause 4 of Part 2 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, advertises the amendment to Local Planning Policy 6B Percent for Art Provisions; and
3. In parallel with point 2 above, undertakes community consultation to assist in developing new themes/ideas/locations for projects which contributions collected under the Policy in the Busselton and Dunsborough Precincts shall be allocated towards in the future.

**CARRIED 9/0**

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

Nil

**14. CONFIDENTIAL REPORTS**

Nil

**15. QUESTIONS FROM MEMBERS**

Nil

**16. PUBLIC QUESTION TIME**

Nil

**17. NEXT MEETING DATE**

Wednesday, 24 May 2017

**18. CLOSURE**

The meeting closed at 5.36pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 54 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 24 MAY 2017.

DATE: \_\_\_\_\_

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