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CITY OF BUSSELTON

MINUTES FOR THE COUNCIL MEETING HELD ON 14 DECEMBER 2016

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MINUTES

MINUTES OF A MEETING OF THE A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN MEETING ROOM ONE, COMMUNITY RESOURCE CENTRE, 21 CAMMILLERI STREET, BUSSELTON, ON 14 DECEMBER 2016 AT 5.30PM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 5.37pm.

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 Paul Needham, Director, Planning and Development Services
Mrs Naomi Searle, Director, Community and Commercial Services
Mr Cliff Frewing, Director, Finance and Corporate Services
Mr Daniell Abrahamse, Acting Director, Engineering and Works Services
Miss Hayley Barge, Administration Officer, Governance

Apologies

Nil

Approved Leave of Absence

Nil

Media:

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

Public:

24

3. PRAYER

The prayer was delivered by Reverend Ted VanSponsen of the Busselton Free Reformed.

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

Nil

Public Question Time

Nil

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

Nil

Announcements by other Members at the invitation of the Presiding Member

Nil

6. APPLICATION FOR LEAVE OF ABSENCE

Nil

7. PETITIONS AND PRESENTATIONS

Mr John Reilly and Mrs Marree Jager addressed the Council in accordance with Section 6.10 of the Standing Orders as a party with an interest in Item 10.1. Mr Reilly and Mrs Jager were generally not in agreement with the Officer Recommendation.

Mrs Cecily Hancock of Bay Village Resort and Spa addressed the Council in accordance with Section 6.10 of the Standing Orders as a party with an interest in Item 11.3. Mrs Hancock was generally not in agreement with the Officer Recommendation.

Mr Peter Tyrrell of Cape Projects addressed the Council in accordance with Section 6.10 of the Standing Orders as a party with an interest in Item 11.3. Mr Tyrrell was generally in agreement with the Officer Recommendation.

Mr Ben Thomas of Vine Collective addressed the Council in accordance with Section 6.10 of the Standing Orders as a party with an interest in late Item 11.4. Mr Thomas was generally not in agreement with the Officer Recommendation.

8. DISCLOSURE OF INTERESTS

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

- Director Planning and Development Services, Paul Needham in relation to Agenda Item 13.1 - 2016/2017 Community Bids Round 2 Allocations.

The Mayor advised that in accordance with the Local Government (Rules of Conduct) Regulations 2007 this declaration would be read out immediately before Item 13.1 was discussed.

9. CONFIRMATION AND RECEIPT OF MINUTES**Previous Council Meetings**9.1 Minutes of the Council Meeting held 23 November 2016**Council Decision****C1612/142** Moved Councillor T Best, seconded Councillor J McCallum

That the Minutes of the Council Meeting held 23 November 2016 be confirmed as a true and correct record.

CARRIED 9/09.2 Minutes of the Special Council Meeting held 28 November 2016**Council Decision****C1612/143** Moved Councillor T Best, seconded Councillor P Carter

That the Minutes of the Special Council Meeting held 28 November 2016 be confirmed as a true and correct record.

CARRIED 9/0**Committee Meetings**9.3 Minutes of the Meelup Regional Park Management Committee Meeting held 31 October 2016**Council Decision****C1612/144** Moved Councillor C Tarbotton, seconded Councillor G Bleechmore

- 1) That the minutes of the Meelup Regional Park Management Committee meeting held 31 October 2016 be received.
- 2) That the Council notes the outcomes from the Meelup Regional Park Management Committee meeting held 31 October 2016 being:
 - a) The Mountain Bike Network/Facility Development - Implementation item is presented for Council consideration at item 10.1 of this agenda.

CARRIED 9/0

9.4 Minutes of the Policy and Legislation Committee Meeting held 17 November 2016**Council Decision****C1612/145**

Moved Councillor C Tarbotton, seconded Councillor G Bleechmore

- 1) That the minutes of the Policy and Legislation Committee Meeting held 17 November 2016 be received.
- 2) That the Council notes the outcomes from the Policy and Legislation Committee Meeting held 17 November 2016 being:
 - a) The Review of Policy 120 - Flag Protocol item is presented for Council consideration at item 10.2 of this agenda.
 - b) The Review of Policy 001 - Fees, Allowances and Expenses for Elected Members item is presented for Council consideration at item 10.3 of this agenda.
 - c) The Consolidated Parking Scheme Amendment item is presented for Council consideration at item 10.4 of this agenda.
 - d) The Busselton and Dunsborough Centres Facade Refurbishment Subsidy Program item is presented for Council consideration at item 10.5 of this agenda.

CARRIED 9/09.5 Minutes of the Capes Region Organisation of Councils (CapeROC) Meeting held 24 November 2016**Council Decision****C1612/146**

Moved Councillor C Tarbotton, seconded Councillor G Bleechmore

- 1) That the minutes of the Capes Region Organisation of Councils (CapeROC) Meeting held 24 November 2016 be received.
- 2) That the Council notes the outcomes from the Capes Region Organisation of Councils (CapeROC) Meeting held 24 November 2016 being:
 - a) CapeROC acknowledge the use of the budgeted amount of \$20k for the purpose of the 50th Anniversary Celebration of the Margaret River Wine Association.
 - b) The adoption of 2017 meeting dates.
 - c) That CapeROC gives in principle support for \$20k as requested by the Margaret River-Busselton Tourism Association to be allocated from next year's budget to support the Cabin Fever event.
 - d) CapeROC approved an allocation of \$30k from the 2016/17 budget (\$15k from the City of Busselton and \$15k from the Shire of Augusta Margaret River) as a contribution to the Margaret River Wine Association for the project management and design development of a proposed regional wine industry public art work.

CARRIED 9/0

ITEMS BROUGHT FORWARD AND ADOPTION BY EXCEPTION RESOLUTION

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

Council Decision / Committee Recommendation and Officer Recommendation

C1612/147 Moved Councillor G Bleechmore, seconded Councillor T Best

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

- 10.2 Policy and Legislation Committee - 17/11/2016 - REVIEW OF POLICY 120 - FLAG PROTOCOL
- 10.4 Policy and Legislation Committee - 17/11/2016 - CONSOLIDATED PARKING SCHEME AMENDMENT
- 10.5 Policy and Legislation Committee - 17/11/2016 - BUSSELTON AND DUNSBOROUGH CENTRES FACADE REFURBISHMENT SUBSIDY PROGRAM
- 11.2 APPLICATION FOR DEVELOPMENT APPROVAL FOR AN EXTRACTIVE INDUSTRY (SAND) AT LOT 1838 KALGUP ROAD AND LOTS 1842 AND 3982 ACTON PARK ROAD, KALGUP
- 13.2 MARKETING AND EVENTS REFERENCE GROUP OUTCOMES
- 14.3 BUSSELTON JETTY LICENCE REVIEW
- 15.1 COUNCILLORS' INFORMATION BULLETIN

CARRIED 9/0

EN BLOC

10. REPORTS OF COMMITTEE

10.2 Policy and Legislation Committee - 17/11/2016 - REVIEW OF POLICY 120 - FLAG PROTOCOL

SUBJECT INDEX:	Flags
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Finance and Corporate Services
REPORTING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Revised Policy 120 - Flag Protocol showing tracked changes⇒

This item was considered by the Policy and Legislation Committee at its meeting on 17 November 2016, the recommendations from which have been included in this report.

PRÉCIS

As part of the Council's ongoing policy review process the Flag Protocol – Policy 120 is presented for review and updating to the current policy format.

BACKGROUND

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

The policy was last reviewed by Council in 2012, adopted 13 June 2012.

STATUTORY ENVIRONMENT

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

RELEVANT PLANS AND POLICIES

This report proposes updates of Council policy 120 Flag Protocol.

FINANCIAL IMPLICATIONS

Nil

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

Sound policy development and review processes contribute to Governance Systems that deliver a responsible, ethical and accountable decision making in accordance with the City's community objectives as part of the Strategic Plan.

RISK ASSESSMENT

There are no risks associated.

CONSULTATION

During the process of the first stage of the policy review, consideration was given to each policy to determine whether there was a need to invite submissions on any proposed changes to policies. This policy is not considered to require any public consultation.

OFFICER COMMENT

It is proposed to change the Policy in two areas:

1. There may be however situations where it may be appropriate on occasion for other flags to be flown for a short period of time (such as to recognise visiting dignitaries etc). The policy has been changed to reflect this.
2. On occasions where it is appropriate, an alternative flag may be flown to recognise an occasion, event, visit or the like for a temporary period of time.

The proposal is simply to update the existing policy to recognise the importance of Commonwealth Flag protocols by referring to the relevant Commonwealth publication applicable to flying flags.

CONCLUSION

As part of the regular practice of reviewing City policies, a review was carried out on Policy 120 Flag Protocol. Following this review the City is presenting a revised policy to the Committee for the purpose of including reference to the Department of the Prime Minister and Cabinet Publication: Australian Flags – Part 2 The Protocols for the appropriate use and the flying of the flag, Commonwealth of Australia 2006.

OPTIONS

The Council may determine that a policy is not required for this matter.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

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

Council Decision / Committee Recommendation and Officer Recommendation

C1612/148 Moved Councillor G Bleechmore, seconded Councillor T Best

That the revised Council Policy 120 – Flag Protocol as shown in Attachment A be adopted:

120	Flag Protocol	V2 Current
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1. PURPOSE

This policy is to provide guidance for the flying of flags at the Offices of the City of Busselton.

