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are yet to be confirmed as a  
true record of proceedings

## CITY OF BUSSELTION

### MINUTES FOR THE COUNCIL MEETING HELD ON 9 AUGUST 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 9 AUGUST 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  
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 Mail”

#### Public:

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### 3. PRAYER

The prayer was delivered by Pastor Ted van Spronsen from the Free Reformed 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**

The presiding member acknowledged the Staff efforts for Prime Ministers visit on Wednesday 2 August 2017, the City received \$1.5million funding for foreshore.

The presiding member acknowledged the Staff efforts for the Public open day, with over 2500 community members attending.

The presiding member acknowledged the service by Matt Smith who has recently resigned as the Director of Finance and Corporate Services.

**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**

Nil

**9. CONFIRMATION AND RECEIPT OF MINUTES****Previous Council Meetings****9.1 Minutes of the Council Meeting held 26 July 2017****COUNCIL DECISION**

**C1708/179**

Moved Councillor J McCallum, seconded Councillor C Tarbotton

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

**CARRIED 9/0**

**Committee Meetings**9.2 Finance Committee Meeting held on 20 July 2017**COUNCIL DECISION****C1708/180**

Moved Councillor G Bleechmore, seconded Councillor J McCallum

That the Minutes of the Finance Committee Meeting held on 20 July 2017 be confirmed as a true and correct record.

**CARRIED 9/0**9.3 Policy and Legislation Committee Meeting held on 20 July 2017**COUNCIL DECISION****C1708/181**

Moved Councillor C Tarbotton, seconded Councillor J McCallum

That the Minutes of the Finance Committee Meeting held on 20 July 2017 be confirmed as a true and correct record.

**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.

**En Bloc Motion****COUNCIL DECISION / COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**

**C1708/182** 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 Finance Committee - 20/07/2017 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 MAY 2017
- 10.2 Finance Committee - 20/07/2017 - LIST OF PAYMENTS MADE - MAY 2017
- 10.3 Finance Committee - 20/07/2017 - FINANCE COMMITTEE INFORMATION BULLETIN - JUNE 2017
- 10.5 Policy and Legislation Committee - 20/07/2017 - REVIEW OF POLICY 023 - COMMUNITY ENGAGEMENT
- 10.6 Policy and Legislation Committee - 20/07/2017 - REVIEW OF PROSECUTION POLICY
- 10.7 Policy and Legislation Committee - 20/07/2017 - REVIEW OF PRESENTATIONS ON TERMINATION POLICY
- 11.1 PROPOSED AMENDMENT 25 TO LOCAL PLANNING SCHEME 21 - OMNIBUS AMENDMENT 2 - DEEMED PROVISIONS ALIGNMENT - FOR FINAL APPROVAL
- 13.1 COMMUNITY BIDS ROUND ONE ALLOCATIONS
- 14.1 PROPOSED AMENDMENT TO THE BUSSELTON CROQUET CLUB LEASED AREA TO ACCOMMODATE NEW CLUBROOMS
- 14.2 POLICY 049 - REGIONAL PRICE PREFERENCE
- 14.3 PROPOSED LEASE TO BARNARD PARK SPORTING ASSOCIATION INC. FOR THE NEWLY CONSTRUCTED BARNARD PARK PAVILION
- 15.1 COUNCILLORS' INFORMATION BULLETIN

**EN BLOC**

**CARRIED 9/0**

## 10. REPORTS OF COMMITTEE

### 10.1 Finance Committee - 20/07/2017 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 MAY 2017

<b>SUBJECT INDEX:</b>	Budget Planning and Reporting
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Finance and Corporate Services
<b>REPORTING OFFICER:</b>	Manager Financial Services - Kim Dolzadelli
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Statement of Financial Activity as at 31 May 2017⇒ Attachment B Investments Report as at 31 May 2017⇒

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

#### **PRÉCIS**

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

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the City's financial performance on a year to date basis for the period ending 31 May 2017.

#### **BACKGROUND**

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

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

Additionally, and pursuant to Regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year. At its meeting of 21 July 2016, the Council adopted (C1607/160) the following material variance reporting threshold for the 2016/17 financial year:

*That pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations, the Council adopts a material variance reporting threshold with respect to financial activity statement reporting for the 2016/17 financial year to comprise variances equal to or greater than 10% of the year to date budget amount as detailed in the Income Statement by Nature and Type/ Statement of Financial Activity report, however variances due to timing differences and/ or seasonal adjustments are to be reported on a quarterly basis.*

**STATUTORY ENVIRONMENT**

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

**RELEVANT PLANS AND POLICIES**

Not applicable.

**FINANCIAL IMPLICATIONS**

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

**Long-term Financial Plan Implications**

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

**STRATEGIC COMMUNITY OBJECTIVES**

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

**RISK ASSESSMENT**

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

**CONSULTATION**

Not applicable

**OFFICER COMMENT**

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

- Statement of Financial Activity

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



▪ Net Current Position

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

▪ Capital Acquisition Report

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

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

▪ Reserve Movements Report

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

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

## COMMENTS ON FINANCIAL ACTIVITY TO 31 May 2017

### Operating Activity

▪ Operating Revenue

As at 31 May 2017, there is a variance of -0.06% (-\$43K) in total operating revenue, with the following categories exceeding the 10% material variance threshold:

Description	2016/2017 Amended Budget	2016/2017 Amended Budget YTD	2016/2017 Actual	2016/17 YTD Bud (A) Variance \$	2016/17 YTD Bud (A) Variance %
Operating Grants, Subsidies and Contributions	5,171,217	4,130,973	4,936,893	805,920	19.51%
Interest Earnings	2,542,850	2,368,230	3,100,012	731,782	30.90%
Non-Operating Grants, Subsidies and Contributions	45,891,102	9,647,216	7,946,713	(1,700,503)	-17.63%
Profit on Asset Disposals	30,167	30,167	19,793	(10,374)	-34.39%

### **Operating Grants Subsidies and Contributions (+\$805)**

- Busselton Jetty +\$417k. This is attributable to a budget timing difference associated with contributions received from BJECA for Busselton Jetty License fee.
- Human resources and payroll section +\$114k. This variance is mainly attributable to insurance recovered \$94k (which is partly offset by additional expenditure of \$64k).
- Meelup Regional Park +\$41k, attributable to a budget timing difference.
- Fire Prevention DFES +\$44k, attributable to a budget timing difference.
- Financial Services +\$31k, this is represented by +\$21k in LGIS dividend payment and +\$10k in insurance claims revenue.
- Operations Services Works +\$34k, this attributable to reimbursement of Workers Compensation payments.
- Miscellaneous Bridge Maintenance +\$22k, attributable to a budget timing difference.
- Airport Operations -\$41k, attributable to a budget timing difference.
- Occupation Health and Safety -\$14k, this is offset with nil expenditure.

**Interest Earnings (+\$732K)**

- Interest on municipal funds -\$70k.
- Interest on reserve funds +\$226k.
- Interest on restricted funds +\$491k.
- Late payment and instalment plan interest on rates +\$62k.

**Non-Operating Grants, Subsidies and Contributions (-\$1,700K)**

- Contributions received +\$456k. Contributions have no effect on the net current position as they are transferred to restricted cash and are utilised in the future for the purpose when received;
- Grants for Bushfire Brigades +\$661k, Dunsborough +\$111k and Sussex +\$551k this is offset with the addition of Donated Assets;
- Foreshore East-Youth Precinct Community Youth Building/SLSC -\$2,566k, please note that \$1,522k has been recognised in the month of June 2017;
- Main Roads - Direct Grants 2/3 Funded -\$674k, please note that +\$319k has been recognised in the month of June 2017;
- Roads to Recovery Funding +\$130k this in line with current expenditure levels on these projects namely Kaloorup Road;
- Bridges -\$183k Layman Road Bridge
- Footpath Busselton Bypass - Fairway to Kangaroo Gully -\$111k this in line with current expenditure levels on the project;
- Busselton Foreshore Stage 3: Toddler's Playground -\$140k this in line with current expenditure levels on the project;
- Airport development grant received +\$725k. Timing difference associated with the receipt of Federal funding for the development of the airport.

**Operating Expenditure**

As at 31 May 2017, there is a variance of +3.52% (+\$2,069K) in total operating expenditure, with the following categories exceeding the 10% material variance threshold:

Description	2016/2017 Amended Budget	2016/2017 Amended Budget YTD	2016/2017 Actual	2016/17 YTD Bud (A) Variance \$	2016/17 YTD Bud (A) Variance %
Materials & Contracts	(15,780,869)	(13,884,690)	(11,953,891)	1,930,799	13.91%
Other Expenditure	(3,099,864)	(2,641,034)	(2,214,609)	426,425	16.15%

**Materials and Contracts (+\$1,931)**

- By directorate, materials and contracts is showing the following variances at 31 May 2017;
  - Engineering and Works Services +\$984k
  - Community and Commercial Services +\$533k
  - Finance and Corporate Services +\$279K
  - Planning and Development Services +\$144k
  - Executive Services -\$10k

The variances are predominantly attributable to the following activities:

### **Engineering and Works Services**

Description	Budget	Budget YTD	Actual YTD	Variance \$
Street Lighting Installations	(150,000)	(75,000)	(185,999)	(110,999)
Bsn Foreshore Precinct (not including Skate Park)	(158,250)	(145,068)	(254,500)	(109,432)
Busselton Transfer Station	(98,960)	(89,815)	(135,503)	(45,688)
Dunsborough Waste Facility	(165,520)	(147,147)	(188,403)	(41,256)
Transport - Fleet Management	(1,822,700)	(1,674,647)	(1,464,568)	210,079
Engineering Services Administration	(544,770)	(315,541)	(93,867)	221,674
Miscellaneous Bridge Maintenance	(312,000)	(286,000)	(19,576)	266,424
Road Maintenance Bal Of Budget	(360,900)	(330,825)	(62,695)	268,130
Port Geographe	(305,000)	(305,000)	0	305,000

### **Community and Commercial Services**

Description	Budget	Budget YTD	Actual YTD	Variance \$
Iron Man	(18,000)	(16,500)	0	16,500
Art Geo Administration	(65,790)	(60,313)	(43,234)	17,079
Busselton Library	(95,396)	(86,742)	(68,395)	18,347
Community Services Administration	(69,810)	(67,843)	(31,829)	36,014
Geographe Leisure Centre	(394,275)	(366,873)	(321,795)	45,078
Kookaburra Caravan Park	(452,150)	(415,730)	(365,346)	50,384
Airport Operations	(325,520)	(306,048)	(170,015)	136,033
Property and Business Development	(281,670)	(216,529)	(23,845)	192,684

### **Finance and Corporate Services**

Description	Budget	Budget YTD	Actual YTD	Variance \$
Human Resources & Payroll	(49,940)	(30,077)	(45,108)	(15,031)
Winderup Court Aged Housing	(23,120)	(16,754)	(10,016)	6,738
Winderup Villas Aged Housing	(52,250)	(44,956)	(37,358)	7,598
Property Services Administration	(19,140)	(11,958)	(1,793)	10,165
Financial Services	(83,540)	(76,582)	(65,834)	10,748
Occupational Health & Safety	(15,860)	(14,531)	(550)	13,981
Customer Services	(37,610)	(34,648)	(19,424)	15,224
Information & Communication Technology Services	(1,001,839)	(919,905)	(882,790)	37,115
Legal and Compliance Services	(196,985)	(172,293)	(123,605)	48,688
Business Systems	(538,516)	(494,391)	(377,178)	117,213

### **Planning and Development Services**

Description	Budget	Budget YTD	Actual YTD	Variance \$
Analytical Services	(14,370)	(1,716)	(13,463)	(11,747)
Yallingup Rural Bushfire Brigade	(4,254)	(1,394)	(11,876)	(10,482)
Preventative Services - Mosquitoes	(85,382)	(55,454)	(64,847)	(9,393)
Environmental Management Administration	(135,300)	(69,152)	(31,218)	37,934
Implement Management Plans Other	(144,300)	(112,187)	(68,949)	43,238
Meelup Regional Park	(319,900)	(259,684)	(158,866)	100,818

**Other Expenditure (+\$426K)**

The variances are predominantly attributable to the following activities:

Description	Budget	Budget YTD	Actual YTD	Variance \$	Variance %
<b><u>Community and Commercial Services</u></b>					
Community Services Administration, namely Marketing & Promotion \$143k	(738,148)	(695,373)	(521,672)	173,701	-25%
<b><u>Executive Services</u></b>					
Office of the CEO, namely CAPEROC - Regional Development \$10k and CEO Discretionary Funding \$28k	(131,107)	(71,218)	(29,494)	41,724	-59%
Public Relations, namely Marketing & Promotions \$14k and Catering \$12k	(162,200)	(148,535)	(102,344)	46,191	-31%
Members of Council, namely Elected Members Refreshment & Functions \$25k, Elected Members Sitting Fees \$22k, Allowances - Mayor & Deputy \$8k, meeting expenses 17k and Elected members attire \$4k	(561,860)	(514,167)	(423,566)	90,601	-18%
<b><u>Finance and Corporate Services</u></b>					
Rates Administration, namely Rating Valuations	(105,000)	(96,250)	(83,605)	12,645	-13%
Winderlup Court Aged Housing, namely Payout of resident Funded Unit	(58,890)	(27,840)	(376)	27,464	-99%
Financial Services, Valuation Expenses	(82,600)	(40,000)	(167)	39,833	-100%
<b><u>Planning and Development Services</u></b>					
Environmental Management Administration, namely Biodiversity Incentive Rate Rebate	(14,950)	(250)	(17,466)	(17,216)	6886%
Planning Administration, namely Façade Refurbishment Policy	(51,000)	(25,913)	(6,230)	19,683	-76%
<b>Total</b>	<b>(1,905,755)</b>	<b>(1,619,546)</b>	<b>(1,184,920)</b>	<b>434,626</b>	<b>-27%</b>

**Capital Activity**▪ Capital Revenue

As at 31 May 2017, there is a variance of -10.21% (-\$6,065k) in total capital revenue, with the following categories exceeding the 10% material variance threshold:

Description	2016/2017 Amended Budget	2016/2017 Amended Budget YTD	2016/2017 Actual	2016/17 YTD Bud (A) Variance \$	2016/17 YTD Bud (A) Variance %
Transfer from Reserves	35,873,755	21,561,917	23,839,429	10.56%	2,277,512
Transfer from Restricted Assets	55,722,104	33,500,000	25,991,331	-22.41%	(7,508,669)
Proceeds from Sale of Assets	792,000	792,000	252,590	-68.11%	(539,410)
Proceeds from New Loans	3,650,000	3,500,000	3,214,000	-8.17%	(286,000)
Self-Supporting Loans - Repayment of Principal	91,040	67,772	58,923	-13.06%	(8,849)
	<b>96,128,899</b>	<b>59,421,689</b>	<b>53,356,273</b>	<b>-10.21%</b>	<b>(6,065,416)</b>

**Note:** Proceeds from New Loans (-\$286K not material based on percentage)

**Transfer from Reserves (+\$2,277k)**

Variations are shown below for specific Reserves; these variations are of a timing nature and are offset with Capital expenditure items.

- Civic and Administration Centre Construction Reserve (-\$1,978K);
- Port Geographe Waterways Management Reserve (SAR) -\$305k;
- New Infrastructure Development Reserve +\$198k;
- Community Development Contribution Reserve +\$717k;
- Infrastructure Asset Renewal Reserve +\$900k
- Waste Management Facility and Plant Reserve +\$2,745k;

**Transfer from Restricted Assets (-\$7,508K)**

- Timing difference relating to use of Airport and Foreshore grants -\$17,485k and -\$2,619k relating to the foreshore works. No impact to net current position.
- Movement of Community and Rec Facilities +\$7,323k, Vasse Diversion Drain +\$383k, Contribution to Works +\$211k, Aged Housing +\$846k from restricted assets into reserves. These movements were budgeted to occur in June 2017 but have mainly occurred in October and are timing in nature only. No impact to net current position.
- Bonds and Deposits +\$804k not budgeted. Timing in nature only as held on behalf of other entities and individuals.
- Government Grants +\$1,410k, no impact to net current position.
- Unspent Loans +\$1,617k, no impact to net current position.

**Proceeds from Sale of Assets (-\$539K)**

- The Proceeds from Sale of Assets category recognises the estimated sale or trade-in value of 'heavy and light' plant items budgeted to be replaced during the financial year. The current adverse variance is largely reflective of the timing difference in the lower Plant and Equipment capital expenditure on a year to date basis.

**Proceeds from Loans (-\$286k)**

- Difference relates to the delayed draw down of new loan for Dunsborough car parking as per budget timeline. This transaction does not affect the City's net current position as expenditure has not yet been incurred.

**Self-Supporting Loans (-\$9k)**

- Difference relates to the delayed draw down of new self-supporting loan as per budget timeline. This transaction does not affect the City's net current position.

- Capital Expenditure

As at 31 May 2017, there is a variance of +30% (+\$34,834K) in total capital expenditure, with the following categories exceeding the 10% material variance threshold:

Capital Expenditure	2016/2017 Actual	2016/2017 Amended Budget YTD	2016/17 YTD Bud (A) Variance	2016/17 YTD Bud (A) Variance
	\$	\$	\$	%
Land & Buildings	(20,497,859)	(23,299,102)	2,801,243	12%
Plant & Equipment	(1,582,865)	(3,154,662)	1,571,797	50%
Furniture & Equipment	(503,238)	(1,876,599)	1,373,361	73%
Infrastructure	(25,437,923)	(59,868,421)	34,430,498	58%
<b>Subtotal</b>	<b>(48,021,885)</b>	<b>(88,198,784)</b>	<b>40,176,899</b>	<b>46%</b>

Total Loan Repayments - Principal	(1,617,306)	(1,523,968)	(93,338)	-6%
Advances to Community Groups	(214,000)	(150,000)	(64,000)	-43%
Transfer to Restricted Assets	(5,309,614)	(1,137,763)	(4,171,851)	-367%
Transfer to Reserves	(24,498,591)	(23,485,807)	(1,012,784)	-4%
<b>Subtotal</b>	<b>(31,639,511)</b>	<b>(26,297,538)</b>	<b>(5,341,973)</b>	<b>-20%</b>

<b>Grand Total</b>	<b>(79,661,396)</b>	<b>(114,496,322)</b>	<b>34,834,926</b>	<b>30%</b>
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The following table is a summary of Capital Expenditure items that have a variance of greater than \$200k; furthermore the attachments to this report include detailed listings of all capital expenditure (project) items, to assist further in reviewing specific variances. All capital expenditure variances are considered to have no impact expected against the net current position.

Description	2016/ 17 Actual	2016/17 Amended Budget YTD	Variance \$
Foreshore East-Youth Precinct Community Youth Building/SLSC	1,189,122	2,566,663	1,377,541
Milne Street Pavilion	1,340,618	1,741,154	400,536
Civic and Administration Centre Construction	13,637,071	14,498,704	861,633
Plant & Equipment	861,334	2,242,000	1,380,666
Administration Building- 2-16 Southern Drive	120,650	1,100,000	979,350
Major Projects - Busselton Foreshore	2,469,849	5,345,848	2,875,999
Dunsborough Town Centre Carparking	60	900,000	899,940
Bridges Construction	139	814,000	813,861
Administration Building Landscaping Works	70,256	412,500	342,244
Sanitation Infrastructure	2,537,199	3,252,535	715,336
Airport Development	9,804,105	34,534,203	24,730,098
Main Roads - Layman Road	106,133	719,500	613,367
Main Roads - Peel Terrace	47,006	397,573	350,567
Roads to Recovery Tom Cullity Drive	753,059	956,087	203,028
Council Roads Initiative Carter Road	149,600	395,087	245,487

**Total    33,086,200       69,875,854       36,789,654**

### Transfers to Restricted Assets (-\$4,171)

The transfers to restricted assets budget comprises an estimation of funds that could potentially be received during the financial year, primarily from developer contributions. Due to the nature of the category, the annual budget allocation is spread evenly throughout the year. The performance in this activity does not have any direct impact on the surplus/deficit position, as revenue is recognised upon receipt and these funds are subsequently quarantined to restricted assets, essentially offsetting the initial transaction. Furthermore, the transfers to restricted assets category also include the payment of bonds and deposits, where no specific budget allocation is made for these funds.

The financial year to date variance of -\$4,129k is primarily attributable to the receipt of Community and Recreation Facilities -\$159k, Bonds and Deposit -\$593k receipt of interest in excess of budget attributable to the airport grant -\$370k and Unspent Loan funds -\$3,047k.

### Investment Report

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

As at 31 May 2017, the value of the City's invested funds totalled \$94.7M, decreasing from \$101.5M as at 1st May. The decrease is due to funds being utilised for operational purposes including the Admin Building and Airport projects.

During the month of December \$24.5M in term deposit funds matured. Deposits totalling \$13.0M were renewed for an average of 109 days at an average rate of 2.50%. Deposits totalling \$11.5M were closed.

The balance of the 11am account (an intermediary account which offers immediate access to the funds compared to the term deposits and a higher rate of return compared to the cheque account) increased by \$3.5M due to funds from closed term deposits not being immediately required. The balance of the Airport development ANZ cash account increased by \$1.21M at month's end, with the balance fluctuating as term deposits are closed and then the funds utilised on the project.

The credit ratings of a large number of secondary banks within Australia were downgraded by a major rating agency during the month of April. Whilst the City does have deposits with two of the affected banks (Bendigo Bank and Bank of Queensland) current holdings remain below the maximum exposure permitted by the Investment Policy even subsequent to the downgrade. Accordingly no immediate adjustments to the portfolio mix are required; however this will continue to be monitored.

The RBA left official rates on hold during May and June with future rate movements are unclear at this stage.

## **CONCLUSION**

As at 31 May 2017, the City's financial performance is considered satisfactory. Whilst current variances exist in some operational areas, these are primarily due to timing differences or are offset with matching income/expenditure, are not material in nature or are transactions that have no direct impact on the Net Current Position.

Acknowledging capital is presently tracking below year to date budget estimates the officer notes that whilst many items will be addressed in the month of June there is a likelihood that some of these items will need to be carried over into the coming 2017/2018 Municipal Budget.

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

**C1708/183**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council receives the statutory financial activity statement reports for the period ending 31 May 2017, pursuant to Regulation 34(4) of the Local Government (Financial Management) Regulations.

**CARRIED 9/0**

**EN BLOC**



**10.2      Finance Committee - 20/07/2017 - LIST OF PAYMENTS MADE - MAY 2017**

<b>SUBJECT INDEX:</b>	Financial Operations
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Finance and Corporate Services
<b>REPORTING OFFICER:</b>	Manager Financial Services - Kim Dolzadelli
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A   List of Payments made May 2017 <a href="#">⇒</a>

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

**PRÉCIS**

This report provides details of payments made from the City's bank accounts for the month of May 2017, for noting by the Council and recording in the Council Minutes.

**BACKGROUND**

The Local Government (Financial Management) Regulations require that when the Council has delegated authority to the Chief Executive Officer to make payments from the City's bank accounts, that a list of payments made is prepared each month for presentation to, and noting by, Council.

**STATUTORY ENVIRONMENT**

Section 6.10 of the Local Government Act and more specifically, Regulation 13 of the Local Government (Financial Management) Regulations; refer to the requirement for a listing of payments made each month to be presented to the Council.

**RELEVANT PLANS AND POLICIES**

NA.

**FINANCIAL IMPLICATIONS**

NA.

**Long-term Financial Plan Implications**

NA.

**STRATEGIC COMMUNITY OBJECTIVES**

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

**RISK ASSESSMENT**

NA.

**CONSULTATION**

NA.

**OFFICER COMMENT**

In accordance with regular custom, the list of payments made for the month of May 2017 is presented for information.

**CONCLUSION**

NA.

**OPTIONS**

NA.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

NA.

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

**C1708/184**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council notes payment of voucher numbers M114274 – M114430, EF052150 – EF052668, T007337 – T007341, and DD003111 – DD003139; together totalling \$13,197,211.91.

**CARRIED 9/0**

**EN BLOC**

10.3 Finance Committee - 20/07/2017 - FINANCE COMMITTEE INFORMATION BULLETIN - JUNE 2017

<b>SUBJECT INDEX:</b>	Councillors' Information
<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>	Executive Services
<b>REPORTING OFFICER:</b>	Manager Financial Services - Kim Dolzadelli Councillor Support Officer - Lisa Haste Asset Coordinator - Daniel Hall
<b>AUTHORISING OFFICER:</b>	Director, Engineering and Works Services - Oliver Darby
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

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

**PRÉCIS**

This report provides an overview of information that is considered of relevance to members of the Finance Committee, and also the Council.

**INFORMATION BULLETIN**

**1. Chief Executive Officer – Corporate Credit Card**

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

Date	Amount	Payee	Description
27-Apr-17	\$547.80	Adelaide Hills Council	* LGCO Conference
28-Apr-17	\$361.97	Createsend / Jack In The Box	Bay To Bay Newsletter
09-May-17	\$70.00	Busselton Chamber	GG Budget Breakfast Busselton Chamber
09-May-17	\$510.00	Qantas Club	* 1 Year Membership
09-May-17	\$399.50	Lifesize Standups	2 X Lifesize Instagram Frames
20-May-17	\$223.30	Intercontinental, Adelaide	* Deposit, Accom LGCO Conf
22-May-17	\$17.50	Australia Post	Busselton Jetty Stamps
22-May-17	\$154.00	Grosvenor Hotel, East Perth	Meal & Drinks BMRA Meetings
23-May-17	\$16.13	Wilson Parking, Perth	Parking: BMRA Meeting
23-May-17	\$17.50	The George, Perth	Coffee - BMRA Meeting
23-May-17	\$815.55	Frasers Suites, East Perth	Accomm: BMRA Meetings

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

*+ Allocated against CEO Hospitality Expenses Allowance*

## 2. Voluntary Contributions/Donations (Income)

No voluntary contributions have been approved this financial year to date.

## 3. Donations/Contributions and Subsidies Fund (Sponsorship Fund – Payment of Funds)

Current expenditure from the Donations, Contributions and Subsidies Fund (Sponsorship Fund) reveals:

- 98 applications for sponsorship have been received during this financial year.
- The average donation approved for the financial year is \$349.25
- There were 9 applications for sponsorship received or assessed during May 2017.
- Expenditure from the Donations, Contributions and Subsidies Fund (Sponsorship Fund) for the financial year totals \$34,227.32

Total budget for the Donations, Contributions and Subsidies Fund (Sponsorship Fund) is \$37,450.

App. No.	Recipient	Purpose	Amount
90/1617	Dunsborough Basketball Club	Funding requested to purchase first aid kits for all their teams.	\$0.00
91/1617	Mayoral Prayer Breakfast	Major sponsor of the Mayoral Prayer breakfast in August 2017.	\$2,500
92/1617	Chelsea Lindsay for Breast Cancer Care WA	Event fee waiver for Breast Cancer Charity fundraising dinner being held at 3Oceans.	\$36.50
93/1617	Bailey Coshott	Representing WA at the U 15's school sport AFL championships in Perth	\$200
94/1617	Geographe Bay Table Tennis Club	Seeking Funds to assist with the overall running costs of their June SW Open championships.	\$500
95/1617	Jaylen Colegate	Representing WA at the Australian Under 16 Junior basketball Championships in Perth.	\$200
96/1617	Vasse Probus Club Inc	Seeking funds to purchase a steel cupboard to hold their resources. Unsuccessful, however they have been put in contact with City officers to see what we have from the old building that the Probus Club could use.	\$0
97/1617	Busselton Choral Society	Seeking funds to assist with the costs of their Winter concert. Unsuccessful as funds have already been received this financial year.	\$0
98/1617	Busselton Horse and Pony Club	Fee waiver for camping permit fee at the Winter Jumping Festival.	\$100

## **Asset Management Report**

### Unsealed Roads and Fair Value

The following report provides some clarification on the calculation of fair value for unsealed roads and also the drivers for the unsealed road renewal (re-sheeting) program.

There are three main types of unsealed roads included within the City's unsealed road network. These are paved, formed and unformed roads. These are defined as follows;

- A paved road is a road that has been shaped by a grader and has been constructed with the use of imported gravel;
- A formed road is an unsealed road that has been shaped by a grader but has not been constructed with imported gravel; and
- An unformed road is a legally-recognised road that is undeveloped, but provides public access (often 4wd access only) to a particular area or feature.

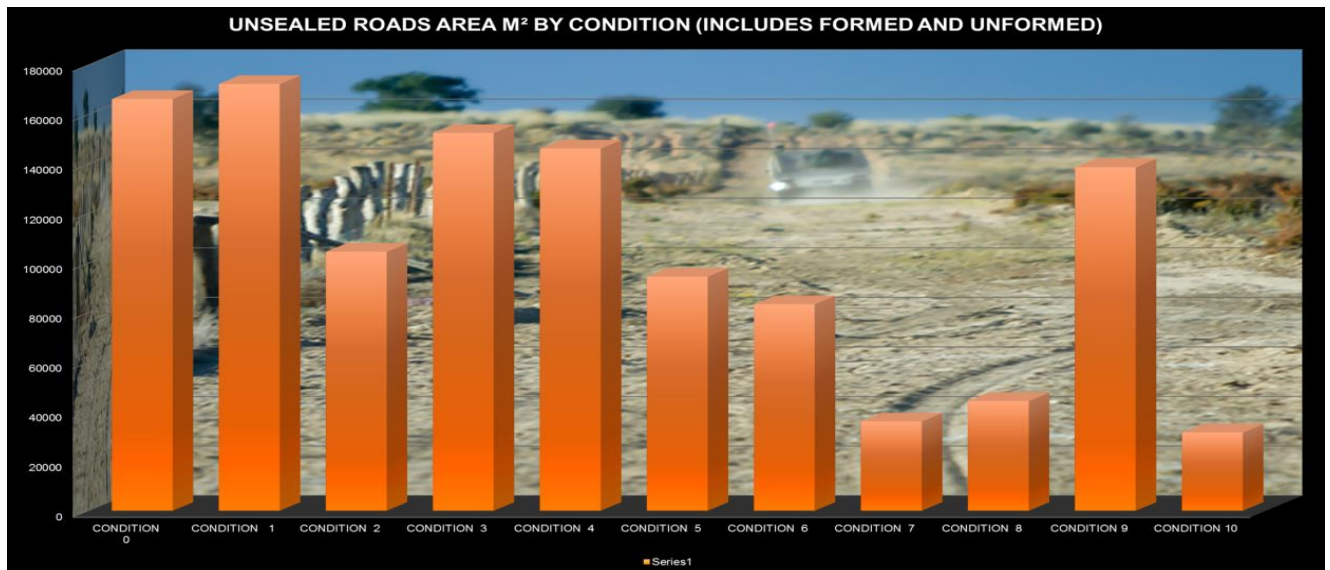
Although each of these types of unsealed roads require varying levels of annual renewal requirements, they are none-the-less all still under the management control of the City; and therefore are all required to be included in the fair value assessment.

Formed and unformed roads, require little or no scheduled maintenance and may only be subject to ADHOC tree pruning or a light grade (formed roads only) as the need arises.

Scheduled maintenance is required for paved roads as these contain imported materials (gravel) which needs to be monitored and maintained at a certain depth (The ideal gravel depth for a paved road in an excellent condition is greater than 150mm); for the safety of road users, structural integrity of the underlying pavement and to provide sufficient gravel depth to enable maintenance grading.

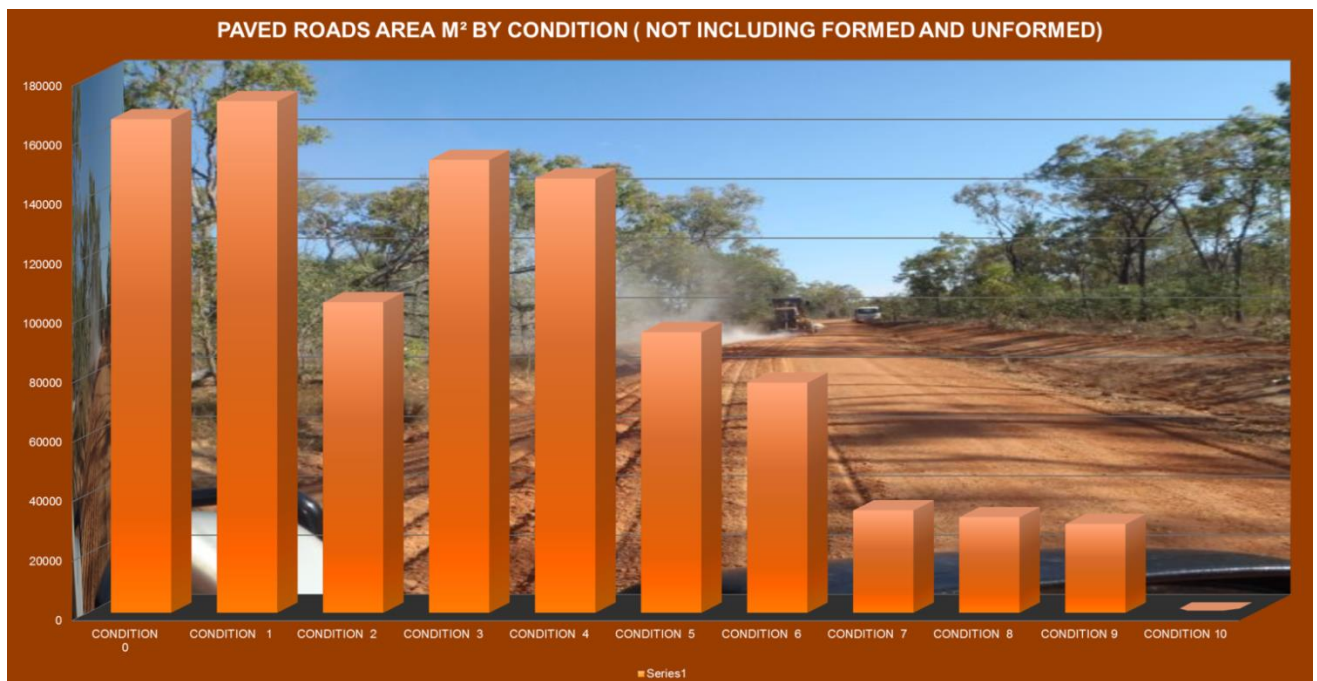
The monitoring of these paved roads consists of measuring the gravel depths with the use of a drill to ensure that minimum standards are being maintained. Unsealed roads with a gravel pavement should maintain a reasonable depth of gravel from the subgrade to the surface. This depth is renewed through the use of the gravel re-sheeting program which is funded through the annual budget.

Re-sheeting is required when the gravel depth falls to an ungradable level and subgrade exposure becomes evident. At this point there is no longer enough remaining gravel for the grader driver to "work with" when maintaining the road and more gravel is required. Re-sheeting is triggered by the road sections overall condition which considers depth, shape, drainage, looseness and safety. Priority is allocated considering condition, utilisation, risk and deprivation.



The above chart shows the condition breakdown by square metres of all (paved, formed and unsealed roads) following the updated inspections in April 2017. This chart drives the fair value for unsealed roads, which currently sits at \$14.8M.

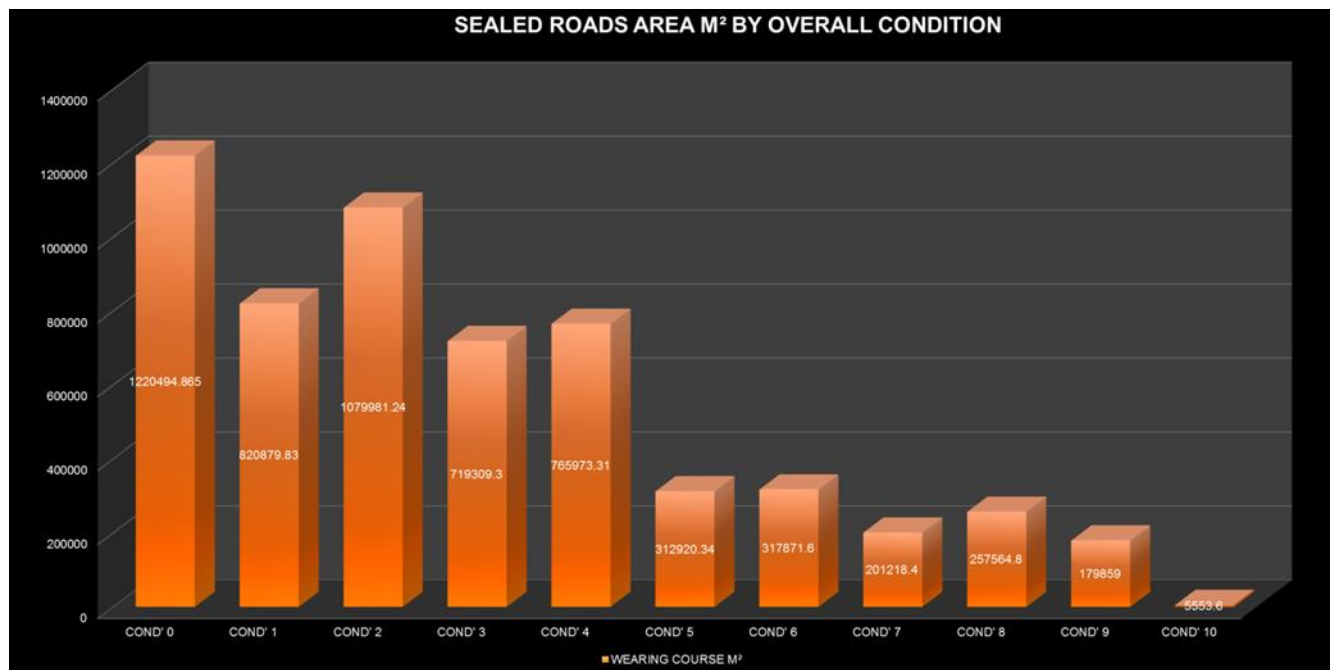
It should be noted here also, that formed and unsealed roads will naturally sit at condition eight, nine and ten; due to zero pavement gravel depth. This is further highlighted in the chart below which shows a reduction in the square metres of road with condition eight, nine or ten ratings.