2. SCOPE

The policy sets out the authority for designated flags or any other flag as appropriate that can be flown at the City of Busselton Administration Offices. On all occasions, the Australian National Flag is to be flown and is to take precedence on the most prominent flagpole.

3. POLICYCONTENT

The Chief Executive Officer is authorised to fly the Western Australian State flag, Aboriginal and Torres Strait Islander flags, City of Busselton flag, Town of Sugito flag and Japanese flag, together with the Australian flag, in the City of Busselton on occasions as determined.

There may be however situations where it may be appropriate on occasion for other flags to be flown for a short period of time (such as to recognise visiting dignitaries etc).

On occasions where it is appropriate, an alternative flag may be flown to recognise an occasion, event, visit or the like for a temporary period of time.

Regard shall be given to all permanent and interim Commonwealth flag protocols.

4. APPLICATION OF THE POLICY

The policy shall be applied by customer service staff in consultation with Governance Services as necessary.

PolicyBackground

Policy Reference No. – 120

Owner Unit – Governance Services

Originator – Historical

Policy approved by – Council

Date Approved – 13 June, 2012

Review Frequency – As required

Related Documents – Department of the Prime Minister and Cabinet Publication: Australian Flags – Part 2 – The Protocols for the appropriate use and the flying of the flag, Commonwealth of Australia 2006.

History

Council Resolution	Date	Information
C1206/137	13 June, 2012	Update to policy format Version 2
		Version 1

CARRIED 9/0

EN BLOC

10.4 Policy and Legislation Committee - 17/11/2016 - CONSOLIDATED PARKING SCHEME AMENDMENT

SUBJECT INDEX:	Minor Parking Scheme Amendments
STRATEGIC OBJECTIVE:	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Ranger and Emergency Services
REPORTING OFFICER:	Manager, Environmental Services - Greg Simpson
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Busselton Electric Vehicle Recharge Bay⇒ Attachment B Dunsborough Electric Vehicle Recharge Bay⇒

This item was considered by the Policy and Legislation Committee at its meeting on 17 November 2016, the recommendations from which have been included in this report.

PRÉCIS

The purpose of this report is to seek Council's endorsement of proposed amendments to the City's Consolidated Parking Scheme, to –

- 1) establish a parking area in the Busselton Foreshore car park, outside the Signal Park public toilet block for the re-charging of electric vehicles; and
- 2) establish a parking area on Dunn Bay Road, Dunsborough outside Lion's Park for the re-charging of electric vehicles.

BACKGROUND

The City's Consolidated Vehicle Parking Scheme (the Scheme) is periodically reviewed and amended from time to time, thereby ensuring that the Scheme remains current. The most recent changes to the Scheme were endorsed by Council in July 2016.

The following are proposed as amendments to the Scheme:

1. *Designated vehicle parking stall - Busselton Foreshore car park*

The City of Busselton in association with the Royal Automobile Club of Western Australia (RACWA) has established an Electric Vehicle Charging Station on the Busselton Foreshore outside the Signal Park public toilet block. The parking stall is for the sole use of electric vehicles whilst charging.

2. *Designated vehicle parking stalls –Dunn Bay Road*

The City of Busselton in association with the RACWA has established 2 Electric Vehicle Charging Station on Dunn Bay Road, Dunsborough outside Lion's Park. The parking stalls are for the sole use of electric vehicles whilst charging.

STATUTORY ENVIRONMENT

The City designates parking and traffic restrictions under the powers of the Parking Local Law 2011 (the Local Law). The designation of parking stalls, stations and areas occurs under Part 2 of the Local Law, and the Consolidated Vehicle Parking Scheme (a large series of plans identifying the location

and type of parking restrictions in detail) is adopted pursuant to Part 2 as a means to identify these designations. Designations are given practical effect through on-ground signage and line marking, as well as the issue of local public notice as required by the Local Law.

Where the Council makes a determination to establish or amend a parking stall, parking stations and parking areas under Parking Local Law 2011, the CEO must give local public notice of, and erect signs to give effect to, the determination.

RELEVANT PLANS AND POLICIES

Local Planning Policy 8A: Car Parking Provisions outlines the requirements for the provision of vehicle parking facilities associated with development, which includes consideration of special purpose parking dependent on the nature of the development and includes minimum provision of taxi pick-up bays, motorcycle bays and bicycle parking facilities.

FINANCIAL IMPLICATIONS

Resources required for implementation of the local law, that is to mark parking bays and or zones with paint and installing signs on posts, are provided for within the City's overall operational budget and can be achieved without any effect on other operational areas.

Long-term Financial Plan Implications

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

STRATEGIC COMMUNITY OBJECTIVES

The recommendation of this report reflects Community Objective 2.2 of the Strategic Community Plan 2013, which is; *"A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections"*.

RISK ASSESSMENT

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework. The assessment 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>
Public Health and Reputational Risk – inadequate vehicle parking control affecting pedestrian safety.	Implementation of parking management.	Minor	Possible	Medium

CONSULTATION

In preparing this report City staff have consulted with the RACWA. There has also been consultation with other local governments and with WALGA.

OFFICER COMMENT

The RACWA has established *the Electric Highway* which features 12 locations in Perth and throughout the South West with publicly accessible electric vehicle fast-charging DC stations. The RAC Electric Highway® charging stations have been funded by RAC but are owned and maintained by

local governments in the region. The RAC Electric Highway® has increased the 'sustainable mobility' options in WA, increasing the appeal of electric vehicles is also helping to reduce carbon dioxide (CO²) emissions.

The parking stalls are for the sole use of electric vehicles whilst charging, there is no time limitation on the use of the parking stall apart from the fact the vehicle must be recharging while using the parking stall.

Particularly in Dunsborough, there have been issues with the bays being used for general parking and not available for electric vehicle re-charging, thereby undermining the value of the infrastructure. Whilst it is anticipated that there will be a further focus on education as a means to avoid that problem, it is seen as appropriate to provide the fallback and support of enforcement where education alone does not achieve an adequate outcome.

CONCLUSION

It is recommended that the Council adopt the officer recommendation and amend the Consolidated Parking Scheme.

OPTIONS

Council may resolve not to support the Officer recommendation to designate additional parking bays and no parking/no parking areas as proposed or may amend the proposal.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Where the Council makes a determination to establish or amend a parking stall, parking stations and parking areas under the Parking Local Law 2011, the CEO must give local public notice of, and erect signs to give effect to, the determination. Subject to Council endorsement of the officer recommendation local public notice will be advertised and appropriate signage erected prior to 20 December 2016.

OFFICER RECOMMENDATION

That the Council determines pursuant to the City of Busselton Parking Local Law 2011, changes to the Consolidated Parking Scheme to include -

1. A parking stall within the Busselton Foreshore outside the Signal Park public toilet block for sole use by electric vehicles whilst re-charging (Attachment A); and
2. Two parking stalls on Dunn Bay Road, Dunsborough outside Lion's Park for the re-charging of electric vehicles (Attachment B);
3. Gives notice of that determination as required by the City of Busselton Parking Local Law 2011.

Note: The Committee proposed a Recommendation that would include a point 4 requesting a report to Council detailing the usage of the electric vehicle parking bays in Dunsborough.

Council Decision and Committee Recommendation**C1612/149** Moved Councillor G Bleechmore, seconded Councillor T Best

That the Council determines pursuant to the City of Busselton Parking Local Law 2011, changes to the Consolidated Parking Scheme to include -

1. A parking stall within the Busselton Foreshore outside the Signal Park public toilet block for sole use by electric vehicles whilst re-charging (Attachment A); and
2. Two parking stalls on Dunn Bay Road, Dunsborough outside Lion's Park for the re-charging of electric vehicles (Attachment B);
3. Gives notice of that determination as required by the City of Busselton Parking Local Law 2011.
4. That a report be brought to Council in approximately 6 months detailing the statistical usage of the electric vehicle parking bays in Dunsborough and the viability of relocating the electric vehicle parking bays to another location.

CARRIED 9/0**EN BLOC**

10.5 Policy and Legislation Committee - 17/11/2016 - BUSSELTON AND DUNSBOROUGH CENTRES FACADE REFURBISHMENT SUBSIDY PROGRAM

SUBJECT INDEX:	Busselton and Dunsborough Centres Facade Refurbishment Subsidy Program
STRATEGIC OBJECTIVE:	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
BUSINESS UNIT:	Development Services and Policy
ACTIVITY UNIT:	Development Services and Policy
REPORTING OFFICER:	Manager, Development Services and Policy - Anthony Rowe
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Busselton and Dunsborough Centres Facade Refurbishment Subsidy - annotated changes⇒

This item was considered by the Policy and Legislation Committee at its meeting on 17 November 2016, the recommendations from which have been included in this report.

PRÉCIS

The Busselton and Dunsborough Centres Facade Refurbishment Subsidy Program has been in operation since 13 March 2014.

This report has reviewed the operation of the Program over this time and recommends changes to the eligibility criteria to better align outcomes with the Program's Objectives.

Specific changes are recommended to the eligibility criteria in the Program to enable grants to be available for preliminary design work and also for works associated with facilitating Alfresco development.

BACKGROUND

Council's consideration is requested to review the eligibility criteria for businesses applying to receive funding from the Busselton and Dunsborough Centres Facade Refurbishment Subsidy Program.

Council resolved on 13 March 2014 to allocate \$50,000 towards the Program annually. Initially the Program applied only to Prince Street and Queen Street in Busselton. The Council subsequently resolved to include parts of the Dunsborough Town Centre to support the Town Centre Conceptual Plan.