The above chart shows the condition breakdown for paved roads only (not including formed and unsealed) which drives the annual re-sheeting program. Roads sitting in the condition eight and nine and ten ratings are those which are scheduled for re-sheeting. These will be rectified through the current re-sheeting program and do not indicate any current back log of works for unsealed roads.

### Sealed Roads for Comparison

The Chart below shows the current breakdown (by total square metres) of all sealed roads that the City maintains. This has been included as a means of highlighting the similar condition profiles of the sealed and unsealed paved roads above. These condition profiles are indicative of assets under a scheduled renewal program as the majority of the assets are sitting in an 'as new' or 'good' condition.



Both of these charts highlight the effectiveness of the current renewals programs and also the need for these programs to be maintained into the future. These programs are the annual re-sheeting and road construction programs which are funded through the annual budget.

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

**C1708/185**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Finance Committee Information Bulletin for the month of June 2017 be noted.

**CARRIED 9/0**

**EN BLOC**

10.5 Policy and Legislation Committee - 20/07/2017 - REVIEW OF POLICY 023 - COMMUNITY ENGAGEMENT

<b>SUBJECT INDEX:</b>	Plans, Policies and Procedures
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	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 Revised Policy 023 - Community Engagement ➡ Attachment B Revised Policy 023 - Community Engagement - Tracked Changes ➡

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

## **PRÉCIS**

The purpose of this report is to review Policy 023 – Community Engagement.

## **BACKGROUND**

Council has previously adopted a policy relating to Community Engagement being:

Policy 023 adopted on 12 March 2014 - Community Engagement C1403/049.

## **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.

## **RELEVANT PLANS AND POLICIES**

Policy 023 – Community Engagement.

## **FINANCIAL IMPLICATIONS**

There are no direct financial implications associated with this report.

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

Nil

## **STRATEGIC COMMUNITY OBJECTIVES**

This policy aligns with and supports the **Council's Key Goal Area 6** – 'Leadership' and more specifically **Community Objective 6.1** – 'Governance systems, process and practices are responsible, ethical and transparent'.



**RISK ASSESSMENT**

There are no residual risks identified as being high or medium as a result of the Officer Recommendation.

**CONSULTATION**

As the revised Policy is based on the City's existing policy there is no change in focus this policy is not considered to require any public consultation.

**OFFICER COMMENT**

During the ordinary course of reviewing the policy, the contents have been modified by making minor changes as shown in attachment B.

**CONCLUSION**

As part of the regular practice of reviewing Council policies, a review was carried out on Policy 023 - Community Engagement. Following this review officers are recommending that the revised policy be adopted.

**OPTIONS**

The Council may agree or may not agree to the change of the existing policy or may seek to make alterations to the policy.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The existing policy would be cancelled effective immediately upon adoption of Council and the new Codes would become effective.

**COUNCIL DECISION / COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION****C1708/186**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council adopted the revised Policy 023 - Community Engagement as shown in attachment A.

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

## Attachment A

Last updated 19 May 2017

023	Community Engagement and Consultation	V2 Current
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**STATEMENT**

Council places high priority on engaging with the community and encouraging community participation in decision-making processes.

The purpose of this policy is to outline the framework Council and the City will use to engage with the community and key stakeholders.

**PURPOSE / RATIONALE**

This policy guides the Council and City Officers on community engagement and consultation objectives. The policy takes into account key factors impacting community consultation and engagement activities such as statutory obligations, stakeholder expectations, risk management issues, budget and time constraints and appropriate consultation and engagement mechanisms (or tools).

**SCOPE**

The Policy will inform the engagement and consultation activities undertaken by Busselton City Councillors, City Officers, and Contractors of the City of Busselton. Its application is suitable for large and small-scale projects and policy decision-making processes across all areas of City business. It should be noted that different levels of consultation will be appropriate depending on the issue to be addressed; stakeholder objectives and characteristics; and the sort of information needed to be relayed or obtained.

**DEFINITIONS**

**Engagement** means connecting with community groups, organisations and individuals for the purpose of:

- communicating information to stakeholders;
- ensuring transparency in the decision-making process; and
- building permanent relationships.

**Consultation**. involves two-way information exchange and its primary purpose is to obtain public feedback to inform decision-making on a particular issue(s).

**Stakeholders** – Groups or individuals that have an interest in the business of the Council and its governance of the City. These include residents and business operators (rate paying and non-rate paying); people who work in the district, visitors and tourists; statutory and government agencies; service providers (profit and non-profit); sporting and cultural groups; associations and organisations based in the City of Busselton.

Last updated 19 May 2017

## **POLICY CONTENT**

The City of Busselton Community Engagement and Consultation Policy outlines the organisation's commitment to:

- the principles of open and accountable decision-making;
- identifying engagement and consultation opportunities;
- formalising engagement and consultation mechanisms; and
- outlining community engagement and consultation responsibilities across the organisation.

The Policy is supported by procedural documents including media guidelines and social media policy..

### **Principles of openness and accountability in decision-making processes**

Council will be guided by the following principles:

- );
- informing the community of decisions made and actions taken in relation to Council activity;
- being open and transparent about the purpose of consultation activity;
- listening to and acknowledging community concerns;
- providing feedback on how public input has influenced decision making;
- allowing sufficient consultation time;
- striving to develop new and enhanced engagement opportunities and consultation methods, and
- meeting the statutory requirements for community engagement and consultation outlined in the Local Government Act (1995).

### **Identifying engagement and consultation opportunities**

Particular areas of routine or established consultation include (but are not limited to) issues such as development of or amendment to:

- strategic planning documents;
- sports, recreation and cultural plans;
- town plans;
- development applications;
- specific works and services;
- master plans and conceptual designs for areas designated to community use.

### **Consultation and Engagement mechanisms include but are not limited to:**

- the Your Say Busselton online engagement portal via the City's website which offers discussion forums, surveys, quick polls, Q&A, guest books
  - social media including Facebook, Instagram and Twitter;
  - access to Council meetings and briefings for presentations;
  - planned stakeholder information sessions;
  - school /community group visits;
  - electors meetings;
  - informal meet and greet sessions with elected members;
  - expos, public displays, open days and community events;
  - formal advertising in print, broadcast and TV;
  - public meetings or community forums held to address specific issues;
  - market research projects carried out using proven sampling processes and market analysis;
- Any combination of the above mechanisms may be used.

### **Responsibilities**

**Elected Members:** Will ensure principles outlined in this Policy are included in the decision-making processes of Council.

Last updated 19 May 2017

- **City Officers:** Will ensure principles outlined in this Policy are included in project planning. This requires Officers to: identify consultation opportunities;
- recommend appropriate mechanism(s) and budget requirements;
- ensure that the community has adequate opportunity to make its view known to the Council; and
- report to Council on the Engagement/consultation outcomes (if required).

#### **Policy Background**

Policy Reference No. - 020

Owner Unit – Public Relations

Policy approved by – Council on 22 September 2010

Review Frequency – As Required

#### **History**

Council Resolution	Date	Information
<b>C</b>		<b>General Update</b>
C1009/318	22 September, 2010	Date of implementation
	29 May 2017	Date of Implementation Version 3

10.6 Policy and Legislation Committee - 20/07/2017 - REVIEW OF PROSECUTION POLICY

<b>SUBJECT INDEX:</b>	Legal
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Legal Services
<b>REPORTING OFFICER:</b>	Manager Corporate Services - Sarah Pierson
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Current Prosecution Policy⇒ Attachment B Amended Proposed Enforcement and Prosecution Policy⇒

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

**PRÉCIS**

This report presents a revised Enforcement and Prosecution Policy (Attachment B) for Council approval, currently titled Prosecution Policy. The policy has been simplified and more operational aspects removed, with a view to include the latter in an Operational Practice and Procedure or guideline developed for the purpose of providing general guidance to City officers. More detailed guidance has and will also be developed relating to specific areas of operation including separate policies relating to rangers enforcement, development compliance and environmental health compliance.

**BACKGROUND**

The current Prosecutions Policy (Attachment A) was adopted in May 2010. The policy was designed to provide general information in relation to the City's approach to enforcement action, as well to guide and assist officers in the performance of their functions. However, it is considered that the current policy is unnecessarily detailed. A review of the current policy and the City's compliance and enforcement operations indicated that much of the detail is of an operational nature and would be best contained within internal guidance documents or operational practice and procedures and / or policies relating to specific operational areas, with this policy to instead provide an overarching higher level of guidance and information.

**STATUTORY ENVIRONMENT**

In terms of Sections 2.5 and 2.6 of the *Local Government Act 1995* (Act) the City of Busselton, as a local government, is a body corporate with perpetual succession, the legal capacity of a natural person and with its elected council as the governing body. Section 3.1(1) of the Act specifies that the general function of a local government is to provide for the good government of persons in its district and, in accordance with Section 2.7, Council is to determine the City's policies for that purpose.

The proposed Enforcement and Prosecution Policy and Council's ability to make the policy are consistent with abovementioned legislative provisions.

**RELEVANT PLANS AND POLICIES**

Nil

**FINANCIAL IMPLICATIONS**

There are no financial implications arising from the revision of the policy.

**STRATEGIC COMMUNITY OBJECTIVES**

The Officers recommendation aligns with and supports the Council's Strategic Community Plan 2017, specifically Key Goal Area 6 – 'Leadership' and Community Objective 6.2 – 'Governance systems, process and practices are responsible, ethical and transparent'.

**RISK ASSESSMENT**

The proposed policy does not materially change the City's position in relation to enforcements and prosecutions and hence poses no risk.

**CONSULTATION**

Nil

**OFFICER COMMENT**

The proposed Enforcement and Prosecution Policy does not materially change the City's position in relation to prosecutions. The policy is simply being streamlined with more operational aspects removed, for inclusion in an operational practice or guidance document. Additionally more detailed guidance has and will be developed relating to specific areas of operation, including separate policies relating to rangers enforcement, development compliance and environmental health compliance.

The proposed policy continues to provide information in relation to the reporting and characterising of transgressions and outlines the enforcement options available where it is determined that action is warranted. In comparison to the current policy, the proposed policy provides a higher level overview of the City's approach as opposed to outlining in detail the decision making criteria to be utilised when considering and actioning a prosecution. It is felt that a two tiered approach, whereby the proposed policy provides high level guidance and direction in relation to enforcement and prosecution action and operational practice and procedures deals more with day-to-day operational matters is an appropriate way of administering these matters.

**CONCLUSION**

It is recommended that Council adopt the proposed Enforcement and Prosecution Policy as per Attachment B.

**OPTIONS**

The Council may not agree with the revisions to the policy and may seek for the policy to be re-endorsed in its current format or for alternative changes to be made.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The proposed policy will be effective as of its adoption by Council.

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

**C1708/187** Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council:

1. Adopts the proposed Enforcement and Prosecution Policy as per Attachment B, to replace the current Prosecution Policy contained in Attachment A.

**CARRIED 9/0**

**EN BLOC**

## Attachment B

Last updated

015	Enforcement and Prosecutions	V2
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**1. PURPOSE**

The purpose of this Policy is to provide high level guidance to the City's compliance and enforcement action to ensure it is consistent and procedurally fair and to facilitate transparency by explaining the process that leads to a prosecution. More detailed guidance for Officers may also be found in operational practice and procedures and in separate policies relating to specific operational areas.

**2. SCOPE**

Local government is empowered to administer a broad suite of legislation, which includes the responsibility for enforcing the legislation (**Laws**). This role also extends to enforcing relevant subsidiary legislation, including regulations and the local government's local planning scheme and local laws.

**3. POLICY CONTENT****3.1 Reporting Transgressions under City Laws**

Non-compliance with or an offence under the Laws (**Transgression**) is generally brought to the City's attention by either a complaint from a member of the community, some other external party (e.g a government agency) or through City officers' investigations. When investigating an alleged or presumed Transgression it must first be established whether the City is the responsible authority for enforcing the relevant Law. If not, the alleged or presumed Transgression should be referred to the responsible authority.

**3.2 Characterising Transgressions**

Where the City is the responsible authority for enforcing a Transgression it shall be assessed by the City against the following considerations to determine the character of the Transgression:

- (a) public interest
- (b) threat to or impact on:
  - (i) public health and safety
  - (ii) environment
  - (iii) amenity
  - (iv) public or private property
- (c) rule of law
- (d) deterrence
- (e) need for punishment
- (f) other relevant legislative objectives

If a Transgression is characterised such that it warrants the City's further response/attention, further factors may be considered, including but not limited to:

- (g) whether the Transgression was committed deliberately or accidentally;
- (h) the seriousness and the type of the Transgression;
- (i) any prior convictions or demonstrated history of non-compliance relevant to the Transgression;
- (j) length of time since the Transgression;
- (k) the statutory timeframes relating to the relevant legislation;
- (l) any ongoing impacts resulting from the Transgression; and
- (m) any mitigating or aggravating circumstances.



Last updated

### **3.3 Enforcement/compliance action**

Prosecution is an enforcement tool that will be employed where it is the appropriate response to a particular circumstance and is not an enforcement option to be applied only as a last resort.

Decisions on enforcement action will be taken in a timely fashion, notwithstanding that flexibility will be retained to be able to respond to additional information or changes in circumstance.

Where a Transgression warrants a response from the City, the City may, at its discretion, take any one or more of the following actions:

- (a) warning/caution letter reprimanding the offender in respect of the alleged Transgression;
- (b) infringement notice;
- (c) prosecution;
- (d) referring the matter to another authority with similar or higher jurisdiction; or
- (e) a negotiated other outcome

Where there is an escalation in response to a Transgression beyond an infringement notice the CEO will inform Councillors.

### **3.4 Recovery of legal costs**

The City will seek to recover its fair and reasonable costs in all matters where costs are recoverable, either by consent or by order of the relevant court or tribunal.

### **3.5 Publication of convictions**

To achieve the deterring objective of a prosecution (that is “justice must be seen to be done”), should a conviction result from a prosecuted Transgression then the City may publish a summary of the relevant details of the Transgression and conviction in such manner deemed fit by the City under the circumstances, which may include publishing details of such outcome on the City’s website or any other appropriate platform.

## **4. APPLICATION OF THE POLICY**

This policy is provided for information purposes only to provide general guidance on how enforcement and prosecution of Transgressions is approached by the City. This policy:

- is not legally binding on the City, on any other organisations such as government departments, the police or individuals in the community;
- is general in nature and does not exhaustively address all the specific statutory actions, limitations and considerations that may be relevant or available under the Laws administered by the City;
- does not confine, restrain or limit the discretion of the City to take any action; and
- is not intended to constitute legal advice or to substitute or vary any legal processes.

Any person or entity affected by this policy or by any prosecution or compliance action undertaken by the City of Busselton should obtain independent legal advice in relation thereto.

### **Policy Background**

Policy Reference No. - 015

Owner Unit – Legal Services

Last updated

Originator – Legal Officer  
Policy approved by – Council  
Date Approved –  
Review frequency - As required  
Related Documents - Acts, Regulations and Local Laws administered by the City

**History**

Council Resolution	Date	Information
C1005/149	12 May, 2010	Date of implementation Version

10.7 Policy and Legislation Committee - 20/07/2017 - REVIEW OF PRESENTATIONS ON TERMINATION POLICY

<b>SUBJECT INDEX:</b>	Employee Relations
<b>STRATEGIC OBJECTIVE:</b>	Accountable leadership that is supported by a skilled and professional workforce.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Human Resources
<b>REPORTING OFFICER:</b>	Manager Corporate Services - Sarah Pierson
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Presentations on Termination Policy track changes⇒ Attachment B Amended Proposed Presentations on Termination Policy⇒

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

## **PRÉCIS**

This report presents a revised Presentations on Termination Policy (Attachment B) for Council approval. The policy has been simplified and the values adjusted with respect to Council's contribution towards a departing gift. Proposed changes are shown in Attachment A. It is considered that the revised policy continues to reflect an appropriate level of recognition for employee's who are leaving the City's service.

## **BACKGROUND**

The Presentations on Termination Policy has been utilised to recognise employee contributions for a long period of time. The current Presentations on Termination Policy was adopted in August 2012, with the policy being updated to provide a flat maximum amount that may be spent on recognising the departing member of staff. This was as opposed to a variable amount dependant on years of service.

This revision of the policy is presented as part of the ongoing review of Council policies to ensure their ongoing applicability and suitability.

In accordance with Section 5.50 of the Act, requiring a local government to prepare a policy in relation to payments upon termination, the revised Policy will require advertising once adopted.

## **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 has proposed to do this on recommendation of a Committee it has established in accordance with Section 5.8 of the Act.

Section 5.50 of the Act requires a local government to prepare a policy in relation to employees whose employment with the local government is finishing setting out the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or relevant award. A reference to a payment to a person under this section includes a reference to the conferral of any financial benefit on the person, and as such includes the provision of a contribution towards a gift. Once adopted local public notice of the policy will be required.

## **RELEVANT PLANS AND POLICIES**

This report proposes the update of an existing policy of the Council. It is considered relevant to maintain a policy in this regard to ensure there are ceiling limits applied to any proposed departure gift or function. The proposed policy, while setting upper limits on the Council's contribution, enables the CEO to determine the appropriate recognition within these parameters and, in doing so, to take into account other factors, such as the employee's full-time or part-time status, and the specific contribution of the employee with regard to the service provided to the City.

## **FINANCIAL IMPLICATIONS**

There is a budget item provided for Council recognition of the contribution of employees which is utilised for the purposes of this policy. It is not expected that the revised policy will result in additional costs.

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

Nil

## **STRATEGIC COMMUNITY OBJECTIVES**

The Presentations on Termination Policy is well regarded by employees as a form of recognising their contribution to the City. While it recognises employee contributions upon departure, it is considered to contribute to a level of goodwill and motivation for existing employees, in that their contributions are valued. To this end it supports Key Goal Area 6 of the Council's Strategic Community Plan 2017 – Leadership – and specifically Community Objective 6.3 – 'Accountable leadership that is supported by a skilled and professional workforce'.

## **RISK ASSESSMENT**

The revised policy reduces the overall amount of money provided for gifts for departing employees, however, the adjusted amounts are considered appropriate and reasonable and therefore it is not considered that the revisions proposed pose any significant risk.

## **CONSULTATION**

Nil

## **OFFICER COMMENT**

The Presentations on Termination Policy has been utilised to recognise employee contributions upon departure for a long period of time. The current review process is intended to simplify the method of determining the maximum value for Council's contribution to a gift on leaving the City's employment.

It is considered that the revised Presentations on Termination Policy provides an adequate contribution to a gift and to a gathering for the purposes of recognising an employee who has voluntarily decided to leave the City of Busselton. The opportunity for colleagues to gather for this purpose, and for Council to provide the employee with a token of appreciation, creates a positive experience and should therefore be maintained.

## **CONCLUSION**

It is recommended that Council adopt the proposed Presentations on Termination Policy as per Attachment B for the reasons outlined in this report.

**OPTIONS**

The Council may not agree with the revisions to the policy and may seek for the policy to be re-endorsed in its current format or for alternative changes to be made.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The proposed policy will be effective as of its adoption by Council.

**COUNCIL DECISION / COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION****C1708/188**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council adopts the proposed Presentations on Termination Policy as per Attachment B.

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

## Attachment B

Last updated 22 August 2012

171	Presentations on Termination	V2 Current
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**1. PURPOSE**

This policy is to provide a framework for recognising the contribution of employees of the City of Busselton when they voluntarily leave the employ of the City. The Council values the contribution made by employees during their service, and views a gift and minor function to enable colleagues to farewell the departing employee as appropriate recognition.

**2. SCOPE**

The policy may be applied for employees voluntarily leaving the City of Busselton with a minimum of two years employment.

**3. POLICY CONTENT**

It is appropriate that employees are recognised for the contribution that they have made to the City of Busselton during their service.

Employees who have provided more than 2 years' service will be provided with a certificate of service. Additionally the Chief Executive Officer, on behalf of the Council, is authorised to make a contribution towards a gift up to the value outlined in the table below.

Years of Service	Council Contribution
>2, ≤5 Years	\$50
>5, ≤15 Years	\$100
>15, ≤20 Years	\$200
>20, ≤25 Years	\$350
>25 Years	\$500

Gifts enabled under this policy will generally be presented to the employee at a minor function authorised by the CEO for this purpose, to which other employees of the City of Busselton shall be invited. The Council contribution to an employee's function for this purpose is not to exceed \$200, except where special circumstances apply. Where special circumstances apply the CEO may approve up to an additional \$200 for this purpose.

If two or more employees depart the employ of the City at a similar time, one function shall wherever possible be held to achieve cost efficiencies.

**4. APPLICATION OF THE POLICY**

The policy shall be applied by Human Resources, at the discretion of the Chief Executive Officer taking into consideration employment history of the employee..

**Policy Background**

Policy Reference No. - 171

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Last updated 22 August 2012

Owner Unit – Human Resources  
Originator – Historical  
Policy approved by – Council  
Date Approved – For consideration  
Review Frequency – As required  
Related Documents – N/A

**History**

Council Resolution	Date	Information
C1208/234	22 August, 2012	Reconsideration of function requirements Version 2
		Version 1

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

### **11.1 PROPOSED AMENDMENT 25 TO LOCAL PLANNING SCHEME 21 - OMNIBUS AMENDMENT 2 - DEEMED PROVISIONS ALIGNMENT - FOR FINAL APPROVAL**

<b>SUBJECT INDEX:</b>	Town Planning Scheme Amendment
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Development Services and Policy
<b>ACTIVITY UNIT:</b>	Development Services and Policy
<b>REPORTING OFFICER:</b>	Manager, Development Services and Policy - Anthony Rowe
<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 requested to consider adopting an amendment (Scheme Amendment 25) to Local Planning Scheme 21 (LPS21). The purpose of this amendment is to align the Scheme with the *Deemed Provisions* in the *Planning and Development (Local Planning Schemes) Regulations, 2015*.

The purpose of this report is to outline the range of proposed changes and their rationale. Officers are recommending that the Council adopts the proposed Amendment for initiation and approval as a 'basic' amendment.

The amendment is considered a 'basic' amendment for the purposes of Part 5 of the *Planning and Development (Local Planning Schemes) Regulations, 2015*, because it makes no changes to the substance of the City's development control framework but just removes provisions made redundant with the introduction of the *Deemed Provisions* in the *Planning and Development (Local Planning Schemes) Regulations, 2015*.

#### **BACKGROUND**

On 15 October 2014, the City of Busselton Local Planning Scheme No. 21 (LPS21) was published in the Government Gazette.

Subsequent to this (19 October 2015) the Minister introduced *Planning and Development (Local Planning Schemes) Regulations, 2015*, with procedures described in Schedule 2 (*Deemed Provisions*) replacing the relevant procedure in any local planning scheme.

The *Planning and Development (Local Planning Schemes) Regulations, 2015*, also introduced a new Model Scheme Text (or 'Model Provisions'), a notable feature of which is the absence of any administrative procedure. The intention is for each local government to undertake the work to reformat their respective Schemes to reflect the arrangement in Regulations. A fundamental aspect of the new arrangement is to separate 'procedure' from 'policy'. The 'procedure' is provided by the Minister in Schedule 2 of the Regulations, and it is now in effect across all schemes. Local government retains the ability to determine policy within the limits of State Planning Policy and with agreement from the Minister using the Model Provisions as the base.

The City is engaged in an orderly process to align its Scheme with the requirements of the *Planning and Development (Local Planning Schemes) Regulations, 2015*. This process will be achieved through consecutive amendments commencing with Omnibus 2 and extending through a range of other initiatives, as set out in a Council resolution of 26 April 2017, pursuant to a report titled "Development Control framework – Review and Proposed Direction".



Omnibus 2 is intended to remove all the 'procedures' in the Scheme that have been rendered redundant by the *Deemed Provisions*.

The new arrangement will remove any potential confusion between the procedures still in the Scheme and the prevailing procedures in the *Deemed Provisions*.

Omnibus 2 makes no change to existing development entitlements, i.e. it is 'policy neutral'.

## **STATUTORY ENVIRONMENT**

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

The relevant sections from the **Planning and Development Act 2005** include:

- a) Section 162, provides that development must not be undertaken if requiring approval by the scheme unless approval has been first obtained.
- b) Section 256, enables the Minister to make Regulations amending local planning schemes.
- c) Section 257A, provides model provisions (format) but the format can be varied with the approval of the Minister.
- d) Section 257B, provides that a *Deemed Provision* has effect as part of a Local Planning scheme. It prevails over any inconsistent provisions in a scheme and it can only be varied by the Minister through a Regulation change.

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

The *Planning and Development (Local Planning Schemes) Regulations, 2015*, identifies three different levels of amendments – basic, standard and complex.

The Regulations (r.34) provide that a 'basic' amendment is one that includes amending the Scheme to be consistent with the Model Provisions or is limited to deleting provisions that have been superseded by the *Deemed Provisions*.

The Regulations provide that the local government may resolve and adopt a 'basic' amendment without the need to advertise (no consultation process is provided for a 'basic' amendment) but it must provide in its resolution the reason for it forming the opinion the amendment is classed as a 'basic' amendment.

Once a local government has made a decision to adopt a 'basic' amendment, it is required to forward the 'basic' amendment to the Western Australian Planning Commission for submission to the Minister. If the amendment is approved, the City will be requested to provide final documents to the Minister for endorsement. The Commission will then arrange Gazettal of the endorsed amendment.

## **RELEVANT PLANS AND POLICIES**

The recommended amendment is policy neutral and has no effect upon any existing Plans and Policies.

## **FINANCIAL IMPLICATIONS**

There are no financial implications arising from the implementation of the Officer Recommendation.

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

Nil

### **STRATEGIC COMMUNITY OBJECTIVES**

The officer recommendation is consistent with community objective 6.1 of the *City of Busselton Strategic Community Plan 2017*, which is 'Governance systems, process and practices are responsible, ethical and transparent.'

### **RISK ASSESSMENT**

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City's risk assessment framework. There are no significant risks identified.

### **CONSULTATION**

The City has consulted with the Department of Planning in drafting the proposed amending text.

A 'basic' amendment requires no public consultation.

### **OFFICER COMMENT**

The purpose of this amendment is to align the City's Scheme with the *Deemed Provisions* in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations, 2015*, by deleting those provisions that became superseded when the Regulations began operation.

This is a straight forward exercise of simply identifying the Parts that are now redundant, and with only one exception, the identified Parts can all be deleted in their entirety.

The required deletions are identified as 'procedural parts' in the following table, together with the relevant replacement now provided by the *Deemed Provisions*. Please note clauses that are retained in the Scheme, that refer to a deleted Part, will require amendment to recognise the applicable clauses now in the *Deemed Provisions*.

<b>Scheme 21 –procedures to be deleted</b>	<b>Equivalent Deemed Provision</b>
Part 2 - <i>Local Planning Policy Framework</i> , and all text pertaining to that Part.	Part 2 - Local Planning Framework
Part 7 - <i>Structure Plans, Development Guide Plans, Detail Area Plans and Developer Contributions Plans</i> , and all text pertaining to that Part.	Part 4 – Structure Plans Part 5 – Activity Centre Plans Part 6 – Local development Plans
Part 8 - <i>Heritage Protection</i> and all text pertaining to that Part.	Part 3 – Heritage Protection
Part 9 – <i>Development of Land</i> – delete clause 9.1 and clauses 9.2.1 (a), (b) and (c).	Part 7 – Requirement for Development Approval
Part 10 - <i>Application for Planning Approval</i> and all text pertaining to that Part.	Part 8 – Application for Development approval

Part 11 - <i>Procedure for dealing with Applications</i> and all text pertaining to that Part.	Part 9 – Procedure for Dealing with applications for Development Approval
Part 12 - <i>Enforcement and Administration</i> and all text pertaining to that Part.	Part 10A Bushfire Risk Management Part 10 Enforcement and Administration

The exception to the deletions relates to Part 9 in Scheme 21 and its replacement, Part 7 in the *Deemed Provisions*.

Part 9 has additional ‘Permitted Development’ items that relate to rural development including , dams, clearing vegetation and jetties at Port Geographe, whereas the main focus in the *Deemed Provisions* is on exempting routine urban housing.

The additional Permitted Development items (Part 9 in Scheme 21) avoid the burden (cost and time) of making an application for a routine matter.

The additional Permitted Development items (Part 9 in Scheme 21) are not in conflict with the *Deemed Provisions*, so their retention would be consistent with maintaining this amendment as Policy neutral and as a ‘basic’ amendment. They should be retained for practical reasons and for the purpose of enhancing customer service.

Where Parts or clauses are deleted from the Scheme, the Scheme will retain its existing numbering. This may be confusing and will present a disjointed appearance to the Scheme. To overcome this, the City will publish in the Scheme, on its website and for public reference, notes referring to the *Deemed Provisions* where the text has been deleted. The ‘notes’ themselves do not form part of the Scheme, and will therefore not appear in the Gazetted amendment.

The amendment also proposes some minor changes to correct internal references that are incorrect or redundant as a result of the *Deemed Provisions* and/or the other aspects of the amendment.

## CONCLUSION

The purpose of this amendment is to align the City’s Local Planning Scheme with the Planning and Development (Local Planning Schemes) Regulations, 2015, by removing procedures made redundant by the Regulations.

The information contained within this report confirms that the changes proposed to LPS21 are an appropriate outcome consistent with the Regulations; it is policy neutral and consistent with a ‘basic’ amendment.

## OPTIONS

Should the Council not support the Officer Recommendation, the Council could consider the following options –

1. Resolve to not support the proposed amendment in its entirety and provide a reason for such a decision.
2. Resolve to approve the proposed amendment subject to modification(s) but which will maintain policy neutrality, otherwise it would not be a ‘basic’ amendment.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The implementation of the Officer Recommendation will involve the provision of the amendment documentation to the West Australian Planning Commission for the Ministers approval. Once approved, the amendment will be gazetted (WAPC) and the City will publish a Notice, to be circulated in a newspaper, to advise the community of its operation.

**COUNCIL DECISION AND OFFICER RECOMMENDATION****C1708/189**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council –

1. In pursuance of section 75 of the *Planning and Development Act 2005*, amend the above local planning scheme by:
  - 1.1 Deleting the following Parts:
    - (a) Part 2 – the heading “Part 2 Local Planning Policy Framework” and all text pertaining to it in that Part.
    - (b) Part 7 - the heading “Part 7 Structure Plans, Development Guide Plans, Detail Area Plans and Developer Contributions Plans” and all text pertaining to it in that Part.
    - (c) Part 8 - the heading “Part 8 Heritage Protection” and all text pertaining to it in that Part.
    - (d) Part 10 - the heading “Part 10 Application for Planning Approval” and all text pertaining to it in that Part.
    - (e) Part 11 - the heading “Part 11 Procedure for dealing with Applications” and all text pertaining to it in that Part.
    - (f) Part 12 –the under the heading “Part 12 Enforcement and Administration” and all text pertaining to it in that Part.
  - 1.2 Deleting the following clauses –
    - (a) Clause 9.1.
    - (b) Clauses 9.2 (a), (b) and (c).
  - 1.3 Replacing the following references
    - 1.3.1 Under cl, 3.5 after (e) replace the words “Parts 10 and 11 of the Scheme” with the words “Parts 8 and 9 of the Deemed Provisions”.
    - 1.3.2 At cl.3.5.2(b) replace the words “Parts 4 and 8” with the words “Part 4 in this Scheme and Part 3 of the Deemed Provisions”.
    - 1.3.3 Replace throughout the Scheme the words “clause 10.4” with the words “clause 64 of the Deemed Provisions”.
    - 1.3.4 Replace throughout the Scheme the words “ clause 11.2” with the words “clause 67 of the Deemed Provisions”.
    - 1.3.5 At cl. 4.5.1 replace the words “Development Guide Plan “ with “Structure Plan” and the words “Part 7” with the words “Part 4 of the Deemed Provisions”.
    - 1.3.6 At cl.6.2.2 delete the words “comprehensive Development Guide Plan or” and replace the words “Part 7” with the words “Part 4 of the Deemed Provisions”.
2. Pursuant to the Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations), determine that Amendment 25 is a basic amendment in

accordance with r.34(c) of the Regulations as it proposes to amend the Scheme text to delete provisions that have been superseded by the deemed provisions in Schedule 2 of the Regulations.

3. Authorise Council officers to prepare the scheme amendment documentation.
4. Authorise the affixing of the common seal to and endorse the signing of the amendment documentation.
5. Pursuant to Section 81 of the Planning and Development Act 2005, refers Amendment 25 to the Environmental Protection Authority.
6. Pursuant to r.58 of the Regulations, provides Amendment 25 to the Western Australian Planning Commission.

**CARRIED 9/0**

**EN BLOC**

**12. ENGINEERING AND WORKS SERVICES REPORT**

Nil

### **13. COMMUNITY AND COMMERCIAL SERVICES REPORT**

#### **13.1 COMMUNITY BIDS ROUND ONE ALLOCATIONS**

<b>SUBJECT INDEX:</b>	Donations Contributions and Subsidies
<b>STRATEGIC OBJECTIVE:</b>	A community with access to a range of cultural and art, social and recreational facilities and experiences.
<b>BUSINESS UNIT:</b>	Community Services
<b>ACTIVITY UNIT:</b>	Community Services
<b>REPORTING OFFICER:</b>	Community Development Officer - Naomi Davey
<b>AUTHORISING OFFICER:</b>	Director, Community and Commercial Services - Naomi Searle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

#### **PRÉCIS**

Each year the City of Busselton provides financial assistance to community groups and not-for-profit organisations through the Community Bids process. This assistance is provided for specific activities or projects proposed to be undertaken by that group or organisations within the forthcoming financial year.

Each year applications are workshopped with Councillors. This report provides a summary of the outcomes from the workshop on 7 June 2017, and seeks formal endorsement regarding the community bid submissions to be funded in the first round of the 2017/18 financial year and a review of other expired community funding agreements.

#### **BACKGROUND**

The City of Busselton has historically invited community groups and not-for-profit organisations to apply for funding through the City's annual budget development process. In April 2010 Council resolved to restructure the process under which external organisations applied to the City for financial assistance. This included the following changes to the various funding application schemes:

- Amalgamation of the Community Environment and Minor Sporting, Recreational and Community Grants schemes into a consolidated scheme;
- Development of a two tiered scheme for major and minor projects, with a capping of the overall budget allocations for each tier (resolved by Council);
- Discontinuation of Small Local Project fund of Councillors to be replaced by a Sponsorship and Donations fund (administered by officers).

In August 2010, Councillors considered that a number of established community organisations, who apply for funding each year, warranted ongoing support of Council across a number of financial years. This would therefore provide organisations with secured financial support over a longer planning period and alleviate the necessity to submit an annual application. These activities/events would become part of the future 'multi-year agreement process' and would not form part of the future annual Community Bids process.



In March 2011 the Council resolved (C1103/097) to allocate funding to the Community Bids program as follows:

1. *Council allocate a total of 0.5% of estimated rates to be levied to Major Project Assistance Grants to be determined as part of the Community Bids assessment process advertised in the first quarter of each year.*
2. *Allocate a total of \$50,000 to Minor Project Assistance Grants to be determined twice each year, once as part of the Community Bids process, and once again in September each year.*
3. *Increases the maximum amount of Minor Project Assistance Grants from \$3,000 to \$5,000 for any one project.*

Application for the first round of Community Bids funding for the 2017/18 financial year opened in April 2017 and a total of twelve (12) applications were received. This included five (5) applications for minor bids (\$5,000 and under) requesting \$19,892 and seven (7) applications for major bids (\$5,001 and over) requesting \$122,840

Applications were assessed by an Officer working group, in accordance with the Community Bids guidelines, and recommendations were discussed with Councillors at a workshop held on 7 June 2017. The outcomes of the workshop form the basis of the Officer recommendations in this report.

## **STATUTORY ENVIRONMENT**

Nil.

## **RELEVANT PLANS AND POLICIES**

The Community Bids funding program is an opportunity for community based organisations to seek assistance to implement initiatives that benefit the wider community and is an action contained within the City of Busselton Social Plan 2015-2025.

## **FINANCIAL IMPLICATIONS**

Based on the current funding model, the total funds available for allocation in the Community Bids program for 2017/18 is \$50,000 for minor projects and \$181,000\* for major projects.

\*This amount is inclusive of the following endorsed Multi-year agreements:

<u>Current community bid multi-year agreements</u>	<u>Ending</u>	<u>Amount</u>
Busselton Senior High School (Trade Training Centre)	2017/18	<u>\$10,000</u>
	Total	\$10,000

The proposed funding allocations detailed in the Officer recommendation of this report totals \$16,300 for minor projects and \$122,840 for major projects. This leaves a balance of \$91,860 for minor and major projects for Round 2 in 2017/18.

Additionally in 2017/18 there are three (3) annual funding agreements outside of the Community Bids program that have expired. These agreements were discussed at the Community Bids workshop as follows:

<u>Annual Agreement</u>	<u>2017/18</u>
YouthCare	\$ 38,810
Busselton Senior Citizens Club	\$ 83,180
SurfLifeSaving WA	\$141,430

The City's 2017/18 adopted budget includes these funding contributions. Consequently entering into funding agreements with these organisations will not have any further financial implications on the City's 2017/18 budget.

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

Nil

### **STRATEGIC COMMUNITY OBJECTIVES**

*Community – Welcoming, friendly, healthy:*

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

### **RISK ASSESSMENT**

An assessment of the potential implications of implementing the Officer recommendation has been undertaken using the City's risk assessment framework. The assessment identifies 'downside' risks only, rather than 'upside' risks as well. The table below 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>
<i>Applicants do not obtain relevant and adequate insurances such as Public Liability exposing the City and/or Applicant to litigation.</i>	<i>Ensure conditions of funding are clear and copies of relevant insurances are obtained.</i>	<i>Moderate</i>	<i>Rare</i>	<i>Medium</i>

### **CONSULTATION**

The Community Bids Funding Program was advertised in the Council for the Community page on 5 and 12 April 2017 and the City of Busselton website. Recognised Community Groups and Sporting Clubs in the City of Busselton were also notified of the Community Bids process via email. A Community Bids workshop was held on 9 March 2017 for interested community groups.