The objectives of the Program for both Busselton and Dunsborough are;

- Beautify the Centres by improving the streetscape, which will in turn provide benefits to the broader community by making places more attractive, including for business and investment;
- Improve the experience of pedestrians to encourage more people to live, work, play and do business in the Centres;
- Reinforce and build upon the Centres as the major retail, social and cultural hub of the City of Busselton and broader region;
- Enhance the physical quality and established character of the Centres' built environments through sensitive and innovative design of buildings and spaces; and
- Supporting building owners and business operators to improve the public impression of their buildings and businesses respectively.

The Program is has involved bi-annual requests for expressions of interest (1st quarter and 3rd quarter). Promotion consists of a letter sent to business owners as well as officers attending each business to generate awareness of the Program. This is to reach both the owner and the operator. The results from the Program, by dates of determination, are summarised as follows:

- 20 November 2014 - 1 application received and approved in Busselton - \$6,620.
- 28 May 2015 - 3 applications received, 1 approved in Busselton for \$5,173, 2 declined in Dunsborough - 1 uncertainty of tenure and the other considered to be general maintenance.
- 19 November 2015 – 1 application received in Busselton for preliminary feedback only. Application proposed to extend verandah over foot path. Concept supported but a relatively underwhelming design, architectural improvements requested.
- May 2016 – no applications
- 21 July 2016 – 3 applications received, 1 received and declined in Dunsborough as same proposal as previously declined, 2 in Busselton, 1 declined due to the relatively underwhelming design, 1 approved to provide for a façade upgrade improving view of the street and interaction with the streetscape for \$6,208.

STATUTORY ENVIRONMENT

The Program and application for subsidy funding is consistent with the Local Government Act 1995 and the Local Government (Functions and General) Regulations 1996.

RELEVANT PLANS AND POLICIES

Busselton and Dunsborough Centres Facade Refurbishment Subsidy Program

The Program provides incentives in the form of grants to landowners within the Busselton City and Dunsborough Town Centre to undertake works to improve/upgrade the appearance of their buildings' façade (Attachment A).

Works currently eligible for grant funding are:

- Restoration of exterior finishes;
- Repainting of building façade and windows (does not include works that can be considered as general maintenance);
- Removal of opaque roller shutters/security grilles to be replaced with more appropriate transparent or inset behind shop display roller shutters;
- Works required, as a result of a building permit and compliance with disabled access in accordance with the Building Act 2011 and Building Regulations 2012;
- The modification or creation of windows which will provide interaction with the streetscape;
- Properties adjoining a laneway may apply for upgrade works for the visible portion from the streetscape; however these works are to complement façade works fronting the endorsed project area;
- Under awning lighting (excluding illuminated signage);
- Skinning of existing awning structure and fascia with new material; and
- Repair or replace awning structure
- Ineligible works include
- Infrastructure associated with alfresco areas

- Preliminary design work to complete application

The City provides successful applicants grants of up to 50% of the agreed project cost (ex GST) above \$5,000.00, up to a maximum grant of \$20,000.00 per building. Grants are only available to projects with a minimum total value of \$10,000 (ex GST).

Busselton Local Commercial Planning Strategy (LCPS)

The LCPS is a strategic document which provides an analysis of existing commercial centres and provides recommendations for the future of commercial centres in the City of Busselton. The strategy provides a commercial hierarchy which identifies Busselton as a 'Regional' Centre and Dunsborough as a 'District' centre.

FINANCIAL IMPLICATIONS

The current annual budget for the *Subsidy Program* is \$50,000 and offered through two rounds per year. No change is proposed to this arrangement.

STRATEGIC COMMUNITY OBJECTIVES

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

RISK ASSESSMENT

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

CONSULTATION

There is no statutory requirement for public consultation.

OFFICER COMMENT

An outset consideration of the Program was not to seek a homogeneous design outcome. As an example the City has not directed that everything should be of a Victorian architectural vernacular and that consequently only this form would be subject to funding. Instead the City has pursued a variety of form, distinctive buildings and individuality.

Since the Program has been operational, there have been 8 applications and only 3 approved. Arguably, only the last approved in Busselton clearly reflected the intent of the program and has resulted in a successful outcome (i.e. the upgrade of the premises where *Al Forno* have established on Queen Street). In terms of both quality and quantity, the response so far has been somewhat disappointing.

What is missing is encouraging the investment to create the upfront design direction (instead of a provided one) and for each business to follow a process of imagination, design, a business case, and agreement.

In practice there needs to be agreement between the tenant and the landlord for change to occur, and importantly a business case. This is a significant impasse. The owner will often seek to maintain flexibility for prospective tenants and this simply results in neatening/maintenance of the current

arrangement. However community expectations, competition (i.e. the West Street development) , and successful examples now emerging in the centres are creating a pressure for change and this is likely to intensify in the next few years.

The arrangements between owners and tenants can vary. Franchises for instance have particular designs that are negotiated with the owner, sometimes provided by the tenant but sometimes by the owner to secure the tenant. Whichever, it relies on agreement between the parties around a business case.

Motivating design to reach agreement between the landowner and the tenant and then the business case is therefore the first step and fundamental to arriving at outcomes that are not “more of the same”.

Impediments in the current Program

Notable ineligible works listed in the Program at 4.2.2 include:

- Preliminary design work to complete application.
- Infrastructure associated with alfresco areas.

It is contended that to achieve the objectives of the Program it is these ineligible criteria that should in fact be supported and promoted.

In terms of meeting the Objectives of the Program, including to “Beautify the Centres by improving the streetscape”, there are two general development options. One is to improve the face of the building, including any verandahs or awnings, and the other is introducing elements forward of the building face that distract attention from it.

In key areas, the City provides the opportunity to displace an on street carparking space in favour of creating an alfresco area; this provides space in front of the building. In many rejuvenated *high streets* (throughout Australia), alfresco dining has been introduced to provide activation and the canopies over the alfresco seating provide the notable form, displacing the appearance of the verandah or awning.

Most Australian examples of rejuvenated *high streets* have tended to use ubiquitous white awnings, whereas European examples use individualised awnings to distinguish one business from another. The European approach is consistent with the Program objectives for individualism, but again requires a design thought, and should be an integrated approach to the facade treatment.

Any removal of a parking space will be a partnership with the City. Consideration in this partnership would be timing, costings, integrity of pedestrian surfaces and free movement, street drainage and protection from vehicles. The design of the awning, its structure, the tables and chairs, planters, heaters, blinds and items contributing to the ambience of the space would be within the preliminary design. That design would then be the basis of consideration in the partnership and works that may be applied for separately.

Recommended Changes

It is recommended that the Program be amended by the addition of the following points to the eligible criteria described in clause 4.2.1

- Preliminary design work consistent with the Program Objectives; and

- Infrastructure associated with alfresco dining areas, including canopies, furniture, bollards and windscreens, as part of an integrated design proposal consistent with the Program Objectives.

Clause 4.2.2, ineligible criteria, is also proposed to be amended to reflect the above.

Resolving the confusion with General Maintenance

General Maintenance is identified as an ineligible item but is confused with the eligible criteria in described clause 4.2.1

“restoration of exterior finishes” and

“Repainting of building façade and windows (does not include works that can be considered as general maintenance)”

The circumstance where simply repainting a building façade or windows would not constitute maintenance is not likely.

This criteria should be removed from the eligible criteria to avoid confusion.

Grant funding

It is recommended that grant funding be available to design works separately to the works. That applicant can apply for the full grant amount on the Preliminary design works and again for the full grant amount on the works.

City approval is to first be obtained to the *scope of works*, to be consistent with the Program Objectives. The City will also agree prior to the commissioning of the work and agreed grant sum. The design work must be prepared by a registered Architect and the grant sum agreed is to be paid pending satisfactory completion of the scope of work to a professional standard.

The current works threshold is a minimum \$10,000, with the City providing 50% up to a maximum of \$20,000. This is considered too high for Preliminary Design work. It is recommend the threshold for Preliminary design work be reduced to a minimum threshold of \$2,000, with the City providing 50% up to a maximum of \$5,000.

The scope of works is expected to be agreed with the City through an iterative process. In order to facilitate and be responsive to these negotiations it is recommended that grants for design work can be applied for at any time, and be determined by the CEO.

Anticipated effect of changes

It is anticipated that the changes somewhat increase the level of the uptake of the Program. The main expected benefit of the change, though, is to improve the quality of the application/outcomes to achieve the Program Objectives. The grant funds for actual works are available on a ranked basis up to a maximum amount of \$20,000, in two rounds. No change to the present allocation is expected.

CONCLUSION

The Busselton and Dunsborough Centres Façade Refurbishment Subsidy Program is not achieving either the quality or quantity of the application/outcomes as intended by the objective to “Beautify the Centres by improving the streetscape”, due to a lack of an upfront design direction.

This is not to suggest that pursuit of a variety of form, distinctive buildings and individuality is wrong but the process the Program inadvertently encourages requires a new orientation.

The current Program eligibility requirements are contrary to this approach because they exclude preliminary design work and infrastructure associated with alfresco areas (likely to be a significant contributor to the Program objective).

These items should be removed from the ineligible criteria and instead promoted for favourable consideration, subject to City agreement to the scope of works, before commissioning the design. In addition eligible criteria that can be determined as routine maintenance should be removed.

The intent of these changes is to improve the quality of the application/outcomes to achieve the Program Objectives.