**OFFICER COMMENT**

Applications were initially assessed by an Officer working group, who considered the following criteria:

- Does the project, program or activity meet the Community Bids criteria?
- Has the applicant outlined why the projects, programs or activities are needed by the community?
- Is there an expectation or risk to the community if the project, program or activity does not proceed?
- Did the organisation or group state the level of cash or in kind contribution they will make to the project, program or activity?
- Has the applicant demonstrated attempts at seeking funding from other sources?
- Has the applicant been successful in previous community bids applications and what was the funded amount?
- Does the project align with the City of Busselton's Strategic Plan?

Officers presented the applications to Councillors at a workshop on 7 June 2017, where the following recommendations were made:

Minor Bids

	APPLICANT	PROJECT TITLE	REQUEST	RECOMMENDATION	SPECIFIC CONDITIONS OF FUNDING
1	Busselton Hockey Stadium Club	Materials for New Goals	\$1,500	\$1,500	
2	Surfing WA	Surfers Rescue 365	\$5,000	\$2,500	Funding of \$2,500pa awarded for 2017/18 and 2018/19. Minimum of 20 City of Busselton residents trained in program per year
3	FAWNA	Solar power to FAWNA shed	\$5,000	\$5,000	
4	Fishers with Disabilities	Fishability capacity building project	\$4,300	\$4,300	
5	Dunsborough Greenfields Community Group	DGCG Amenities building fitout	\$4,091	\$3,000	
		Total	\$19,891	\$16,300	(Remaining \$33,700)

Major Bids

	APPLICANT	PROJECT TITLE	REQUEST	RECOMMENDATION	SPECIFIC CONDITIONS OF FUNDING
1	Dunsborough Coast and Land Care	East Peron Reserve and Dunsborough Foreshore Restoration Stage 2	\$8,640	\$8,640	
2	Dunsborough Cricket Club	Dunsborough Oval Cricket Nets	\$17,200	\$17,200	
3	Dunsborough and Districts Country Club	Replacement of carpet and underlay to two bowling greens	\$50,000	\$50,000	
4	Saints Junior Football Club	Storage shed at Bovell for multiple users	\$20,000	\$20,000	
5	South West Academy of Sports (SWAS)	SWAS Support Program	\$10,000	\$10,000	Council has agreed to enter into a 4 Year \$10,000pa agreement with SWAS for the SWAS Support program subject to Dept Sport and Recreation funding for SWAS being confirmed
6	Busselton Senior High School	Trade Training Centre	\$10,000	\$10,000	
7	Youth Services	Youth Specific Equipment for Youth & Communities building	\$7,000	\$7,000	
		Total	\$122,840	\$122,840	(Remaining \$58,160)

**CONCLUSION**

The Community Bids funding program is constantly evolving and aims to meet community needs with the funds available within priority areas identified in the City of Busselton Strategic Community Plan 2017.

It is recommended that Council adopts the funding allocations as outlined in the Officer recommendation.

**OPTIONS**

Council may wish to consider different levels of funding proposed for all or some of the community bid applications. In pursuing this option the Council needs to consider budget availability and the immediacy for some funding items, and the effect this delay could have on organisations being able to finalise their plans and budgets for the 2017/18 year.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

All Community Bid applicants will be individually advised in writing of the outcome of the Council decision within 21 days. Successful applications will be required to sign a grant agreement with the City and meet any specific conditions of funding.

City officers will continue discussions with the various applicants regarding eligibility for other grant funding opportunities.

**COUNCIL DECISION AND OFFICER RECOMMENDATION****C1708/190**

Moved Councillor G Bleechmore, seconded Councillor P Carter

**OFFICER RECOMMENDATION**

That the Council:

1. Endorses the provision of funding for Round One of the 2017/18 Community Bids funding program as outlined in the table below, subject to the specific conditions as stated:

## a) Minor Bids

	APPLICANT	PROJECT TITLE	RECOMME NDATION	SPECIFIC CONDITIONS OF FUNDING
1	Busselton Hockey Stadium Club	Materials for New Goals	\$1,500	
2	Surfing WA	Surfers Rescue 365	\$2,500	Funding of \$2,500pa awarded for 2017/18 and 2018/19. Minimum of 20 City of Busselton residents trained in program per year
3	FAWNA	Solar power to FAWNA shed	\$5,000	
4	Fishers with Disabilities	Fishability capacity building project	\$4,300	
5	Dunsborough Greenfields Community Group	DGCG Amenities building fitout	\$3,000	
		Total	\$16,300	(Remaining \$33,700)

## b) Major Bids

	APPLICANT	PROJECT TITLE	RECOMME NDATION	SPECIFIC CONDITIONS OF FUNDING
1	Dunsborough Coast and Land Care	East Peron Reserve and Dunsborough Foreshore Restoration Stage 2	\$8,640	
2	Dunsborough Cricket Club	Dunsborough Oval Cricket Nets	\$17,200	
3	Dunsborough and Districts Country Club	Replacement of carpet and underlay to two bowling greens	\$50,000	
4	Saints Junior Football Club	Storage shed at Bovell for multiple users	\$20,000	

<b>5</b>	South West Academy of Sports (SWAS)	SWAS Support Program	\$10,000	Council has agreed to enter into a 4 Year \$10,000pa agreement with SWAS for the SWAS Support program subject to Dept Sport and Recreation funding for SWAS being confirmed
<b>6</b>	Busselton Senior High School	Trade Training Centre	\$10,000	
<b>7</b>	Youth Services	Youth Specific Equipment for Youth & Communities building	\$7,000	
		<b>Total</b>	<b>\$122,840</b>	<b>(Remaining \$58,160)</b>

- c) Endorses the funding allocation of \$38,810 towards the 2017/18 YouthCARE services within the City of Busselton
- d) Endorses the funding allocation of \$83,180 towards the 2017/18 Busselton Senior Citizens Club services within the City of Busselton
- e) Endorses the funding allocation of \$141,430 towards the 2017/18 Surf Lifesaving WA services within the City of Busselton
- f) Amalgamate the remaining Minor Bids funds (\$33,700) and Major Bids funds (\$58,160) for the Round 2 of the Community Bids funding program 2017/18

**CARRIED 9/0**

**EN BLOC**

## **14. FINANCE AND CORPORATE SERVICES REPORT**

### **14.1 PROPOSED AMENDMENT TO THE BUSSELTON CROQUET CLUB LEASED AREA TO ACCOMMODATE NEW CLUBROOMS**

<b>SUBJECT INDEX:</b>	Agreements and Contracts
<b>STRATEGIC OBJECTIVE:</b>	Assets are well maintained and responsibly managed.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Property Services
<b>REPORTING OFFICER:</b>	Property Coordinator - Ann Strang
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Proposed Amended Leased Area⇒

#### **PRÉCIS**

The Busselton Croquet Club Inc. (BCC) currently leases a portion of land on Churchill Park, being Lot 410 Adelaide Street, Busselton.

The City recently acquired a transportable building from Satterley, which has been relocated to Churchill Park, with the intent being that it be used by BCC as new clubrooms.

The purpose of this report is to seek Council's support for the transportable and surrounding land to be included in the BCC's leased area, with the BCC's current lease to be surrendered and a new lease entered into on the proposed terms and conditions.

#### **BACKGROUND**

Lot 410 Adelaide Street Busselton, also known as Churchill Park, is the subject of a Crown Grant in Trust with the City of Busselton for the purposes of Recreation.

Churchill Park has been used by community and sporting groups since 1942 and is currently used year round as a multi-purpose venue. The park is generally available for community use with only selected areas subject to leases such as the Busselton Harness Racing Club, Southern Districts Agricultural Society, Busselton Bowling Club, Busselton City F.C. (formerly the Busselton Soccer Club Inc.) and the BCC.

The BCC have leased their current premises for over 55 years. The premises consist of a small club house and two greens, covering an area of approximately 2301m<sup>2</sup>, as shown stippled on Attachment A.

In September 2010, the Council resolved (C1009/322) to renew the BCC lease for their current premises, subject to the term aligning with other Churchill Park leases. The initial term expires on the 21 August 2019, with a further 10 year option available.

For a number of years, the City and the BCC have been in discussions regarding their needs for additional greens and suitable clubrooms to accommodate their growing membership. The acquisition and relocation of the transportable building means that the BCC are able to remain at their current location, with the additional lease area and placement of the transportable within it also providing scope for future expansion of playing greens in the future.

As the transportable is located outside the BCC's existing leased area it is proposed that an additional 721m<sup>2</sup> be leased to the BCC, as shown hatched on Attachment A.

To effect these changes, it is necessary to surrender the current lease and simultaneously enter into a new lease of the revised area (the Premises) as shown outlined red on Attachment A.

The terms and conditions of the proposed new lease are detailed in the Officer Recommendation section of this report.

## **STATUTORY ENVIRONMENT**

When disposing of property whether by sale, lease or other means, a Local Government is bound by the requirement of section 3.58 of the Local Government Act which requires giving local public notice when disposing of property. There are exemptions to this process under Regulation 30 (2)(b) (i) and (ii) of the Local Government (Functions & General) Regulations which states “disposal of land to incorporated bodies with objects of benevolent, cultural, educational or similar nature and the members of which are not enlisted to receive any pecuniary profit from the body’s transactions, are exempt from the advertising and tender requirements of section 3.58 of the Local Government Act”. The constitution of the BCC is such that this exemption applies.

The land occupied by BCC is Lot 410 Adelaide Street, Busselton on Deposited Plan 216960, Volume 1850 and Folio 572. In 1989 the land, formerly Reserve 629 was transferred from the Crown to the City in fee simple as a Crown Grant in Trust, subject to conditions regarding use of the land. The transfer restricts the use of the land to ‘Recreation’ and, under Section 75(5) of the Land Administration Act 1997; consent of the Minister for Lands is required for any lease on this land.

## **RELEVANT PLANS AND POLICIES**

The recommendation to enter into a lease with the BCC is generally consistent with the principles of Policy 248, Leases of City Land and Buildings, adopted by Council on 27 July 2016. The lease term is however proposed to be consistent with all other current leasehold interests on Churchill Park.

## **FINANCIAL IMPLICATIONS**

In 2010, when the current lease was resolved, the annual rent charged to community and sporting groups leasing City owned and managed land was \$150.00 per annum. Further there was no annual rent review as part of standard lease terms. In surrendering the current lease and entering into a new lease, it is proposed that the rent payable by the BCC increase to the current rent charged to community and sporting groups of \$210.00 per annum, increased annually by CPI. This same recommendation was presented to and resolved by Council when the Busselton Harness Racing Club surrendered their lease and entered into a new one for amended premises in March 2016.

It is proposed that the BCC remain responsible for the cost of managing and maintaining their leased premises which would include the new clubrooms.

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

## **STRATEGIC COMMUNITY OBJECTIVES**

The officer recommendation is consistent with Key Goal Area 6 of the City’s Strategic Community Plan 2017 and specifically the Community Objective ‘Assets are well maintained and responsibly managed’.



## **RISK ASSESSMENT**

There are no identified risks assessed as being of a medium or greater level associated with the Officer recommendation, with the recommendation serving to mitigate the risks associated with there not being a lease in place for the additional land.

## **CONSULTATION**

City staff consulted with other users of Churchill Park regarding the proposed location of the building and its future use. There were no objections raised.

## **OFFICER COMMENT**

The proposal to incorporate the BCC's proposed new clubrooms into a revised lease boundary will increase the leased area from 2301m<sup>2</sup> to 3022m<sup>2</sup>. The change in lease area will require the BCC's existing lease to be surrendered and a new lease entered into.

The term of the current lease commenced on 1 November 2010 and is due to expire on the 21 August 2019, with a further 10 year option at the lessee's request. It is proposed that the new lease is offered for a term of just over 12 years, expiring 21 August 2029. This will align the lease term to other lease options within Churchill Park.

As per the Financial Implications section of this report it is recommended that the annual rent commence at \$210 per annum with annual increases by CPI.

The BCC's current lease restricts the use of their premises to activities associated with Croquet. The BCC have requested that the permitted use of the Premises under a new lease allow them to offer other Churchill Park users and like-minded organisations the opportunity to use their clubrooms. While supported, conditions are recommended in the lease limiting the hire to other sporting and community groups, with hire to be incidental to the primary purpose of the lease. Additionally the BCC are to ensure that their insurance covers such use.

It is proposed that all other terms and conditions of the BCC's existing lease remain the same, including that the BCC be responsible for maintenance obligations of the leased area.

## **CONCLUSION**

The BCC have been an integral part of Churchill Park and the local community for many years and are keen to grow their operations and improve their facilities at this site. The club are keen to secure tenure of the transportable so they can commence works to convert it into a useable clubroom.

It is therefore recommended that Council resolve to enter into a new lease with the BCC, with their current lease to be surrendered.

## **OPTIONS**

1. Council can resolve not to enter into a new lease with the BCC. This is not recommended as it would result in the transportable being outside of the BCC's leased area.
2. Council can resolve to enter into a different lease term with the BCC.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

It is anticipated that the current lease would be surrendered a new lease executed by all parties on or before the 30 August 2017.

**COUNCIL DECISION AND OFFICER RECOMMENDATION****C1708/191**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council:

1. Accept the surrender of the current lease dated 6 July 2011 between the City of Busselton and the Busselton Croquet Club Inc., subject to a new lease being entered into in accordance with recommendation (2).
2. Enter into a lease, subject to the consent of the Minister for Lands, with the Busselton Croquet Club Inc. for a portion of Lot 410, Deposited Plan 216960, Volume 1850, Folio 572, 78 Adelaide Street Busselton, as shown outlined red on Attachment A, on the following terms:
  - i. The term of the lease will commence on the surrender of the existing lease and expiring on 21 August 2029;
  - ii. The rent to commence at \$210.00 inclusive of GST per annum and increased annually by CPI;
  - iii. The permitted use will allow the Lessee to hire the Premises to other sporting and community groups, with hire to be incidental to the primary purpose of the lease. Additionally the BCC are to ensure that their insurance covers such use; and
  - iv. All costs associated with the surrender of the existing lease and with the preparation of the new lease to be met by the Lessee.
  - v. Other terms to be consistent with the City's standard community group lease

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

## 14.2 POLICY 049 - REGIONAL PRICE PREFERENCE

<b>SUBJECT INDEX:</b>	Plans, Policies and Procedures
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	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 - 049 Regional Price Preference⇒ Attachment B Proposed Policy - 049 Regional Price Preference - Tracked Changes⇒ Attachment C Proposed Policy - 049 Regional Price Preference⇒ Attachment D Part 4A of the Functions and General Regulations⇒

### PRÉCIS

The purpose of this report is to propose an update to Policy 049 – Regional Price Preference and also to demonstrate the relationship between the Policy and Part 4A – Regional Price Preference section of the Functions and General Regulations relating to the Local Government Act 1995.

### BACKGROUND

The City's current Policy 049 – Regional Price Preference was adopted by Council in April 2015 when the Policy was changed to reflect changes to the City of Busselton structure. The Policy is based on Part 4A – Regional Price Preference section of the Functions and General Regulations relating to the Local Government Act 1995. It is felt however that the Policy could be improved to more specifically follow the regulation above.

A discussion on the Regional Price Policy legislation and the current and proposed policy was held at the Policy and Legislation Committee Meeting held on Thursday, 20 July 2017 and it was decided to support the adoption of the proposed new Policy.

### 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 Local Government Act at section 3.57 – Tender for providing goods and services allows regulations to be made about tenders. As a result, Part 4A – Regional Price Preference section of the Functions and General Regulations have been enacted dealing with Regional Price Preferences.

### RELEVANT PLANS AND POLICIES

Existing Policy 049 – Regional Price Preference

### FINANCIAL IMPLICATIONS

There are no direct financial implication in association with this report although, when it is used budget provisions have been provided for the values of the relevant tender.

**Long-term Financial Plan Implications**

Nil.

**STRATEGIC COMMUNITY OBJECTIVES**

This policy aligns with and supports the **Council's Key Goal Area 6** – 'Leadership' and more specifically **Community Objective 6.1** – 'Governance systems, process and practices are responsible, ethical and transparent'.

**RISK ASSESSMENT**

There are no residual risks identified as being high or medium as a result of the Officer Recommendation.

**CONSULTATION**

The revised Policy is based on the City's existing policy and there is no change in focus of this policy. The Policy has been changed to more closely reflect the wording of the Regulations.

There is however a requirement by virtue of section 24E of the Regulations to advertise the Policy for a period of not less than four weeks seeking submissions from members of the public. If there are submissions, Council is required to consider those submissions prior to formally adopting the Policy.

**OFFICER COMMENT**

At the Policy and Legislation Committee Meeting held on Thursday, 20 July 2017 this subject was considered as a discussion item. Material presented to the Committee included:

- Existing Policy 049 - Regional Price Preference;
- Part 4A of the Functions and General Regulations – Regional Price Preference; and
- Proposed Policy 049 - Regional Price Preference (marked up copy).

The contents of the Regulation were explained to the Committee members present and it was noted that the proposed new policy more specifically aligns to the Regulation referred to above. Importantly it was emphasised that a Regional Tenderer means a supplier of goods and services who has been operating a business continuously out of a premises out of the Region for at least six months or to some or all of the goods or services that are to be supplied from regional sources.

This means that the Regulations provide that tenderers may receive benefits of the Policy if they are from outside of the Region but supply goods or services from within the Region.

In addition the Regulations provide that a local Government may determine the Region to which the policy applies but that it cannot be a part of the metropolitan area and it must include at least the entire district of the Local Government. For the purposes of this policy the Region to which this Policy applies is determined to be the Region of the City of Busselton.

**CONCLUSION**

As part of the regular practice of reviewing Council policies, a review was carried out on Policy 049 - Regional Price Preference. Following this review officers are recommending that the revised policy be adopted.

In addition because of the public interest expressed in this Policy the discussion held at the Policy and Legislation Committee on the Legislative requirements was considered beneficial. It is therefore suggested that the revised policy be adopted for the purposes of giving public notice. It is also suggested that if no public submissions are received the Policy be adopted as presented.

### **OPTIONS**

The Council may agree or may not agree to the change of the existing policy or may seek to make alterations to the policy.

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

The proposed policy will be advertised for public submissions within a week upon adoption of the proposed Policy (for advertising purposes) and if submissions are received the subject will need to be further considered by Council.

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

**C1708/192**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council:

1. Adopt the proposed Policy 049 - Regional Price Preference as shown in attachment B for the purpose of giving notice to the public in accordance with section 24E of the Functions and General Regulations; and
2. If there are no submissions received after the expiration to the public notice period the Policy be added to the Councils suite of adopted Policies.

**CARRIED 9/0**

**EN BLOC**

## Attachment B

Last updated 08/04/2015

049	Regional Price Preference	V3 Current
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### 1. PURPOSE

In order to promote sub-regional development the City will provide a price preference allowance to local suppliers located within the City of Busselton district when evaluating and awarding contracts via the Tendering Process (note that no price preference will be offered for purchases made other than via the tendering process). Any price preference provided will comply with Part 4A of the Local Government (Functions and General) Regulations 1996 as amended.

### 2. SCOPE

This policy applies to all tenders called by the City of Busselton.

### 3. POLICY CONTENT

The following price preference allowance will be allowed on the value of all goods and services sourced from within the City on tenders assessed in relation to this policy;

#### Part 1 Goods and Services

- 10% allowance up to a maximum price reduction of \$50,000 unless a lesser amount is stipulated in the tender document.

#### Part 2 Construction (building) Services

- 5% allowance up to a maximum price reduction of \$50,000 unless a lesser amount is stipulated in the tender document.

**Part 3 Goods and Services, including Construction (Building) Services** - tendered for the first time where Council previously supplied the Goods or Services

- 10% allowance up to a maximum price reduction of \$500,000 unless a lesser amount is stipulated in the tender document.

The Regional Price Preference allowance will only be given to suppliers who have been located within the City of Busselton district for more than 6 months prior to the advertising date of the tender.

Located within the City is defined as a supplier having a physical presence in the way of a shop, depot, outlet, headquarters or other premises where the goods or services specifically being provided are supplied from. This does not exclude suppliers whose registered business is located outside the City but undertake the business from premises within the City. An example is a franchisee of a multinational company.

Only the value of those goods and services identified in the tender as being from a source or supplied through the businesses physical presence located within the City will have the price preference applied when assessing the tender. The value of those goods and services claimed by the supplier may be adjusted during the tender assessment process if the value claimed is considered unreasonable or cannot be justified.

Price is only one factor that Council considers when evaluating a tender. There is nothing contained within this policy that compels Council to accept the lowest tender or any tender based on price offered.

Last updated 08/04/2015

### **Policy Background**

Policy Reference No. - 049

Owner Unit – Contracts and Tendering

Originator – Director, Finance and Corporate Services

Policy approved by – Council

Date Approved – 8 December 2010

Review Frequency – As required

Related Documents –

*Local Government (Functions and General) Regulations 1996*

### **History**

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
C1504/081	8 April, 2015	Version 3 Changes to reflect City of Busselton structure only
C1012/415	8 December, 2010	Policy re-adopted in new standard format Version 2
		Version 1

14.3 PROPOSED LEASE TO BARNARD PARK SPORTING ASSOCIATION INC. FOR THE NEWLY  
CONSTRUCTED BARNARD PARK PAVILION

<b>SUBJECT INDEX:</b>	AGREEMENTS AND CONTRACTS
<b>STRATEGIC OBJECTIVE:</b>	Assets are well maintained and responsibly managed.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	PROPERTY SERVICES
<b>REPORTING OFFICER:</b>	Property Coordinator - Ann Strang
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Plan of Pavilion Lease Areas⇒ Attachment B Plan of Shed Lease Areas⇒

## PRÉCIS

The City obtained part funding from the Department of Sport and Recreation (DSR) through the Community Sport and Recreation Facilities Fund (CSRFF) for the construction of a new sports pavilion at Barnard Park. The Pavilion is located on a portion of Lot 505, Foreshore Parade between the playing fields as shown on Attachment A.

The construction of the Barnard Park Pavilion (the Pavilion) is nearing completion. The purpose of this report is to present a recommendation on the future tenure arrangements for the Pavilion and associated infrastructure.

## BACKGROUND

As part of the Busselton Foreshore Master Plan a working group was formed for the specific purpose of consulting with stakeholders in the planning and development of the Active Sporting Precinct at Barnard Park (the Precinct) located on Lot 505, Part Reserve 8485, crown land vested with the City for the purpose of recreation.

The Busselton-Margaret River Cricket Association Inc., Busselton Margaret River Junior Cricket Association Inc., Leeuwin-Naturaliste Junior Soccer Association Inc, Busselton Districts Junior Rugby Club Inc and the Busselton Volunteer Fire Rescue Service were all involved from the beginning of the project. The Dunsborough Rugby Union Club have become involved more recently. Collectively the group has been referred to as the Barnard Park Working Group (BPWG).

The planning and development of the Precinct dates back to 2011 with the objective being to develop playing fields for sports such as rugby, cricket and soccer, associated storage facilities and a multi-user sports pavilion. Relocation of the Busselton Volunteer Fire and Rescue Service (BVFRS) running track was also identified as part planning for the Precinct. The playing fields, along with the BVFRS running track and storage facility, were officially opened in 2015.

In August 2015, the Busselton-Margaret River Cricket Association Inc. (BMRCA) received \$10,500 in grant funding from the City towards the construction of a combined users storage shed. An opportunity presented for the City to relocate and repurpose the original train shed from the Busselton Foreshore for this purpose. This was subject to the BMRCA contributing \$27,000 they had received from two grants, including the grant from the City, and the Busselton-Margaret River Junior Cricket Association, Leeuwin-Naturaliste Junior Soccer Association, the Dunsborough Rugby Union Club and the Busselton Districts Junior Rugby Club each contributing \$1,000 towards the cost.

The City entered into a Memorandum of Understanding (MOU) with the groups to clarify obligations in relation to their contribution and use and maintenance of the shed, with the intent being to enter into a lease at a later date. The shed was completed in December 2016.



The final stage of the project was to construct a sports pavilion. In October 2016, following the successful DSR grant application, the Council resolved (C1610/103) to commit the required additional funds and to award the contract for the construction of the Pavilion. The Pavilion consists of a function room, kitchen and bar, a first aid room, storage and change rooms including an umpires change room, public toilets and a coach's box on the upper floor.

Throughout the construction phase, City Officers worked with the BPWG to develop an appropriate management and tenure plan for the Pavilion, with the groups agreeing to form an incorporated association for the purposes of management of the Pavilion.

In February this year however the BVFRS withdrew from the BPWG. This was due to their status as an unincorporated association and the need for them to instead commit the Department of Fire and Emergency Services (DFES), coupled with their expected minimal use of the Pavilion. They have however, requested the ability to hire the Pavilion during brigade events up to four times a year at a nominal rate. The members of the BPWG are amenable to this given that the original BVFRS facilities were removed to facilitate the Precinct. It is proposed to include a provision in the lease that will provide for this occasional use.

In March, the Leeuwin-Naturaliste Junior Soccer Association (LNJSA) also informed the City and the BPWG that they wished to withdraw from the group due to their assessment that the financial commitment outweighed their need for such a facility. It is however, hoped that the group will reconsider this in the future.

The BPWG (minus the BVFRS and the LNJSA) formed a new incorporated association - the Barnard Park Sports Association Inc. (the Association). The inaugural members are the Busselton-Margaret River Cricket Association, Busselton Margaret River Junior Cricket Association, Busselton Districts Junior Rugby Club and the Dunsborough Rugby Union Club.

With the Pavilion nearing completion and the Association formed, it is recommended that Council enter into a lease with the Association for the Pavilion and storage shed. The terms and conditions of the proposed lease are detailed in the Officer Recommendation section of this report.

## **STATUTORY ENVIRONMENT**

When disposing of property whether by sale, lease or other means, a Local Government is bound by section 3.58 of the Local Government Act which requires giving local public notice when disposing of property. There are exemptions to this process under Regulation 30 (2)(b) (i) and (ii) of the Local Government (Functions & General) Regulations which states "disposal of land to incorporated bodies with objects of benevolent, cultural, educational or similar nature and the members of which are not enlisted to receive any pecuniary profit from the body's transactions, are exempt from the advertising and tender requirements of section 3.58 of the Local Government Act". The constitution of the Association is such that this exemption applies.

Reserve 8485 being Lot 505, Deposited Plan 402933, Volume LR3166 Folio 953, Busselton is vested with the City with the power to lease for any term not exceeding 21 years, subject to the consent of the Minister of Lands, for the designated purpose of "Recreation".

## **RELEVANT PLANS AND POLICIES**

The recommendation to enter into a lease with the Association is generally consistent with the principles of Council Policy 248, Leases of City Land and Buildings.

## **FINANCIAL IMPLICATIONS**

The rent charged to community and sporting groups for City land and/or buildings is \$210 per annum (inclusive of GST), reviewed annually by CPI. It is proposed that this be the rent charged to the Association.

If Council adopt the officer recommendation, then the Association would be liable for building insurance and maintenance of the Pavilion (excluding the public toilets) as well as the portions of the shed utilised by the Association. Hence the City would not incur any financial liability in relation to the areas leased to the Association. The City will be responsible to maintain and clean the public toilets, funds have been allocated for this in the 2017/18 budget.

Given its location on the Busselton Foreshore, it is vital that the Pavilion is maintained at a high standard. It is therefore recommended that the lease require the Association to establish and maintain a trust account as a contingency fund for the purpose of making necessary capital improvements to the Pavilion and complying with their maintenance obligations. It is proposed that \$10,000 per annum be required to be set aside in the fund each year, commencing in the third year of the lease. This allows the newly formed Association time to generate funds to meet this obligation, noting that the Pavilion is unlikely to require any significant works in the first couple of years.

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

Nil

## **STRATEGIC COMMUNITY OBJECTIVES**

The officer recommendation is consistent with Key Goal Area 6 of the City's Strategic Community Plan 2017 and specifically the Community Objective 'Assets are well maintained and responsibly managed'

## **RISK ASSESSMENT**

There are no identified risks of a medium or greater level associated with the officer recommendation. The recommendation serves to mitigate the risks associated with there not being a lease in place.

## **CONSULTATION**

The City and key stakeholders have been working together for a number of years to develop the Precinct.

The BPWG formed to develop a management model for the Pavilion. As a result of their commitment to this project the newly formed association is in place and ready to enter into a lease, with the proposed terms and conditions having been discussed with the Association.

## **OFFICER COMMENT**

The objective of the Association is to create, maintain and grow an organisation that encourages membership, participation, enjoyment and excellence in sport, events and participation in the Busselton community. A lease to the Association is supported on the following terms, with all other terms as per the City's standard sporting and community group lease.

### Leased Area

It is proposed to enter into a lease with the Association for the function room, kitchen, bar, first aid, storage, change rooms and umpire change room on the ground floor and coaches box on the upper floor as shown hatched blue on Attachment A. The areas of the storage shed utilised by the Association, as shown hatched blue on Attachment B, would also form part of the leased premises (Premises).

It is proposed to enter into a licence for the veranda (excluding the area outside the public toilets) as shown hatched red on Attachment A. The Association will be responsible to maintain and keep clean the licence area and must maintain public access to the area at all times.

### Permitted Use

It is proposed that the permitted use of the Premises be for use by the Association consistent with the objectives of their constitution, with the Pavilion to be made available for hire by other sporting and community groups utilising Barnard Park and during City approved events on Barnard Park. This will ensure the purpose remains consistent with the DSR grant funding.

The lease will require that fees charged to other community groups are reasonable and provide a mechanism by which the City may require review of the fees as necessary.

As mentioned previously, it is proposed that the lease provide for the BVFRS to hire the Pavilion on 4 single occasions per calendar year for a nominal amount, covering the cost of electricity and water. It is also proposed that the City be entitled to use the function room within the Pavilion on 5 single occasions in a calendar year without payment, subject to there being no prior bookings. The Association acknowledge this as reasonable given the City's financial contribution to the Pavilion.

It is also proposed that a provision be included in the lease allowing the City to restrict the Association's access to the land and Premises during a City approved event on Barnard Park, such as Forrest Rally. This restriction will be limited to no more than 5 days per calendar year. In saying this, it is likely that the event organisers would hire the Pavilion from the Association in these instances.

The Association would like to hire the Pavilion to individuals for private functions. While it is acknowledged that this presents an opportunity for the Association to generate income, regular bookings for such a purpose would conflict with the reserve purpose. Therefore it is recommended that the lease provide for such hire to be incidental to the primary purpose only. The Association would also need to ensure they have appropriate approvals and insurances in place for such use.

### Term and Rent

The proposed term is for an initial period of 5 years followed by a further 5 year period at the option of the Association. It is proposed that the rent be \$210 per annum increased annually by CPI.

### Maintenance

It is proposed that the Association be responsible for maintaining the structural integrity of the Premises (excluding the Public Toilets) and for cleaning and maintaining the same. As per the Financial Implications section of this report, in order to ensure these obligations are met it is recommended that the Association establish a trust account and be required from year three of the term to remit \$10,000 per annum into this account.

### Reporting

While the Association is keen to manage the Premises, they are also somewhat reserved, with the various groups having had minimal experience in the management of such a facility. It is therefore recommended that the lease include a reporting provision requiring the Association to report to the City on their use, operations and management of the Premises as requested, but no more than twice yearly.

### **CONCLUSION**

The objective of the Association is to create, maintain and grow an organisation that encourages membership, participation, enjoyment and excellence in sport, events and participation in the Busselton community. It is felt that they will provide an important role in the future activation of the Pavilion and the Precinct and it is recommended that the Council enter into a lease with the Association on the terms and conditions outlined in the Officer Recommendation.

### **OPTIONS**

1. Council can resolve not to enter into a lease with the Association, noting the City would therefore accept the responsibility of management of the Premises.
2. Council can resolve to enter into a different term of lease with the Association; however the term offered could not exceed 21 years.

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

It is anticipated that the lease would be forwarded to Association and executed by all parties no later than 30 September 2017.

**COUNCIL DECISION AND OFFICER RECOMMENDATION****C1708/193**

Moved Councillor G Bleechmore, seconded Councillor P Carter

That the Council:

1. Enter into a lease, subject to the Minister for Lands approval, with the Barnard Park Sports Association Incorporated for the occupation of a portion of Part Reserve 8485, Lot 505, Busselton, as shown hatched blue on Attachment A and B and a licence for the areas shown hatched red on Attachment A on the following terms;
  - a) The term of the lease to be 5 years commencing on or before 30 September 2017, with a further 5 year option;
  - b) The term of the licence to be the same as the lease;
  - c) The rent to commence at \$210.00 per annum inclusive of GST and to be increased on each anniversary by CPI;
  - d) The lessee to report to the City on the use, operations and management (including financials) of the Premises as requested, with such requests to total no more than two a year;
  - e) The lessee to submit to the City annually for approval hire fees for the Pavilion;
  - f) The reservation of a right for the City to use the Pavilion up to 5 times per year free of charge but subject to the provision of reasonable notice and there being no prior bookings;
  - g) The reservation of a right for the Busselton Volunteer Fire Rescue Service to use the Pavilion up to 4 times per year for a nominal amount covering the running costs for such use. This is to be subject to the provision of reasonable notice and there being no prior bookings;
  - h) The City may restrict access to the Premises up to 5 days per calendar year during approved City events held at Barnard Park.
  - i) The Lessee must establish and maintain a trust account as a contingency fund for the purpose of maintenance and capital improvements to the Premises, with the Lessee to contribute \$10,000 per annum to the account, commencing in the third year of the lease;
  - j) All costs associated with the preparation of the lease to be met by the Lessee; and
  - k) Other terms to be consistent with the City's standard community group lease.

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

## **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⇒ Attachment B Planning Applications Determined⇒ Attachment C State Administrative Tribunal Appeals⇒

#### **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 July, 2017 and 15 July, 2017. 47 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 1 July, 2017 and 15 July, 2017. A total of 21 applications (including subdivision referrals) were determined by the City during this period with 21 approved / supported and 0 refused / not supported.

##### **15.1.2 State Administrative Tribunal (SAT) Appeals**

Attachment C is a list showing the current status of State Administrative Tribunal Appeals involving the City of Busselton as at 20 July, 2017.

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1708/194** Moved Councillor G Bleechmore, seconded Councillor P Carter

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

- 15.1.1 Planning and Development Statistics
- 15.1.2 State Administrative Tribunal (SAT) Appeals

**CARRIED 9/0**

**EN BLOC**

10.4 Policy and Legislation Committee - 20/07/2017 - STATUTORY REVIEW OF DELEGATIONS

<b>SUBJECT INDEX:</b>	Authorised Delegation of Power/Authority
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	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>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Revised Delegation LG3J Inviting and Awarding Tenders showing proposed tracking changes⇒
	Attachment B Revised Delegation LG3J Inviting and Awarding Tenders⇒
	Attachment C Revised Delegation LG6A Payments from Municipal Fund or Trust Fund showing proposed tracking changes⇒
	Attachment D Revised Delegation LG6A Payments from Municipal Fund or Trust Fund⇒
	Attachment E Revised Delegation LG6C Rates and Service Charges showing proposed tracking changes⇒
	Attachment F Revised Delegation LG6C Rates and Service Charges⇒
	Attachment G Revised Delegation DA1 Appointment of Authorised Persons and Registration Officers showing proposed tracking changes⇒
	Attachment H Revised Delegation DA1 Appointment of Authorised Persons and Registration Officers⇒
	Attachment I Existing Delegation LG6E Payments from Sponsorship and Donations Fund⇒

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

## PRÉCIS

The *Local Government 1995* requires delegations made under that Act to be reviewed by the delegator at least once every financial year. Additionally, delegations made under the *Cat Act 2011* and the *Dog Act 1976* are required to be reviewed once every financial year. This review is to fulfil this requirement.

## BACKGROUND

Council has the ability to delegate the exercise of powers and discharge of duties to its Chief Executive Officer. These delegations are required to be reviewed by the delegator (in this case the Council) at least once in every financial year.

## STATUTORY ENVIRONMENT

Section 5.42 of the *Local Government Act 1995* provides the Council with the ability to delegate powers and duties to its CEO. Some powers and duties cannot be delegated in accordance with Section 5.43 of the Act, such as matters that require an Absolute Majority decision of the Council.



The delegations must be contained in a Register. Wherever a decision has been made under delegated authority, records of the decision must be kept in accordance with the *Local Government (Administration) Regulations 1996*.

Section 44 of the *Cat Act 2011* provides the power for Council to delegate the exercise of its functions and discharge of its duties to the CEO. Section 47(2) of that Act requires the delegator to review delegations at least once every financial year.

Section 10AA of the *Dog Act 1976* provides Council with the ability to delegate powers and duties to its CEO. In accordance with Section 10AB(2) of that Act, the delegations must be reviewed at least once every financial year.

## **RELEVANT PLANS AND POLICIES**

The Department of Local Government and Communities Operational Guidelines Number 17 - 'Delegations'

Local Government (Administration) Regulations 1996

## **FINANCIAL IMPLICATIONS**

There are no financial implications involved in reviewing Delegations, however, utilisation of delegated authority creates organisational efficiencies. Without a system of delegated authority in place, a significant number of day-to-day local government decisions would need to be referred to Council as agenda reports. Having an effective delegated authority system in place reduces the turnaround time for some matters which allows for the Council to use its time to undertake its more strategic role.

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

There are no direct Long Term Financial Plan implications associated with this review.

## **STRATEGIC COMMUNITY OBJECTIVES**

This statutory delegation review aligns with and supports the **Council's Key Goal Area 6** – 'Leadership' and more specifically **Community Objective 6.2** – 'Governance systems, process and practices are responsible, ethical and transparent'.

## **RISK ASSESSMENT**

Not required for a review undertaken in accordance with statutory requirements.

## **CONSULTATION**

The current delegations were developed with reference to the Department of Local Government and Communities Operational Guidelines Number 17 – 'Delegations'.