It was expected, at the outset of the Program, that it will take time to build awareness of the Program and it is subject to being available when the business is motivated to use it. It is important therefore that the longevity of the Program be maintained, it is expected that economic pressures in the near term (next few years) will be reason for many businesses to consider it.

OPTIONS

1. Make no change to the current Program.
2. Make different and/or additional changes to the Program.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should Council support the officer recommendation, the Façade Subsidy Program will be updated on the City website within 3 weeks.

Council Decision / Committee Recommendation and Officer Recommendation

C1612/150 Moved Councillor G Bleachmore, seconded Councillor T Best

That the Council resolve:

1. To amend the eligibility criteria of the Busselton City Centre Façade Subsidy Program by
 - 1.1 Deleting under - **4.2.1 Eligible Works**
the words:
 - *Restoration of exterior finishes;*
 - *Repainting of building façade and windows (does not include works that can be considered as general maintenance);*
 - 1.2 Inserting under - **4.2.1 Eligible Works**
the words:
 - *Preliminary design work consistent with the Program Objectives;*
 - *Infrastructure associated with alfresco areas, including canopies, furniture, bollards and windscreens, as part of an integrated design proposal consistent with the Program*

Objectives;

- *Works consistent with a City approved Preliminary Design;*

1.3 Deleting under - **4.2.2 Ineligible works**

the words:

- *Preliminary design work to complete application;*
- *Infrastructure associated with alfresco areas. Applicants should be aware that alfresco areas may be permitted in existing car parking spaces subject to planning approval (Whilst applications for new alfresco areas will not be considered for grant funding within this program, applicants are encouraged to discuss any future ideas with the City, which may be able to be included within the capital works program or future plans for the streetscape).*

1.4 Inserting under - **4.3 Implementation of successful grant applications**

the words:

1. *Applicant should consult with the City prior to determining the scope of work.*
2. *A scope of the work, for commissioning the design work will be submitted to the City including costs. Only design work prepared by a Registered Architect is acceptable.*
3. *Subject to gaining the City's agreement on the scope of work and the agreed grant sum the applicant is to complete the design works.*
4. *Applicant to submit the design work tax invoice to the City of Busselton for agreed grant sum.*
5. *Subject to the scope of works being achieved, and the work prepared to a professional quality, the City will pay the agreed grant sum.*

1.5 Inserting under - **6.0 GRANT FUNDING**

the words:

Applications for Preliminary Design works and applications for works will be determined as separate grant applications, each to the maximum grant available.

Preliminary Design

The City will provide successful applicants a grant of up to 50% of the agreed scope of works cost (ex GST) up to a maximum grant of \$5,000.00.

Grants are only available to an agreed scope of work with a minimum total value of \$2,000 (ex GST).

CARRIED 9/0

EN BLOC

11. PLANNING AND DEVELOPMENT SERVICES REPORT

11.2 APPLICATION FOR DEVELOPMENT APPROVAL FOR AN EXTRACTIVE INDUSTRY (SAND) AT LOT 1838 KALGUP ROAD AND LOTS 1842 AND 3982 ACTON PARK ROAD, KALGUP

SUBJECT INDEX:	Development/Planning Applications
STRATEGIC OBJECTIVE:	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
BUSINESS UNIT:	Development Services and Policy
ACTIVITY UNIT:	Statutory Planning
REPORTING OFFICER:	Planning Officer - Stephanie Izzard
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Location Plan⇒ Attachment B Original Development Application Plans⇒ Attachment C Amended Development Application Plans⇒ Attachment D Schedule of Submissions⇒ Attachment E Dust Management Plan⇒ Attachment F Noise Management Plan⇒ Attachment G Proposed Haulage Route⇒

PRÉCIS

The Council is asked to consider a development (planning) application seeking approval for an Extractive Industry (Sand) across three lots, being Lot 1838 Kalgup Road and Lots 1842 and 3982 Acton Park Road, Kalgup (the sites).

The proposal has been placed before the Council due to the issues raised during consultation on the application and the level of community interest. It is noted that since the application was originally advertised the applicant has made several changes to the proposal including increasing the distance of the proposed extraction areas to a minimum distance of 300m from all existing neighbouring residential dwellings.

It is considered that the proposed development is consistent with the relevant planning framework and it is recommended for approval subject to conditions.

BACKGROUND

The City has received a development application for an Extractive Industry (Sand) across three lots, being Lot 1838 Kalgup Road and Lots 1842 and 3982 Acton Park Road, Kalgup (the sites). A location plan is provided at Attachment A.

The sites are bound by Yoongarillup Road to the north-east of Lot 3982, Acton Park Road to the east of Lots 3982 and 3842, Wells Road to the south of Lot 1842 and agricultural land to the west and north. The site is zoned "Agriculture" under the City of Busselton Local Planning Scheme No. 21 (the Scheme) and is located within Policy Area 3 under LPP 5A - Extractive Industries (LPP5A).

The application was advertised for public comment and was also referred to relevant agencies. Both public and agency referral submissions raised various issues and concerns with the proposal and these concerns were subsequently presented to the applicant for consideration and response prior to the City determining the application.

The initial application was for a total of 540,000m³ of sand to be removed from 45 hectares over 11 years. The applicant originally proposed extractive activities with a minimum separation distance of

180 metres to the closest existing residential dwelling. The original development application plans are provided at Attachment B. Under LPP 5A the extraction of sand and limestone may be located less than 500m but generally no closer than 300m from a sensitive land use, dependent upon the nature and scale of the operation and the content of a Dust and Noise Management plan.

Subsequent to the original application being advertised the applicant has amended the proposal to increase the setback of the extraction areas to be no closer than 300 metres from any existing residential dwelling. These changes reduced the size of the area to be extracted. The amount of sand proposed to be removed is thereby reduced to 492,000m³ from 41 hectares and the applicant has agreed to a five year timeframe which is the standard timeframe for extractive industry applications as prescribed under LPP5A, with the option to extend this timeframe through another development application after the initial 5 years. The amended development application, including a site plan, are provided at Attachment C.

Further assessment of the proposal against the requirements of the Policy is provided in the Officer Comment section of this report.

STATUTORY ENVIRONMENT

The key statutory environment is set out in the City of Busselton *Local Planning Scheme No. 21* ('the Scheme'), as modified by the *Deemed provisions for local planning schemes* set out in Schedule 2 of the Planning and Development Regulations 2015. The site is zoned "Agriculture" under the Scheme and within this zone "Extractive Industry" is an "A" land use and therefore the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving public notice in accordance with clause 10.4 (clause 64 of Part 8 of the regulations).

RELEVANT PLANS AND POLICIES

The assessment of the proposed extractive industry is guided by a number of policies which relate to the zoning and proposed use of the land. The key policy implications are outlined below.

Local Rural Planning Strategy

Under the Local Rural Planning Strategy the site is located within the 'primary rural' precinct. Within this precinct basic raw material and mineral sand mining is a conditional land use. It is an economic objective of the precinct to retain the majority of area, especially low lying areas, for dairy/grazing. It is noted that the site is currently used for dairy cattle, and it is proposed that the site be returned to pasture upon the completion of the extractive activities.

Agricultural Zone - Objectives and Policies

The objectives and policies of the Agriculture zone relevant to this application are provided below:

Objectives

- (a) To conserve the productive potential of rural land.
- (b) To provide for new forms of agricultural development (including agro-forestry), and changing patterns of existing agricultural development.
- (d) To enable the development of land for other purposes where it can be demonstrated by the applicant that suitable land or buildings for the proposed purposes are not available elsewhere and that such purposes will not detrimentally affect the amenity of any existing or proposed nearby development.
- (i) To encourage the development of cluster or communal farming.
- (j) To encourage sustainable farming practices.
- (k) To control the clearing of trees and encourage generally the retention of vegetation and vegetation corridors concomitant with the agricultural use of the land.

Policies

- (a) To permit land included within the zone and shown by close investigation in consultation with the Department of Agriculture and Food not to be prime agricultural land to be utilised for other purposes not incompatible with adjacent uses.
- (f) To implement and adhere to the adopted recommendations and outcomes of the Local Rural Planning Strategy adopted by the local government and endorsed by the Commission.

Within the Agriculture zone “Extractive Industry” is a discretionary land use which requires advertising (“A”). The City is unable to control the location of the resource however it is considered that due to the temporary nature of sand extraction and the fact that the land is to be returned to pasture that the proposal is consistent with the policy and objectives of the zone.

Local Planning Policy 5A: Extractive Industries (LPP5A)

LPP 5A recognises that extractive industries have the potential for incompatibility with other land uses. Under this Policy the sites are located within Policy Area 3. In relation to this area the Policy states:

“Extractive industry proposals will need to comply with the same criteria, requirements and conditions as Policy Area 2. However, as Policy Area 3 is recognised as primarily an agricultural area, it is important to ensure the long-term protection of prime agricultural land. Extractive industry will be expected to be approved within Policy Area 3, where such operations can meet the requirements of these provisions and the Scheme.”

LPP 5A requires the advertising of all extractive industry proposals to involve advising to all landowners within a 1.0km of the site. Further assessment against the requirements of this Policy are provided within the Officer Comment section of this report.

FINANCIAL IMPLICATIONS

There are no significant financial implications to the City arising from the staff recommendation in this report.

STRATEGIC COMMUNITY OBJECTIVES

The recommendation of this report reflects Community Objective 5.2 of the Strategic Community Plan 2013, which is; *“Growth is managed sustainably and our environment is protected and enhanced as we develop.”*

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. Risks are only identified where the individual risk, once controls are identified, is medium or greater. No such risks have been identified.

CONSULTATION

Under Clause 10.4 of the Scheme (Clause 64 of Part 8 of the regulations) the local government is not to grant approval for an “A” land use unless notice is given in accordance with clause 10.4.3. In accordance with clause 10.4.3, as well as the requirements of Local Planning Policy 5A, the application was advertised to all surrounding landowners within a 1km radius of the sites. In addition

a notice was placed in the local newspaper on 29 June 2016 as well as a notice being placed on the City's website. The closing date for submissions was 21 days after the notice was printed in the local newspaper with referral sent to surrounding landowners a week prior to the notice being published.

Seven submissions from neighbouring or nearby residents were received on the proposal. A summary of the concerns raised in these submissions is provided below:

- Concerns regarding proximity of extractive activities to nearby dwellings;
- Concerns regarding proposed time frame (11 years);
- Concerns regarding dust;
- Concerns regarding noise, from both the site and trucks along the haulage route;
- Concerns regarding proposed haulage route, including the haulage route being a school bus route; and
- Concerns regarding water sources.

A schedule of submissions is provided at Attachment D.

Agency comment

Submissions were received from six referral agencies. A summary of these submissions is within Attachment D. A key issue identified was by Department of Water in relation to the proximity of the activities to the water table. Further information regarding this matter is within the officer comment section of this report.

OFFICER COMMENT

The City has assessed the application having regard to the objectives and policies of the "Agriculture" Zone, Local Planning Policy 5A - Extractive Industry and Clause 11.2 - Matters to be Considered of the Scheme (clause 67 of Part 8 of the regulations) .

Proximity to nearby dwellings

The original application proposed extractive activities 180 metres away from the nearest existing dwelling. Under LPP 5A "the extraction of sand and limestone may be located less than 500m but generally no closer than 300m from a sensitive land use dependent upon the nature and scale of the operation and the content of a Dust and Noise Management Plan including consideration of the requirement for dust and noise measuring equipment to be installed within the site for the duration of the extraction process." These setback distances are consistent with the Environmental Protection Agency Guidance Statement 3 (2005) – Separation Distances Between Industrial and Sensitive Land Uses and the State Planning Policy 4.1 State Industrial Buffer (1997) which recommends a 300m – 500m minimum setback distance for extractive industries (limestone and sand) dependant on size, type and scale.

The applicant subsequently modified the development to increase the setback of the extractive activities to be no closer than 300m to any neighbouring dwelling. It is considered that the proposed separation distance is adequate to ensure that there is no significant or unacceptable impact upon adjoining dwellings in terms of noise and dust.

Dust management

The applicant submitted a Dust Management Plan with the development application. The Dust Management Plan details measures proposed to prevent dust impact on adjoining properties and includes, but is not limited to the following:

- Topsoil stockpiles will be watered and stabilised as required. Stabilisation techniques that will be considered depending on environmental conditions will include hydro-mulching and/or seeding with cover crops such as (but not limited to) cereal rye.

- Dust suppression agents (for the purpose of reducing water use) as required.
- The area exposed and the time between extraction and rehabilitation will be minimised as far possible (maximum ~2 hectares open at any one time).
- A dust complaint system and register will be put in place. This will included the erection of a notice at the site gate, providing contact details of the site manager. Any complaints will be recorded in a “complaints register” by the site manager and acted on promptly.

The proposed provisions for the suppression of dust are in keeping with practices undertaken at other sand extraction sites and it is considered that these are adequate to minimise the impact of dust from the extractive activities on nearby residences. Further to this, under LPP5A, and imposed by a condition of approval, a maximum of 2 ha is permitted to be open at any one time with rehabilitation to restore the sites back to pasture to be completed as new areas are extracted. The purpose of this requirement is to ensure that timely rehabilitation is completed which minimises the amount of area exposed and therefore reduces the risk of dust affecting nearby residences. An annual report is required to be submitted by way of condition to ensure that the applicant complies with this requirement.

Due to the volume of material that is to be extracted a works approval from Department of Environment and Regulations will be required to be obtained. As part of this process the environmental acceptability of the proposal’s potential to cause emissions and discharges, including dust and noise, against standards and policies will be further reviewed.

The Dust Management Plan is provided at Attachment E.

Noise

The applicant submitted a Noise Management Plan as part of the development application. The Noise Management Plan details measures proposed to prevent noise impacting on adjoining properties and include, but is not limited to the following:

- Topsoil stockpiles will be put in place around the perimeter of the working pit and will act as noise bunds.
- Operating hours to be restricted to 7am - 6pm Monday to Friday (excluding public holidays).
- Internal traffic routing will be optimised to reduce vehicle reversing requirements (to minimise noise associated with reversing alarms).
- A noise complaint system will be put in place. This will included the erection of a notice at the site gate, providing contact details of the site manager. Any complaints will be recorded in a “complaints register” by the site manager and acted on promptly.

The activities on site will be required to comply with the *Environmental Protection (Noise) Regulations 1997* and it is considered that the provisions of the Noise Management Plan are adequate at ensuring the development complies with the regulations.

Due to the volume of material that is to be extracted a works approval for Department of Environment and Regulations will be required to be obtained. As part of this process the environmental acceptability of the proposal’s potential to cause emissions and discharges, including dust and noise, against standards and policies will be further reviewed.

The Noise Management Plan is provided at Attachment F.

Timeframe

The applicant originally proposed the life of the mine to be 11 years. Under LPP 5A the City may approve extractive industries for a maximum of 5 years. The applicant has advised that they agree to a 5 year time frame and will apply for an extension before the expiry of this approval if they have not extracted all of the resource. At this time the City can reassess the application to ensure that the

extractive activities have complied with the imposed conditions and impose any further conditions as deemed necessary.

Haulage Route

Following the concerns raised during the advertising period of the application the applicant amended the haulage route to exclude Kalgup Road. It is therefore proposed that access to the site will be via Bussell Hwy or Sues Road to Vasse Hwy and then onto Acton Park Road. It is proposed to access the extraction area via an existing access way onto Acton Park Road. The standard of the roads along the proposed haulage route are considered to be appropriate.

It is noted that Acton Park Road adjacent to the property is a school bus route. The applicant has agreed that trucks will not enter/exit the property between school drop off and pick up times, which would be enforced via a condition of approval.

An aerial indicating the proposed haulage route is provided at Attachment G.

Water

Following the initial referral response from Department of Water further information was submitted by the applicant and a site visit was conducted with representatives from the City and Department of Water. A satisfactory solution was reached with the applicant to allow them to extract the sand from the portions of the lot with a lower risk of intercepting the water table. Before the remainder of the site is to be extracted further hydrological information, including the maximum seasonal water table levels, are to be provided to the City, to be enforced via a condition of approval. This data will ensure that the extractive activities allow a minimum 500mm separation distance between the maximum seasonal water table and the finished level of the site.

Whilst not currently in LPP5A the City has been looking into ways to better manage the ongoing performance of extractive industries and ensuring that the works comply with the conditions of the approval. The City is also looking at ways in which the cost of this ongoing monitoring will be borne more by the operator and less by the City and community/ratepayers. In doing this, the City has looked into the way in which other Councils with local laws that issue works approval, as well as the Department of Mines and Petroleum, undertake their monitoring of similar activities. It is considered that the best process is to require the operator to submit an annual report outlining the amount of area extracted, the amount of resource removed, the current area of the open pit and demonstrate compliance with all conditions of the approval. The City is currently looking at reviewing LPP5A to require annual reports for all extractive industries, but is already advising applicants/operators of this proposed change in approach.

CONCLUSION

The proposed development is considered to be consistent with the Policy and Objectives of the "Agriculture" zone, as well as the requirements of Local Planning Policy 5A - Extractive Industries, and therefore it is recommended that the application be approved.

OPTIONS

The Council could:

1. Refuse the proposal, setting out reasons for doing so.
2. Apply additional or different conditions.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The proponent will be advised of the Council decision within two weeks of the Council meeting.

Council Decision and Officer Recommendation**C1612/151** Moved Councillor G Bleechmore, seconded Councillor T Best

That the Council resolve:

1. That application DA16/0381 submitted for Extractive Industry (Sand) at Lot 1838 Kalgup Road and Lot 1842 & Lot 3982 Acton Park Road, Kalgup is considered by the Council to be consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.
2. That Development Approval is issued for the proposal referred to in 1. above subject to the following conditions:

General Conditions

1. The development hereby approved is permitted to operate for five years from the date of this Decision Notice or until 492,000 cubic metres volume of material has been extracted, whichever is sooner. The site shall be rehabilitated in accordance with an approved Rehabilitation Plan by the expiry date of this development approval.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans and Approved Management Plans and except as may be modified by the following conditions.