## **OFFICER COMMENT**

There are a range of powers and duties delegated to the CEO in accordance with the powers provided by Sections 5.42(1)(a) and (b) of the *Local Government Act 1995*. These are largely recommended to continue unchanged, with the exception of proposed updates as identified in the table below.

The table provides an overview of the current delegations and an explanation of the powers exercised by the CEO. Minor amendments are proposed to delegations LG3J, LG6A, LG6C, and DA1. Officers are also recommending revocation of delegation LG6E.

### **Delegations to the CEO**

<b>Description</b>		<b>Purpose</b>
<b>LG3A</b>	<b>Legislative Function</b> To determine applications received by the City in accordance with a Local Law made by the City in accordance with Subdivision 2 of Division 2 of Part 3 of the <i>Local Government Act 1995</i> and to enforce the provisions of those local laws and to otherwise exercise the powers and discharge the duties of the local government under those local laws.	Enables the CEO to determine applications in accordance with the relevant provisions of the Local Law and the ability to enforce the provisions of those local laws.  <b><i>No change proposed.</i></b>
<b>LG3D</b>	<b>Notices Requiring Things to be Done</b> To exercise the powers and discharge the duties of the local government under Section 3.25(1), 3.26(2) and 3.26(3).	This provides for the ability to require actions from an owner or occupier relating to unsightly land, overgrown vegetation, rubbish etc.  <b><i>No change proposed.</i></b>
<b>LG3E</b>	<b>General Procedure for Entering Property</b> To authorise persons on behalf of the local government for the purposes of discharging the duties under Section 3.31(2).	A person requires authorisation in order to enter property. This enables the CEO to authorise others instead of requiring Council approval.  <b><i>No change proposed.</i></b>
<b>LG3F</b>	<b>Power to Remove and Impound</b> To authorise employees on behalf of the local government for the purposes of discharging the duties under Section 3.39 and 3.40A(1).	A person requires authorisation in order to impound vehicles etc. This enables the CEO to authorise others instead of requiring Council approval.  <b><i>No change proposed.</i></b>
<b>LG3G</b>	<b>Disposing of Uncollected Goods</b> To exercise the powers and discharge the duties of the local government under Section 3.47(2) and 3.47(2a).	Enables the CEO to dispose of impounded goods when not collected in a specified time, including vehicles.  <b><i>No change proposed.</i></b>
<b>LG3H</b>	<b>Thoroughfare Closure</b> To exercise the powers and discharge the duties of the local government under Section 3.50(1), 3.50(1a), 3.50(4), 3.50(6) and 3.50A.	Enables the CEO to require the closure of roads.  <b><i>No change proposed.</i></b>

<b>LG3J</b>	<p><b>Inviting and Awarding Tenders</b></p> <p>To exercise the powers and discharge the duties of the Local Government under Regulations 11, 14 and 18 to publicly invite tenders by determining the written criteria for deciding which tender should be accepted.</p> <p><b>(Attachment A)</b></p> <p>These delegations are currently subject to the following conditions:</p> <ul style="list-style-type: none"> <li>(a) Utilising the standard selection criteria as per Policy 031;</li> <li>(b) Following the City's operational practice utilising tender evaluation processes and documentation developed by WALGA;</li> <li>(c) Compliance with the requirements of the City's Purchasing Policy as it relates to tendering; and</li> <li>(d) Acceptance of a tender is not to exceed a contract value of \$500,000.</li> </ul>	<p>Enables the CEO to invite and evaluate tenders prior to entering into a contract of a prescribed kind under which another person is to supply goods or services to the Council. Also provides the CEO with the ability to award tenders not exceeding a contract value of \$500,000.</p> <p><b><u>Summary of proposed updates:</u></b></p> <p>Inclusion of specific reference to various other administrative functions associated with the tender process by way of including reference to Regulations 20 and 21A. Regulation 20 enables the CEO to vary requirements prior to entering into a contract with the chosen tenderer, Regulation 21A enables the CEO to vary a contract for the supply of goods and services.</p> <p>It is also proposed that condition (b) is reworded to require from the CEO to follow the City's internal operational processes and procedures for the purposes of tender evaluation, this condition as it stands now requires the CEO to use documentation developed by WALGA. It is further proposed that conditions (b) and (c) are reversed in order to reference the City's Purchasing Policy as the initial reference document, followed by operational processes and procedures.</p> <p><b>(Attachment B)</b></p>
<b>LG 3K</b>	<p><b>Acquiring and Disposing of Property</b></p> <p>To exercise the powers and discharge the duties of the local government under Sections 3.58(2) and 3.58(3) and acquire property on the local government's behalf. The value of the property shall not exceed \$100,000.</p>	<p>This delegation has been excluded from this report as it was listed under separate cover on Council Agenda of 28 June 2017 with the Officer Recommendation subsequently adopted (C1706/151).</p> <p><b><i>No change proposed.</i></b></p>
<b>LG3L</b>	<p><b>Airport Redevelopment Project - Inviting Tenders and Awarding Tenders</b></p> <p>To publicly invite tenders by determining the written criteria for deciding which tender should be accepted and to award tenders with a contract value up to \$1,000,000 subject to agreement from the CEO of the South West Development Commission (SWDC).</p>	<p>Due to the nature and scope of the Airport Redevelopment Project a specific tender delegation has been put in place which is required to be exercised in accordance with agreement from the CEO of the South West Development Commission (SWDC).</p> <p><b><i>No change proposed.</i></b></p>

<b>LG3M</b>	<p><b>Establishment of Panels of Pre-Qualified Suppliers</b></p> <p>To exercise the powers and discharge the duties of the local government under Part 4 Division 3 of the <i>Local Government (Functions and General) Regulations 1996</i> pursuant to Regulation 24AC(1)(b) to determine whether there is, or will be, a continuing need for the particular goods or services to be supplied by pre-qualified suppliers and in accordance with Regulations 24AD – 24AI establish panels of pre-qualified suppliers for provision of particular goods or services and in accordance with Regulation 24AJ enter into a contract, or contracts, for the supply of goods or services with a pre-qualified supplier who is part of a panel of pre-qualified suppliers for the supply of those particular goods or services.</p>	<p>Enables the CEO to establish panels of pre-qualified suppliers in accordance with the relevant provisions of the Tender Regulations and the Council's "Purchasing" Policy which in turn assists in streamlining Council operations and improving efficiency without compromising statutory or policy compliance or Council's existing powers in relation to choice of tenderer.</p> <p><b>No change proposed.</b></p>
<b>LG5A</b>	<p><b>Provision of Urgent Legal Services</b></p> <p>To provide authorisation in accordance with Clause 3.10 of Council Policy 085 "Legal Representation for Council Members and Employees" for urgent legal services to a maximum value of \$10,000.</p>	<p>Enables the CEO to exercise, on behalf of the Council, the powers of the Council under Clause 3.8 of Council Policy "Legal Representation for Council Members and Employees" to a maximum of \$10,000 in respect of each application when delays in the approval of an application are considered to be detrimental to the legal rights of the applicant.</p> <p>CEO approved applications are required to be submitted to the next Ordinary Meeting of Council.</p> <p><b>No change proposed.</b></p>
<b>LG5B</b>	<p><b>Directions Regarding Unauthorised Development</b></p> <p>To give directions in relation to unauthorised development and to authorise any action available to the responsible authority under the Planning and Development Act 2005 incidental to such written direction.</p>	<p>Provides for the ability to give a written direction to an owner or any other person having undertaken a development to remove, pull down, take up, or alter the development and restore the land as nearly as practicable to its condition immediately before the development commenced, to the satisfaction of the responsible authority.</p> <p><b>No change proposed.</b></p>

<b>LG6A</b>	<p><b>Payments from Municipal Fund and Trust Fund</b></p> <p>To exercise the powers and discharge the duties of the local government in accordance with regulation 12 of the <i>Local Government (Financial Management) Regulations 1996 (Attachment C)</i></p>	<p>Enables the payment of creditors without specific Council approval. All payments made must be reported to Council which is undertaken by way of a monthly report via the Finance Committee.</p> <p><b><u>Summary of proposed updates:</u></b></p> <p>It is proposed to add a condition to this delegation that places a limit on the authorisation of individual payments from the fund to a maximum of \$1000 unless consultation with the Finance Committee has taken place prior to the authorisation of such a payment.</p> <p><b><i>See LG6E Payments from Sponsorship and Donations Fund (Attachment D)</i></b></p>
<b>LG6B</b>	<p><b>Power to Defer, Grant Discounts, Waive or Write Off Debts</b></p> <p>To exercise the powers and discharge the duties of the local government under Sections 6.12(1)(b), 6.12(1)(c) and 6.12(3) of the <i>Local Government Act 1995</i>.</p>	<p>Enables the CEO to deal with minor fee waivers, concessions and debt write-off requirements.</p> <p><b><i>No change proposed.</i></b></p>

<b>LG6C</b>	<p><b>Rates and Service Charges</b></p> <p>To exercise the powers and discharge the duties of the local government under Sections 6.49, 6.50(1), 6.60(2), 6.64(1), 6.64(3), 6.71(1), 6.74(1), 6.76(4) and 6.76(5). <i>(Attachment E)</i></p>	<p>Enables the CEO to determine due dates for rates and to take recovery action for unpaid rates.</p> <p><b><u>Summary of proposed updates:</u></b></p> <p>Removal of explanatory notes at Sections 6.50(2), 6.50(3), 6.47 and 6.75(1) as these are operational by nature and therefore it is considered not necessary to include.</p> <p>Removal of Section 6.50(2) as this is done as part of the Budget Adoption process.</p> <p>Removal of Sections 6.56(1), 6.60(3) and 6.64(4) as these are operational by nature and do not require a delegation.</p> <p>Removal of Schedule 6.2, Clause 1(1) as any proposal to “Form a Lease” would be put before Council for determination.</p> <p>Removal of Schedule 6.3, Clause 1(4) as any proposal for “Sale of Land” would be put before Council for determination.</p> <p>Removal of Schedule 6.3, Clause 4(1) as any proposal to “Convey or Transfer” would be put before Council for determination. <i>(Attachment F)</i></p>
<b>LG6D</b>	<p><b>Investment</b></p> <p>To invest surplus funds in accordance with the Direct Investments section of the Council's Policy 218 “Investment”.</p>	<p>Enables funds to be invested by the CEO as set out in Council Policy 218 “Investment”.</p> <p><b><i>No change proposed.</i></b></p>

<b>LG6E</b>	<b>Payments from Sponsorship and Donations Fund</b> To determine the allocation of donations and sponsorships from the fund established for this purpose. <i>(Attachment I)</i>	This delegation currently requires that individual payments do not generally exceed \$1,000.  <b><i>Proposed for revocation:</i></b>  This delegation is proposed for revocation as the CEO already has this delegated power under section 6.10 Financial Management Regulations of the <i>Local Government Act 1995</i> in existing Delegation LG6A Payments from Municipal Fund and Trust Fund.  It is also proposed that a condition be added to Delegation 6A that sets a limit on what amount the CEO can authorise via the payments from sponsorship and donations fund.
<b>LG9A</b>	<b>Appointment of Authorised Persons</b> To authorise persons, or classes of persons, on behalf of the local government for the purposes of performing particular functions in accordance with Section 9.10(1) and 9.10(2) of the <i>Local Government Act 1995</i> .	A person requires authorisation in order to take enforcement action. This enables the CEO to authorise others instead of requiring Council approval.  <b><i>No change proposed.</i></b>
<b>LG9B</b>	<b>Authorising Common Seal</b> To authorise the affixing of the Common Seal of the City to a document that needs the City's Common Seal to be legally effective.	While the CEO can authorise the affixing of the Common Seal to a document as classified which in turn allows for no specific Council approval of individual documents being required, it is noted that it is also necessary for individual documents to be signed by both the Mayor and the CEO (or a senior employee authorised by the CEO and in accordance with Section 5.37 of the <i>Local Government Act 1995</i> ).  <b><i>No change proposed.</i></b>
<b>LG10A</b>	<b>Claims Against the Local Government</b> To consider claims against the local government for damage to property and either accept or deny liability.	This is intended only for minor claims within the City's insurance premium excess with a \$500 limit on claims made under this delegation.  <b><i>No change proposed.</i></b>

Delegations from the Council to the CEO made in accordance with Section 5.42 of the *Local Government Act* have been utilised to enable the CEO to carry out powers and duties of the local government.

The reasons for the proposed changes for the 3 delegations have been documented in the 'Purpose' column for each delegation.

It should also be noted that Delegation LG3K Acquiring and Disposing of Property has been excluded from this report as it was part of a standalone report to Council on 28 June 2017 in which Officers proposed revocation of Delegation LG3K Acquiring and Disposing of Property to be superseded by two new replacement delegations being LG3B Acquiring of Property and LG3C Disposal of Property. The Officer Recommendation was subsequently adopted (C1706/151).

All other delegations are recommended to continue unchanged.

#### Cat Act

Description		Purpose
<b>CA1</b>	<b>Administration of the Cat Act</b> Authority to exercise the functions in relation to the administration of the <i>Cat Act 2011</i> .	To provide Council with measures in place that control the number of cats that can be kept and places where cats can be kept, encourage responsible cat ownership and provide for better management of the impacts of cats on the community and environment.  <b><i>No change proposed.</i></b>

The delegation to the CEO under the *Cat Act 2011* is recommended to continue unchanged.

#### Dog Act

Description		Purpose
<b>DA1</b>	<b>Appointment of Authorised Persons and Registration Officers</b> To appoint persons to exercise on behalf of the local government the powers conferred on an authorised person by that Act and to authorise persons to effect the registration of dogs.  <b><i>(Attachment G)</i></b>	To provide Council with controls and regulatory measures in relation to impounding of dogs, the number of dogs that can be kept, establishment of approved kennels and the manner in which dogs are to be confined by the occupier of a premises.  <b><u>Summary of proposed updates</u></b>  It is proposed that the current power/duty within this delegation include a specific reference to the local government in order to strengthen the delegation.  <b><i>(Attachment H)</i></b>

Officers are proposing a minor amendment to the delegation to the CEO under the *Dog Act 1976* as documented in the 'Purpose' column for Delegation DA1 Appointment of Authorised Persons and Registration Officers.



Having conducted the statutory annual review of delegations made under the *Local Government Act 1995, Cat Act 2011 and Dog Act 1976*, Officers are recommending changes to those delegations as listed in Attachments A through to H and in addition are proposing revocation of Delegation 6E Payments from Sponsorship and Donations Fund for the reasons outlined in the table above.

## **CONCLUSION**

The existing delegations have served the organisation well and provide a sufficient level of authority to enable timely consideration of day-to-day local government matters as well as specific authority whereby the Council has recognised circumstances such as the nature of the airport redevelopment project.

## **OPTIONS**

The Council may decide that it requires changes to the powers and discharge of duties to the Chief Executive Officer or choose to place conditions on any of the delegations.

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

Any determinations on the delegations will be effective immediately the Council's decision is made.

## **COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1708/195**

Moved Councillor P Carter, seconded Councillor J McCallum

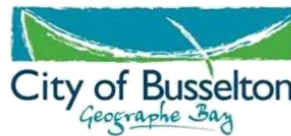
## **ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council having conducted the statutory annual review of delegations made under the *Local Government Act 1995, Cat Act 2011 and Dog Act 1976*:

1. Adopts the revised Delegation LG3J Inviting and Awarding Tenders as shown at Attachment B;
2. Adopts the revised Delegation LG6A Payments from Municipal Fund and Trust Fund as shown at Attachment D;
3. Adopts the revised Delegation LG6C Rates and Service Charges as shown at Attachment F;
4. Adopts the revised Delegation DA1 Appointment of Authorised Persons and Registration Officers as shown at Attachment H; and
5. Revokes Delegation LG6E Payments from Sponsorship and Donations Fund as shown in Attachment I.
6. Notes that all other Delegations remain unchanged.

**CARRIED 9/0**

## Attachment B

**Instrument of Delegation**

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3J	LGA - 3.57 Functions and General Regs 11, 14, 18, 20 and 21A	Chief Executive Officer	Inviting Tenders and Rejecting and Accepting Tenders

**Delegator**

Council.

**Power/Duty**

To exercise the powers and discharge the duties of the local government under Regulations 11, 14, 18, 20 and 21A of the *Local Government (Functions and General) Regulations* to:

- (1) Publicly invite tenders;
- (2) Determine the written criteria for deciding which tender should be accepted;
- (3) Reject, assess, decline to accept any tender or decide which tender to accept;
- (4) Vary requirements before entering into a contract; and/or
- (5) Vary a contract for the supply of goods and services.

**Conditions**

The delegation is subject to:

- a) Utilising the standard selection criteria as per Policy 031;
- b) Complying with the requirements of the City's Purchasing Policy as it relates to tendering;
- c) Following the City's operational processes and procedures for tender evaluation; and
- d) Acceptance of a tender is not to exceed a contract value of \$500,000.

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in section 3.57 of the *Local Government Act 1995* and part of Regulation 11, 14, 18, 20 and 21A of the *Local Government (Functions and General) Regulations 1996*.

<b>Local Government Act Section 3.57.</b>	<b>Tenders for providing goods or services</b>
---	--

- |   |
|---|
| (1) A local government is required to invite tenders before it enters into a contract of a prescribed |
|---|

*kind under which another person is to supply goods or services.*

- (2) *Regulations may make provision about tenders.*

**Functions and General Regulation 11. When tenders have to be publicly invited**

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150 000 unless subregulation (2) states otherwise.*

**Functions and General Regulation 14. Requirements for publicly inviting tenders**

- (2a) *If a local government —*

- (a) *is required to invite a tender; or*  
(b) *not being required to invite a tender, decides to invite a tender,*

*the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.*

**Functions and General Regulation 18. Rejecting and accepting tenders**

- (1) *A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.*
- (2) *A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.*
- (3) *If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.*
- (4) *Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.*
- (4a) *To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.*
- (5) *The local government may decline to accept any tender.*
- (6) *If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree not to enter into a contract in relation to the tender, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.*
- (7) *If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.*

**Functions and General Regulation 20. Variation of requirements before entry into a contract**

- (1) *If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.*
- (2) *If -*
- (a) *the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or*
  - (b) *the local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement,*
- that tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.*
- (3) *In subregulation (1) —*
- minor variation** *means a variation that the local government is satisfied is minor having regard to the total goods or services that tenderers were invited to supply.*

**Functions and General Regulation 21A. Varying a contract for the supply of goods or services**

- (1) *If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless —*
- (a) *the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or*
  - (b) *the variation is a renewal or extension of the term of the contract as described in [regulation 11\(2\)\(j\)](#).*

**Verification**

Recent Council Resolution  
C1612/159

Initial Council Resolution  
C1103/179

**Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

**Related Documents**

Tender Register

**Notes of recent alterations**

Update to provide power to exercise relevant administration functions of the *Local Government (Functions and General) Regulations 1996* (14 December 2016)

## Attachment D

**Instrument of Delegation**

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG6A	FM Reg 12 (6.10)	Chief Executive Officer	Payments From Municipal Fund or Trust Fund

**Delegator**

Council

**Power/Duty**

To exercise the powers and discharge the duties of the local government in accordance with regulation 12 of the *Local Government (Financial Management) Regulations 1996*, in relation to Section 6.10 of the *Local Government Act 1995*.