Prior to Commencement of Any Works Conditions:

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing:
 - 3.1 Details of road signage to be erected along the transport route. The installation of the signs shall be completed by the City of Busselton for which fees are payable. Signage shall include signs on both approaches to the pit along Acton Park Road 100m from the access.
 - 3.2 Details validating the water supply available for dust suppression to implement the approved dust management plan.
 - 3.3 Details of the proposed crossover location for the site. The location of the crossover shall be agreed to with the City and shall ensure that adequate sightlines are achieved.
4. Extraction from cells B, D, E and F shall not commence until the following plans or details have been submitted to the City and approval has been given from the City in writing:
 - 4.1 Assessment of the maximum seasonal ground water levels and confirmation that the extractive activities will not come within 500mm of the maximum seasonal ground water level.
5. The development hereby approved, or any works required to implement the development, are subject to the following bonds (accompanied by an executed legal agreement with the City at the full cost of the owner) which shall be paid to the City within 2 months of the date of this development approval:
 - 5.1 A road maintenance bond of \$40,000.00 in the form of an unconditional bank guarantee

to ensure that the surrounding road network is maintained to the satisfaction of the City for the term of the extractive industry. Those portions of public roads affected by the activities related to the approval shall be maintained to a standard acceptable to the City at cost to the applicant; such bond may be utilised for road maintenance purposes where necessary as a result of the operation. The bond shall be accompanied by an executed legal agreement with the City at the full cost of the owner.

- 5.2 A dust bond to the value of \$5,000, which shall be held against satisfactory compliance with Condition 7.11 of this approval.
- 5.3 A rehabilitation bond to the value of \$20,000, which shall be held against satisfactory compliance with Condition 7.6 and 7.14 of this approval.
- 5.4 Further to conditions 5.1, 5.2 and 5.3, the bonds are to be accompanied by an executed legal agreement with the City at the full cost of the owner. The legal agreement shall include:
 - (i) The ability for the City to be able to use the bond, or part of the bond as appropriate, and any costs to the City including administrative costs of completing or rectifying any outstanding works on site in accordance with the conditions of this development approval and any further costs.
 - (ii) Written authorisation from the owner of the land that the City may enter the site at any time and permit the City to complete or rectify any outstanding work to the satisfaction of the City.

Prior to Occupation/Use of the Development Conditions:

6. The development hereby approved shall not be occupied, or used, until all plans, details or been complied with:
 - 6.1 A crossover to be constructed to a sealed and drained standard to the specifications and satisfaction of the City.

On-Going Conditions:

7. The works undertaken to satisfy Conditions 1 - 6 (inclusive) shall be subsequently maintained for the life of the development including, and in addition to, the following conditions:
 - 7.1 The development hereby approved shall be limited to: the extraction of sand from the site; screening of material; associated drainage works; and rehabilitation works. At no time shall any processing, crushing or blasting works be carried out.
 - 7.2 Notwithstanding Condition 7.1 above, working hours within the pit area and transportation of materials shall be restricted to the hours between: 7.00am and 6.00pm Mondays to Fridays; 7.00am and 1.00pm Saturdays for rehabilitation works only; and at no time on Sundays or public holidays.
 - 7.3 The designated haulage route will be northwards along Acton Park Road, Westward onto Vasse Highway then onto to Busselton Bypass and/or northwards along Acton Park Road, eastward onto Vasse Highway then onto Sues Road.
 - 7.4 Trucks are not to operate on Monday to Friday between the hours of 7.30am and 9.00am and between 3.00pm and 4.30pm on any given school day on a school bus route, or between other times as agreed in writing between the applicant and the local

government.

- 7.5 A maximum number of 50 truck movements (i.e. 50 trucks entering and 50 trucks exiting the site) shall be permitted on the operating days and times as permitted per Condition 7.2 and 7.4.
- 7.6 No more than 2 hectares shall be worked at any one time; this area shall then be rehabilitated in accordance with the approved details pursuant to Condition 2 concurrently with the extraction of the following 2 hectare area.
- 7.7 The lowest level of excavation shall always be a minimum of at least 500mm above the maximum water table level and no dewatering works are to be undertaken. The City is to be notified within 24 hours if the water table is intercepted.
- 7.8 Further to condition 7.7, the final land surface (after rehabilitation for pasture) should be 0.5 metres above the maximum seasonal groundwater.
- 7.9 The following minimum setback from extractive activities shall be achieved at all times;
- i. 20 metres to all boundaries;
 - ii. 300 metres to all dwellings on neighbouring properties; and
- 7.10 All operations related to the extractive industry shall be carried out in accordance with the approved Dieback Management Plan, including any notes placed thereon in red by the City.
- 7.11 The approved Noise Management Plan shall be implemented and carried out in accordance with the approval details.
- 7.12 The approved Dust Management Plan shall be implemented and carried out in accordance with the approval details.
- 7.13 The approved Drainage Management Plan shall be implemented and carried out in accordance with the approved details.
- 7.14 The approved Rehabilitation Management Plan shall be implemented and carried out in accordance with the approved details.
- 7.15 The applicant must submit with the City annually within 3 (three) months of the anniversary of this approval a report detailing the following:
- (a) A survey conducted by a licenced surveyor certifying :
 - (i) The extent/size and location of the area which has been extracted;
 - (ii) The extent/size and location of the area which has been rehabilitated;
 - (iii) The extent/size and location of the area which is currently under operation;
 - (b) Details as to which conditions of this development approval have been complied with and how this has been achieved; and
 - (c) Details as to which conditions of this development approval have not been complied with and the reasons for such non-compliance ("Compliance Report").
- 7.16 The City may request the applicant to provide further information in relation to the Compliance Report or any aspect of the operations under this approval.
- 7.17 Should the applicant fail to submit the Compliance Report in accordance with condition 7.15 or should the applicant fail to provide the City within a reasonable time with further information in accordance with Condition 7.16 then the City, may by notice to

the applicant, require from the applicant to immediately cease works under this approval until such time as the required information has been provided.

- 7.18 Should, the City consider the applicant's non-compliance as outlined in the Compliance Report to be material or the reasons for such non-compliance be unacceptable, then the City, may by notice to the applicant require from the applicant to immediately cease works under this approval until such time as:
- (a) the applicant complies with the relevant conditions; or
 - (b) the City has approved a plan of action provided by the applicant setting out the strategy to address the non-compliance(s).

CARRIED 9/0

EN BLOC

13. COMMUNITY AND COMMERCIAL SERVICES REPORT

13.2 MARKETING AND EVENTS REFERENCE GROUP OUTCOMES

SUBJECT INDEX:	Events
STRATEGIC OBJECTIVE:	A City where the community has access to quality cultural, recreation, leisure facilities and services.
BUSINESS UNIT:	Commercial Services
ACTIVITY UNIT:	Commercial Services
REPORTING OFFICER:	Events Coordinator - Peta Tuck
AUTHORISING OFFICER:	Director, Community and Commercial Services - Naomi Searle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

PRÉCIS

A meeting of the Marketing and Events Reference Group (MERG) was held on Thursday 9 November 2016. This report presents the recommendations from this meeting.

BACKGROUND

The Council, at its meeting of 13 April 2011 (C1104/114), resolved to endorse the implementation of a differential rating system whereby properties rated within the Industrial and Commercial zones across the City would directly contribute toward the City's continued support of tourism, marketing and event activities. This resolution also endorsed the establishment of a 'Key Stakeholders Reference Group' (now known as the 'Marketing and Events Reference Group') to make recommendations to Council with respect to the marketing and events budget allocations.

Further to this, at its meeting of 22 June 2011 (C1106/201), Council resolved to introduce a 3% Differential Rate on the abovementioned properties and as a result, \$180k was included in the 2011/2012 budget towards events and marketing. Following this, Council increased the Differential Rate to 6% in 2012/2013 (totalling \$360k), 7% in 2013/2014 (totalling \$379k), 8% in 2014/2015 (totalling \$488k) and 9% in 2015/16 (totalling \$556k) towards events and marketing.

As part of the 2016/2017 adopted budget, Council increased the Differential Rate to 10% (totalling \$624k) with the funds split 75:25 between events and marketing respectively.

The total endorsed marketing and events budget for 2016/2017 is \$892k; \$736k allocated towards events and \$156k allocated towards marketing. The \$736k budget allocation for events includes \$268k from municipal funds and \$468k from the Differential Rate Budget of \$624k. This excludes budgetary allocations for the Leavers Week event, administration, and events staffing.

As outlined in the FINANCIAL IMPLICATIONS section of this report, a total of \$40,663 remains in the Differential Rate Events Budget for Round 2 of the 2016/17 Events Sponsorship Programme.

A meeting of the Marketing and Events Reference Group (MERG) was held on Thursday 9 August 2016, with the following key matters presented at the meeting;

- Discuss and make recommendations for the 2016/17 Round 2 Event Sponsorship Program to Council;
- Request from the Margaret River Busselton Tourism Association (MRBTA) to allocate \$10k in the 2017/18 budget towards the hosting of the 2017 WA Tourism Conference to be held within the City of Busselton.

STATUTORY ENVIRONMENT

Nil.

RELEVANT PLANS AND POLICIES

The recommendations are in line with Council policies.

FINANCIAL IMPLICATIONS

At the 21 July 2016 Council meeting, Council resolved to include a 1% increase in the Industrial and Commercial Differential Rate from 9% to 10% in the 2016/17 budget (C1607/157), resulting in an allocation of \$624k for events and marketing, with a split of 75/25 (\$468k/\$156k) respectively. At the end of the 2015/16 financial year an allocation of \$8,488 was unspent and at the Special Council Meeting on 21 July 2016, Council endorsed to include the carryover of funds into the 2016/17 Differential Rates events budget, providing a total of \$476,488.

Further, \$268k was allocated towards events from municipal funding. This excludes budgetary allocations for the Leavers Week event, administration, and events staffing.

The funding allocated through the 2016/17 municipal budget is as follows;

Table 1

Events - Multi-Year Agreements funded through Municipal funds	2016/17
Busselton Jetty Swim	\$15,600
Ironman WA Busselton	\$187,400
Busselton Ironman 70.3	\$45,000
Geographe Bay Race Week	\$10,000
Festival of Busselton	\$6,000
Carols by the Jetty	\$1,000
Australia Day	\$3,000
TOTAL	\$268,000

Within the 2016/17 Differential Rate Events Budget, \$410,825 has already been allocated to events funded through multi-year agreements and the Events Sponsorship Programme Round 1, leaving a total of \$65,663 for the Events Sponsorship Programme Round 2 and any further funding requests.

At the meeting of 28 September 2016, Council endorsed the allocation of up to \$5k in-kind support to the City to Surf event, \$30k towards the 2017 Busselton Fringe Festival, and \$5k towards the funding of a Leavers Officer to support the City's response to the 2016 Leavers event, all to be funded from the 2016/17 Differential Rate Events Budget (C1609/259).

The Events Coordinator received written advice on 05 October 2016 that the Superboat Racing event would not be taking place in March 2017, and therefore would not require the \$15k funding allocated to the event in the Events Sponsorship Programme 2016/17 Round 1. The event organiser intends on applying again for 2017/18 funding, with a view to hold the event in March 2018.

With this event cancellation and the endorsed allocations, this leaves a total of \$40,663 remaining in the Differential Rate Events Budget for Round 2 of the 2016/17 Events Sponsorship Programme.

This report includes the MERG recommendations as seen in Table 1 below, that a total of \$38k be funded in Round 2, leaving a total of \$2,663 remaining for any further requests.

Further, a total of \$156k is allocated in the Differential Rate Marketing Budget for 2016/17 for marketing and promotion initiatives. If during the 2016/17 financial year these funds are not expended, it is recommended that the \$156k or the balance of any remaining marketing funds are transferred to the Airport Marketing Reserve as part of the City's contribution towards an airline incentive package for the Busselton-Margaret River Airport Development Project.

Long Term Financial Plan

The marketing and events budget, including both the municipal contribution and funds generated through the Differential Rate, are in line with the City's Long Term Financial Plan.

STRATEGIC COMMUNITY OBJECTIVES

This matter aligns with the City of Busselton's endorsed Strategic Community Plan 2013, and principally with the following Strategic Goal:

Well planned vibrant and active places;

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

RISK ASSESSMENT

The recommendations contained within this report are considered low risk and as such a formal risk assessment is not provided.

CONSULTATION

Consultation has been undertaken with members of the Marketing and Events Reference Group, consisting of representatives from the Busselton Chamber of Commerce and Industry, Dunsborough Yallingup Chamber of Commerce and Industry, Geographe Bay Tourism Association and Conservation Association, Busselton Jetty Environment and Conservation Association and the City of Busselton.

OFFICER COMMENT

The Marketing and Events Reference Group has been established with representatives from the City of Busselton, local Chambers of Commerce, the Margaret River Busselton Tourism Association, and the Busselton Jetty Environment and Conservation Association. A Terms of Reference guides the operations of the Group and an Events Sponsorship Programme has been developed.

Supporting the development and attraction of new events throughout the year, the Events Sponsorship Programme promotes the City of Busselton as an attractive host and event tourism destination for a range of events. The City, through the programme has attracted exciting new events to boost the local economy through event tourism.

A proposal was received from MRBTA, who are preparing to place a bid to hold the 2017 WA Tourism Conference in the City of Busselton on 11-13 September 2017. This conference is traditionally held in the metro area each year, but Tourism Western Australia has expressed interest in holding it in a regional area. This conference is expected to generate more than \$500,000 of economic benefit into the region. If successful, the MRBTA will contribute \$10k towards this conference and have approached the City to contribute a further \$10k and provide a letter of support. MERG members were in support of this proposal and recommend the allocation of \$10k be funded from the 2017/18 Differential Rate Events Budget.

Round 2 Event Sponsorship Programme 2016/17

Round 2 of the 2016/17 Event Sponsorship Programme opened on 1 September 2016 and closed on 30 September 2016, with a total of fourteen (14) single year applications received, requesting \$97,254 in funding. There is currently \$40,663 remaining in the 2016/17 Differential Rate Events Budget.

The Events team evaluated all funding applications, applying the Strategic Funding Guidelines of economic impact, strategic alliance to off-peak and cultural events, destination tourism, social benefits and environmental impact. An overall score out of 100 based on the strategic funding guidelines was allocated and funding recommendations based on this.

MERG members discussed each application and recommended the following:

Event	Requested	MERG Recommend
Geographe Bay Race Week – M32 Catamarans	\$5,000	\$0
Margaret River Region Open Studios	\$5,000	\$3,000
King of Concrete 2017	\$16,500	2016/17 - \$13,000 2017/18 - \$12,500 2018/19 - \$12,000
Salmon Fest	\$12,000	\$1,500
South West Bush Poets Festival	\$5,000	2016/17 - \$2,000 2017/18 - \$1,750 2018/19 - \$1,500
Black Dog Ride – Busselton 1 Dayer	\$2,500	\$0*
Undalup Birak Festival	\$10,994	\$6,000
Emergence Creative Festival	\$12,000	\$3,000
Men’s Health and Wellness Day	\$3,000	\$0*
WheelBite 2017	\$3,800	\$2,000
Yallingup Malibu Classic	\$2,000	\$2,000
Yalambi Showjumping Classic	\$10,000	\$2,500
Busselton Horse & Pony Club Winter Jumping Classic	\$5,460	2016/17 - \$3,000 2017/18 - \$2,750 2018/19 - \$2,500
Margaret River Marathon	\$4,000	\$0
TOTAL ROUND 1 2016/17	\$97,254	\$38,000

* Officers to recommend application for funding through the Donations, Contributions and Subsidies Fund.

MERG recommendation totals \$38k to be funded in Round 2, leaving a total of \$2,663 remaining for any further requests.

CONCLUSION

The Marketing and Events Reference Group (MERG) has been assigned by Council to make recommendations on the way in which funds raised through the Industrial and Commercial Differential Rate for the purposes of events and marketing are allocated. This report contains the recommendations made at the 9 November 2016 meeting, which if endorsed by Council, will result in the continuation of high quality events being held within the region, supported by successful marketing promotions. All recommendations support Council’s vision of being recognised as the ‘Events Capital WA.’

OPTIONS

Council may choose not to support the recommendations made by the Marketing and Events Reference Group and resolve not to endorse part or all of the recommendations.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Following Council's decision, the outcomes will be communicated to all members of the Marketing and Events Reference Group and relevant event organisers for their information and implemented where required.

Council Decision and Officer Recommendation

C1612/152 Moved Councillor G Bleechmore, seconded Councillor T Best

That Council;

1. As part of the Events Sponsorship Programme endorses the funding allocation towards the following events to be funded from the Differential Rate Events budget:

Event	Funding
Geographe Bay Race Week – M32 Catamarans	\$0
Margaret River Region Open Studios	\$3,000
King of Concrete 2017	2016/17 - \$13,000 2017/18 - \$12,500 2018/19 - \$12,000
Salmon Fest	\$1,500
South West Bush Poets Festival	2016/17 - \$2,000 2017/18 - \$1,750 2018/19 - \$1,500
Black Dog Ride – Busselton 1 Dayer	\$0*
Undalup Birak Festival	\$6,000
Emergence Creative Festival	\$3,000
Men's Health and Wellness Day	\$0*
WheelBite 2017	\$2,000
Yallingup Malibu Classic	\$2,000
Yalambi Showjumping Classic	\$2,500
Busselton Horse & Pony Club Winter Jumping Classic	2016/17 - \$3,000 2017/18 - \$2,750 2018/19 - \$2,500
Margaret River Marathon	\$0
TOTAL ROUND 1 2016/17	\$38,000

* Officers to recommend application for funding through the Donations, Contributions and Subsidies Fund.

2. Endorses the allocation of \$10k in the draft 2017/18 budget towards the 2017 WA Tourism Conference, to be funded from the 2017/18 Differential Rate Events Budget.

CARRIED 9/0

EN BLOC

14. FINANCE AND CORPORATE SERVICES REPORT

14.3 BUSSELTON JETTY LICENCE REVIEW

SUBJECT INDEX:	Legal
STRATEGIC OBJECTIVE:	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Legal Services Coordinator - Cobus Botha
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

PRÉCIS

Pursuant to obtaining funding for refurbishment of the Busselton Jetty in 2009, the City of Busselton granted Busselton Jetty Environment and Conservation Association Incorporated (**BJECA**) a licence to undertake certain tourism focused commercial activities (BJECA Jetty Licence).

As part of its Busselton Foreshore redevelopment project the City granted BJECA a lease of a portion of Railway House to compliment the services provided by BJECA under the BJECA Jetty Licence and in particular to provide storage for the Jetty train. Pursuant to the lease negotiations the City and BJECA considered it appropriate to review the terms and conditions of BJECA Jetty Licence, in particular with the view of aligning the term of the licence with the term of BJECA's lease of Railway House.

This report recommends to Council to amend BJECA's Jetty Licence in accordance with the terms and conditions outlined in this report.

BACKGROUND

BJECA is a Busselton based voluntary incorporated association with, among other things, the following objectives:

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

BJECA has for many years been raising funds and actively working towards restoration of the Busselton Jetty. In 2008 the City obtained grant funding of \$24 million from the South West Development Commission (**SWDC**) for purposes of refurbishing the Busselton Jetty (note that all amounts mentioned in this report are exclusive of GST). The grant agreement between the City and SWDC required from the City, among other things, to:

- Enter into a performance based operator agreement with BJECA in respect of "Jetty related activities" for a renewable 5 year term; and
- Establish a "Jetty maintenance account" and contribute to the account a minimum of \$650K per annum from operating revenues associated with Jetty related activities.