**Conditions**

With respect to allocation of donations and sponsorships from the fund established for this purpose in accordance with the Council's tiered funding scheme, individual payments from this fund are not to exceed \$1,000 unless consultation with the Finance Committee has first occurred.

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

**Section 6.10**

*Regulations may provide for —*

- (d) *the general management of, and the authorisation of payments out of —*  
       (i) *the municipal fund; and*  
       (ii) *the trust fund, of*  
       *a local government.*

**Financial Management Regulation 12**

- (1) *A payment may only be made from the municipal fund or the trust fund —*  
       (a) *if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO.*

**Verification**

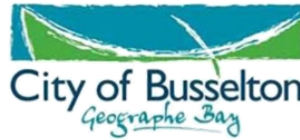
Recent Council Resolution  
C1606/140

Initial Council Resolution  
C0806/188

**Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

## Attachment F



## Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG6C	6.49 6.50(1) 6.60(2) 6.64(1) 6.64(3) 6.71(1) 6.74(1) 6.76(4) 6.76(5)	Chief Executive Officer	Rates and Service Charges

## Delegator

Council

## Power/Duty

To exercise the powers and discharge the duties of the local government under Sections 6.49, 6.50(1), 6.60(2), 6.64(1), 6.64(3), 6.71(1), 6.74(1), 6.76(4) and 6.76(5) of the *Local Government Act 1995*.

## Conditions

Nil – all actions are administrative in nature only.

## Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in sections 6.49, 6.50(1), 6.60(2), 6.64(1), 6.64(3), 6.71(1), 6.74(1), 6.76(4) and 6.76(5) of the *Local Government Act 1995*.

**Section 6.49**

*A local government may accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.*

**Section 6.50(1)**

*Subject to —*

- (a) subsections (2) and (3);*
  - (b) any concession granted under section 6.47; and*
  - (c) the Rates and Charges (Rebates and Deferments) Act 1992,*
- a rate or service charge becomes due and payable on such date as is determined by the local government.*

**Section 6.60(2)**

*If payment of a rate or service charge imposed in respect of any land is due and payable, notice may be given to the lessee of the land requiring the lessee to pay to the local government any rent as it falls due in satisfaction of the rate or service charge.*

**Section 6.64(1)**

*If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —*

- (a) from time to time lease the land;*
- (b) sell the land;*
- (c) cause the land to be transferred to the Crown; or*
- (d) cause the land to be transferred to itself.*

**Section 6.64(3)**

*Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.*

**Section 6.71(1)**

*If under this Subdivision land is offered for sale but at the expiration of 12 months a contract for the sale of the land has not been entered into by the local government, it may by transfer, where the land is subject to the provisions of the Transfer of Land Act 1893, and by deed, where the land is not subject to the provisions of that Act, transfer or convey the estate in fee simple in the land to —*

- (a) the Crown in right of the State; or*
- (b) the local government.*

**Section 6.74(1)**

*If land is —*

- (a) rateable land;*
- (b) vacant land; and*
- (c) land in respect of which any rates or service charges have been unpaid for a period of at least 3 years, the local government in whose district the land is situated may apply in the form and manner prescribed to the Minister to have the land revested in the Crown in right of the State.*

**Section 6.76(4)**

*The local government may, on application by a person proposing to make an objection, extend the time for making the objection for such period as it thinks fit.*

**Section 6.76(5)**

*The local government is to promptly consider any objection and may either disallow it or allow it, wholly or in part.*

**Verification**

Recent Council Resolution  
C1606/140

Initial Council Resolution  
C0806/188

**Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

**Related Documents**

Rates and Charges (Rebates and Deferments) Act 1992

Transfer of Land Act 1893

<b>Notes of Alteration</b>
Update to refer to the correct section of the <i>Local Government Act 1995 (22 June 2011)</i>



## Attachment H

**Instrument of Delegation**

Reference Number	Act Reference	Delegate	Delegation Subject
DA1	Dog Act 1976	Chief Executive Officer	Appointment of Authorised Persons and Registration Officers

**Delegator**

Council.

**Power/Duty**

To appoint persons to exercise on behalf of the local government the powers conferred on the local government, and an authorised person by that Act and to authorise persons to effect the registration of dogs.

**Conditions**

Nil.

**Statutory Framework**

Council is exercising its power of delegation under Section 10AA(1) of the *Dog Act 1976*.

**Verification**

Recent Council Resolution  
C1606/140

Initial Council Resolution  
C1312/328

**Review Requirements**

In accordance with the requirements of Section 10AB of the *Dog Act 1976*, at least once every financial year.

**Related Documents**

Dog Local Law

## Attachment I

**Instrument of Delegation**

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG6E	6.10	Chief Executive Officer	Payments from Sponsorship and Donations Fund.

**Delegator**

Council

**Power/Duty**

To determine the allocation of donations and sponsorships from the fund established for this purpose in accordance with the Council's tiered funding scheme.

**Conditions**

Individual payments from this fund are not to exceed \$1,000 unless consultation with the Finance Committee has first occurred.

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

**Verification**

Recent Council Resolution  
C1606/140

Initial Council Resolution  
C1110/333

**Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

13.2 RFT11/17 - DESIGN AND CONSTRUCTION OF LANDSIDE CIVIL AND SERVICES  
INFRASTRUCTURE AT BUSSELTON-MARGARET RIVER AIRPORT

<b>SUBJECT INDEX:</b>	Busselton-Margaret River Airport
<b>STRATEGIC OBJECTIVE:</b>	Assets are well maintained and responsibly managed.
<b>BUSINESS UNIT:</b>	Commercial Services
<b>ACTIVITY UNIT:</b>	Community and Commercial Services
<b>REPORTING OFFICER:</b>	Project Officer Contracts and Tendering - Ben Whitehill
<b>AUTHORISING OFFICER:</b>	Director, Community and Commercial Services - Naomi Searle
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Confidential Tender Evaluation and Recommendation Report⇒

### PRÉCIS

The City of Busselton issued RFT11/17 to engage experienced design and construct contractors and consultants with the necessary expertise to undertake design and construction of the landside civil and services infrastructure and landscaping at Busselton-Margaret River Regional Airport.

The City received four submissions in response to the request for tender. This report summarises the tender responses and makes a recommendation for the appointment of preferred tenderers.

### BACKGROUND

The Airport Development Project, is a capital project with \$55.9 million of State Government funding and \$9.78 million of Federal Government funding. The capital works associated with the various stages of the project include the airside and landside infrastructure. The design and construction of the airside infrastructure works were awarded in November 2016.

The landside civil and services infrastructure at Busselton-Margaret River Regional Airport is to be designed and constructed in accordance with the City's requirements set out in the tender documentation and must satisfy the requirements of the City's funding partners. The specification and contract was prepared by City officers, APP and Herbert Smith Freehills.

The design and construct works consist of the following items:

- Vasse Highway and Neville Hyder Drive intersection works;
- Neville Hyder Drive upgrade including lighting to MRWA standards;
- Internal access roads;
- Car hire and short/long term car parking areas including all services;
- Integrated car parking system to both car parks, including entry/exit boom gates, pay machines in appropriate car park locations and terminal building; integrated system that allows for flexible pricing structures and comprehensive reporting;
- New service zone for utilities (water/fire, sewer, power, NBN network and Telstra, irrigation);
- Code 3 General Aviation (GA) Precinct access roads and all services;
- Relocation of existing works depot from existing FIFO car park to adjacent to Terminal Building;
- Reconnection of services of existing terminal and external buildings;
- Soft and hard landscape elements;
- Irrigation systems;
- Utility services provision (water/fire, sewer, power, data, sewerage, irrigation) to new Terminal Building and GA Precinct and existing buildings.
- Inclusion of HV infrastructure (RMU and HV switchgear) to serve commercial premises.

The tender also provided for an optional scope item providing roads and services to the commercial precinct.

All tenders received exceeded the budget allocation of \$10.841m for the works. Therefore unless further funding is obtained the City must refine and vary the extent of the goods or services required prior to entering into the contract with the preferred tenderer. The tender documentation was set out to enable value management opportunities to achieve this such as reducing landscaping and reducing road surfacing requirements.

This report proposes that such variations should be classified as minor variations pursuant to Regulation 20 of the *Local Government (Functions and General) Regulations 1996*. Council approval is sought that the variations proposed, both separately and together, constitute a minor variation for the purpose of Regulation 20. The statutory framework for the variation of requirements before entry into contract is set out in more detail under the STATUTORY ENVIRONMENT section of this report.

## **STATUTORY ENVIRONMENT**

Part 4 (Tenders) of the *Local Government (Functions and General) Regulations 1996* requires that tenders be publicly invited for such contracts where the estimated cost of providing the total service exceeds \$150,000. Compliance with the section 3.57 of the *Local Government Act 1995* is required in the issuing and tendering of contracts.

Regulation 20 of the *Local Government (Functions and General) Regulations 1996* permits a local government, after inviting tenders and having chosen a successful tenderer, to make a minor variation in the goods or services required and enter into a contract with the successful tenderer for the varied requirement without again inviting tenders. A minor variation is defined as a variation that the local government is satisfied is minor having regard to the total goods or services that tenderers were invited to supply.

Regulation 21A of the *Local Government (Functions and General) Regulations 1996* prevents a contract for the supply of goods or services from being varied with a successful tenderer unless the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract or if the variation is a renewal or extension of the term of the contract as described in the regulations.

## **RELEVANT PLANS AND POLICIES**

The Busselton Regional Airport Expansion – Stage 2 is identified in the City's Corporate Business Plan: "Subject to the outcome of the Busselton Regional Airport business case and the provision of external funding, progress with Stage 2 expansion of the airport to provide for interstate flights".

The Busselton Regional Airport Master Plan (2016-2036) identifies future stages for development and the award of this tender will enable the City to progress those future stages.

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

## **FINANCIAL IMPLICATIONS**

The Busselton-Margaret River Regional Airport Development Project is fully funded with \$55.9 million of State Government funding and \$9.78 million of Federal Government funding. A total of \$10.841 million has been allocated to the design and construction of the landside infrastructure at the airport including contingency.

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

As part of the development of the State Government Business Case proposal for the project an operational financial model was developed which incorporated a 10-year financial plan. The model considered revenues and costs associated with the upgraded facility, including up-front and recurrent capital and ongoing operational expenditure. The model demonstrates that the upgraded facility will be self-sustainable, generating a modest profit into the future, to be transferred into the City's Airport Infrastructure Renewal and Replacement Reserve at the end of each financial year.

The Long Term Financial Plan (LTFP) is currently based on the 'here and now' scenario (stage 1), and will require updating to reflect the project, including ongoing operational and capital revenue and expenditure based on the redevelopment. This work has commenced and will be incorporated into future LTFP reviews.

## **STRATEGIC COMMUNITY OBJECTIVES**

The Airport Development Project aligns with the following community objectives of the City of Busselton Strategic Community Plan 2013:

- Key Goal Area 2 - Infrastructure assets that are well maintained and responsibly managed to provide for future generations; and
- Key Goal Area 6 - An organisation that is managed effectively and achieves positive outcomes for the community.

## **RISK ASSESSMENT**

A risk assessment was carried out and risks of medium and high associated with the awarding of the tender and the additional works proposed as minor variation are listed below

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
The decision made by Council that they are satisfied that reduced works proposed under Regulation 20 of the <i>Local Government (Functions and General) Regulations</i> constitute a minor variation are challenged.	City executive and legal officers have reviewed the requirements of this regulation.	Minor	Possible	Low
The State Government requires reductions in scope to the project as part of the value optimisation review currently being undertaken	Officers have reviewed funding agreements and continue to work with the State Government to ensure that the project objectives can be met	Minor	Likely	Medium

## CONSULTATION

Project Governance Committee (South West Development Commission, City of Busselton, Tourism WA, Department of Treasury, Department of Transport and Department of Regional Development as observer only).

## OFFICER COMMENT

### Evaluation

The primary objective of RFT11/17 was to appoint a suitably experienced and qualified contractor for the design and construction of the landside civil and services infrastructure at Busselton-Margaret River Airport.

The documentation for RFT11/17 was issued on 8 June 2017. The request for tender closed on 6 July 2017 and the City received a total of four submissions as detailed below.

	Company	Location	Contact	Phone
1.	BCL Group Pty Ltd	Unit 1/48 Rigali Way, Wangara WA 6065	Louie Hancock	(08) 9303 9648
2.	Busselton Civil Pty Ltd	19 Cable Sands Road, Yalyalup WA 6280	Jason Lauder	(08) 9752 1000
3.	Ertech Pty Ltd	118 Motivation Drive, Wangara WA 6065	Stephen Eardley	(08) 9302 6666
4.	Jaxon Civil	4 Gwentyfred Road, South Perth WA 6151	Mike Boynes	(08) 9368 9999

A tender evaluation panel was formed to evaluate the tender submissions. The evaluation panel members were as follows:

- Naomi Searle, Director – Community and Commercial Services;
- Andrew McColgan, Project Manager – APP Corporation;
- Ben Whitehill, Project Officer – Contracts and Tendering.

As part of the tender evaluation process an initial compliance check was conducted to identify submissions that were non-conforming with the immediate requirements of the RFT. This included compliance with contractual requirements and the provision of requested information. All tenders were found to comply with the terms and conditions and mandatory requirements of the RFT.

Accordingly, each tender was scored according to the qualitative criteria included in the tender documentation as follows:

Criteria	Weighting
Relevant Experience	10 %
Key Personnel Skills and Experience	5 %
Tenderer's Resources	5 %
Demonstrated Understanding	20 %
Price	60 %

The net tendered price 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 qualitative criteria and then applied an average to provide a final rating. The scores were then added together to indicate the rankings for each tender.

Following the initial evaluation process, the panel has sought clarifications and tender interviews from two tenderers. Clarification and tender interview invitations were issued on 26 July 2017. Panel members will meet with the relevant tenderers to discuss those clarifications. A further meeting of the evaluation panel will then be carried out to agree on a final recommendation.

The confidential report attached provides further detail in relation to the relative merits of each of the individual tenderers. Officers recommend that Ertech and Jaxon Civil should be nominated as the best value for money for the reasons outlined in the confidential report.

#### Variation of requirements before entry into contract

The City received tenders to RFT11/17 that exceeded the amount allocated in the project budget. Consequently the City, unless further funding is made available, must reduce the extent of the works prior to entering into the contract such as by reducing landscaping and road surfacing requirements.

The tender documentation was specifically prepared with this in mind with the pricing schedule being very detailed and the use of value management options. Tenderers have provided their best prices for delivering those minimum requirements and have provided rates for the provision of materials and performance of the requirements.

Officers believe that the best mechanism for reducing the extent of the works is to seek a variation of requirements prior to entering into the contract with the preferred tenderer pursuant to Regulation 20 of the Local Government (Functions and General) Regulations.

Regulation 20 permits a local government, after inviting tenders and having chosen a successful tenderer, to make a minor variation in the goods or services required and enter into a contract with the successful tenderer for the varied requirement without again inviting tenders. A minor variation is defined as a variation that the local government is satisfied is minor having regard to the total goods or services that tenderers were invited to supply.

Officers believe that the reduction in the extent of works is a minor variation because:

1. having regard to the total goods and services that tenderers were invited to supply the reduced goods and services do not significantly change the total goods and services supplied being, the design and construction services of the landside civil and services infrastructure at BMRA;
2. the variation would not alter the evaluation and assessment of the tenders;
3. in the context of the design and construct contract which was selected to allow opportunity to explore buildability and staging to meet the City's operational and financial objectives adjusting the requirements should only be considered a minor variation; and
4. there is unlikely to be any significant change in construction methodology.

Officers note that the magnitude of the variation may be up to \$3 million. However, for the reasons set out above, officers believe there are reasonable grounds upon which Council can be satisfied that the variation is minor.

#### **CONCLUSION**

The tender evaluation panel has completed its assessment in line with the City's tender process and it is recommended that:

1. Council delegates authority to the CEO to nominate the preferred tenderer from Ertech and Jaxon Civil who were identified as the 'best value for money' tenders after the conclusion of tender interviews and clarifications;
2. Council delegates authority to the CEO to then negotiate the contract including any variations in accordance with Regulation 20 of the *Local Government (Functions and General) Regulations* provided that the total cost does not exceed the allocated budget and award the tender, which would occur after negotiations with the preferred tenderer in consultation with the Director Community and Commercial Services, Naomi Searle.

It is also recommended that Council endorses the proposed minor variations.



**OPTIONS**

The Council may consider the following alternate options:

1. The Council may choose not to accept the Officer's Recommendation and not delegate authority to the CEO to nominate the preferred tenderer from Ertech and Jaxon Civil.
2. The Council may choose not to accept the Officer's Recommendation and award the tender to an alternate tenderer. In the view of the Officers this could result in a tender being awarded to a tenderer that has not presented the "best value for money" offer.
3. The Council may choose not to accept the Officer's Recommendation and not award the tender. This would mean going back out to tender, resulting in significant delays to the contract award and the Airport Development Project.
4. Not proceed with the development.

**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 the contract the successful tenderer will receive formal written notification of the resolution. All unsuccessful tender applicants will also be notified at this time. It is expected that the finalisation of the contract will take between two and four weeks.

**OFFICER RECOMMENDATION**

That the Council:

1. Endorses the outcomes of the evaluation panel's assessment in relation to Tender RFT11/17 – Design and Construction of Landside Civils and Services Infrastructure, which has resulted in the tenders submitted by ERTECH PTY LTD and JAXON CIVIL being determined as the best for value money tender.
2. Delegates authority to the CEO, following clarifications and tender interviews, to nominate a preferred tender from ERTECH PTY LTD and JAXON CIVIL.
3. Delegates authority to the CEO to negotiate the terms of the contract for a finalised lump sum price for the design and construction of the Landside Civil and Services infrastructure at Busselton-Margaret River Regional Airport including any variations in accordance with Regulation 20 of the *Local Government (Functions and General) Regulations* provided that the total cost does not exceed the allocated budget.
4. Endorses that any variation made pursuant to Regulation 20 of the *Local Government (Functions and General) Regulations* for reductions in the extent of the works are minor variations having regard to the total goods and services that tenderers were invited to supply under Regulation 20 of the *Local Government (Functions and General) Regulations*.
5. Delegates authority to the CEO to approve variations in accordance with Regulation 21A of the *Local Government (Functions and General) Regulations* limited so as not to exceed the overall project budget.

**COUNCIL DECISION AND AMENDED OFFICER RECOMMENDATION**

**C1708/196**

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

That the Council defer the item until such time that a determination can be made on how this will affect the work to be delivered.

**CARRIED 9/0**

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

Nil

**17. CONFIDENTIAL REPORTS**

Nil

**18. QUESTIONS FROM MEMBERS**

Nil

**19. PUBLIC QUESTION TIME**

Nil

**20. NEXT MEETING DATE**

Tuesday, 22 August 2017

**21. CLOSURE**

The meeting closed at 5.36pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 98 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON TUESDAY, 22 AUGUST 2017.

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

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