In accordance with the grant agreement the City and BJECA entered on 30 October 2009 into the BJECA Jetty Licence in terms of which BJECA was granted the right to conduct certain commercial activities at/on the Busselton Jetty in consideration for payment of an annual licence fee, and also assumed certain maintenance obligations. The licenced activities (**Licensed Activities**) include collecting entrance fees from persons entering the Busselton Jetty from its land side and operating

the Busselton Jetty train (**Jetty Train**), the Underwater Observatory towards the northern end of the Busselton Jetty (**UWO**) and the Interpretive Centre. The key terms and conditions of the BJECA Jetty Licence were as follows:

- An initial licence term of 5 years commencing on 18 June 2012 (that is the date of practical completion of the Busselton Jetty refurbishment) with two options for two further terms of 5 years each.
- An initial licence fee of \$650K per annum to be annually reviewed and increased by the greater of CPI increases or 3% (\$712, 348 for the 2015/16 financial year).
- BJECA to annually achieve a range of predetermined key performance indicators which includes achieving a 3% annual increase in paying customers to the Busselton Jetty and annually increasing in line with CPI average spend per person in retail sales. This reflects the performance based nature of the contract.

Separable portion 1 of the Busselton Jetty (that is the section from the Jetty abutment to the UWO) was completed in February 2011 which allowed the City to grant BJECA access to this part of the Busselton Jetty for the purpose of commencing the licenced activities under the BJECA Jetty Licence.

Separable portion 2 (that is the front section of the Busselton Jetty north of the UWO and approximately 150m in extent) was completed in June 2012, which triggered BJECA's payment obligations under the BJECA Jetty Licence. These payment obligations included payment of an "initial sum" (a one-off cash contribution of \$1 million towards the Busselton Jetty restoration costs) and the abovementioned annual licence fee.

The City's Railway House project on the Busselton Foreshore is aimed at providing BJECA and Margaret River/Busselton Tourism Association (**MRBTA**), who both provide key tourism services within the region, with suitable accommodation to compliment and extend their services. BJECA made a significant cash contribution towards the construction costs of their section of Railway House and consequently sought to secure a 42 year leasehold tenancy of their section of Railway House at a nominal rent.

The Licenced Activities constitute BJECA's main business and is BJECA's main source of revenue. In order to secure this income stream for the duration of BJECA's leasehold over Railway House, and to align the term of the BJECA Jetty Licence with the 42 year lease term, BJECA proposed a review of the BJECA Jetty Licence. At the time the City and BJECA also acknowledged that the fixed 3% licence fee adjustment, as prescribed by the BJECA Jetty Licence, has been (and will for the foreseeable future likely remain) almost double CPI.

Subsequently the City and BJECA agreed to review the BJECA Jetty Licence as a whole to ensure the licence term aligns with BJECA's Railway House lease term and also to provide the parties with a clear and flexible framework to manage the Licenced Activities over the next 42 years. Over the past 2 years both the City and BJECA have been, at officer level, engaged in a detailed, intensive review of the BJECA Jetty Licence. The most significant changes proposed as a result of this review are:

- Extension of the term of the BJECA Jetty Licence to align with BJECA's 42 year lease of their section of Railway House;
- Replacing the existing "fixed licence fee" with a "flexi licence fee" (an amount equal to 25% of BJECA's annual "Gross Revenue");
- Introducing a "minimum licence fee" threshold to ensure the City's financial obligations under the SDWC grant agreement are met;
- Relieving BJECA from certain maintenance obligations in respect of the UWO and Interpretive Centre; and
- Updating the performance review process in relation to BJECA's achievement of the key performance indicators specified in the BJECA Jetty Licence.

A range of other minor changes have also been made to ensure the BJECA Jetty Licence is consistent with current operational processes and requirements and will provide an effective management framework for future operations. The proposed changes to the BJECA Jetty Licence are discussed in more detail under the Officer Comment section of this report. BJECA's board indicated its "in principal" agreement to the proposed changes. Subsequently this report is presented to Council for consideration and endorsement of the proposed changes to the BJECA Jetty Licence.

STATUTORY ENVIRONMENT

The Busselton Jetty is located within Reserve 46715, which is Crown Land in a managed Reserve. Subsequently under Section 18.2 of the *Land Administration Act 1997 (WA)* approval of the Minister for Lands is required for entering into the proposed amendment BJECA Jetty Licence.

Pursuant to Section 7 of the *Jetties Act 1926* the Department of Transport granted the City a licence to construct, maintain and use the Busselton Jetty as a private jetty for purposes of recreation, tourism and heritage (**DoT Licence**). In terms of clause 15.6 of the DoT Licence the approval of the CEO of the Department of Transport, Western Australia, is required for the proposed amendment of the BJECA Jetty Licence.

In operating the Jetty Train BJECA must comply with all requirements under the *Rail Safety National Award (WA) Act 2015* to the extent that they apply to BJECA as operator of the train, with the City to comply with requirements applicable to the owner of the railway. Under the proposed amendment BJECA Jetty Licence BJECA will assume full responsibility for all train "operator" requirements/obligations.

The BJECA Jetty Licence is non-exclusive and does not create in or confer to BJECA any tenancy or estate or interest in the Busselton Jetty or the Reserve. Therefore granting of the BJECA Jetty Licence (and subsequent amendment thereof) does not constitute a disposal of local government property as contemplated under Section 3.58 of the *Local Government Act 1995 (WA) (Act)* and therefore does not have to comply with the disposal requirements under Sections 3.58 and 3.59 of the Act.

In terms of Section 9.49B of the Act a person acting under the authority of a local government may make, vary or discharge a contract in the name of or on behalf of the local government. This report seeks Councils authorisation for the CEO to negotiate and enter into the proposed amendment BJECA Jetty Licence on behalf of Council in accordance with the terms and conditions outlined in this report.

RELEVANT PLANS AND POLICIES

Nil

FINANCIAL IMPLICATIONS

The licence fee paid by BJECA in respect of the 2015/16 financial year was \$712,348, which represents the initial licence fee of \$650K plus an annual 3% adjustment since 2013. In terms of the proposed amendment of the BJECA Jetty Licence, the adjusted fixed licence fee for the 2016/17 financial year will be \$733,718 (this does not include BJECA's offer to pay an additional one-off \$5,000 contribution towards the maintenance cost of the Jetty Train shelter or an additional one off ex gratia contribution of \$44,000 towards maintenance costs). The annual licence fee for the 2017/18 financial year and onwards will be an amount equal to 25% of BJECA's "Gross Revenue".

A comparison over the next five years between the current "fixed licence fee" arrangement and the proposed "flexi licence fee" proposal indicates that, based on a projected annual growth of 3% in BJECA's "Gross Revenue", the City will potentially be better off under the "flexi licence fee" proposal:

Year	Fixed Fee (including annual 3% adjustment)	BJECA Gross Revenue (including 3% projected growth)	Flexi Fee (@ 25% of Gross revenue)
2015/16	\$712,348	(actual) \$3,066,167	\$766,541
2016/17	\$733,718	\$3,158,152	\$789,538
2017/18	\$755,729	\$3,252,896	\$813,224
2018/19	\$778,400	\$3,350,482	\$837,620
2019/20	\$801,752	\$3,450,996	\$862,749

Currently funds for structural repair and maintenance of the UWO and Interpretive Centre could be sourced from BJECA's surplus funds should there be insufficient funds in the City's Jetty Maintenance Reserve for that purpose. Under the proposed amended BJECA Jetty Licence the City will have full responsibility for structural repair and maintenance of the UWO and Interpretive Centre. BJECA will be responsible for maintenance and repair of the Jetty Train, all BJECA's fixtures, fittings and improvements as well as maintenance and repair of the non- structural aspects of the UWO and Interpretive Centre. BJECA's obligation to fund structural repair and maintenance of the UWO and Interpretive Centre in event of insufficient funds being available in the Jetty Maintenance Reserve, will be removed.

The potential increase in the annual licence fee under the "flexi licence fee" proposal should offset the City's potential exposure arising from exempting BJECA from contributing towards structural maintenance of the UWO and Interpretive Centre.

Long-term Financial Plan Implications

Providing for a "minimum licence fee" threshold (see Officer Comment for detail) will ensure that the proposed "flexi licence fee" amendment will not result in a significant change from the current "fixed licence fee" arrangement and is therefore considered not to have any adverse impact on the City's long term financial plan.

STRATEGIC COMMUNITY OBJECTIVES

The proposal to enter into a the amendment BJECA Jetty Licence is consistent with the *City of Busselton Strategic Community Plan 2013* (reviewed 2015), and in particular with the Council objectives under Key Goal Areas 2 and 3:

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

2.2 A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections;

2.3 Infrastructure assets that are well maintained and responsibly managed to provide for future generations.

3.1 A City recognised for its high quality events and year round tourism offerings.

RISK ASSESSMENT

Other than the extended term and changing the basis for determining the annual licence fee (from the current "fixed licence fee" method to the proposed "flexi licence fee" formula) the proposed changes to the BJECA Jetty Licence do not involve any significant changes from current operations or the terms and conditions originally agreed. The proposed changes to the BJECA Jetty Licence include provision for a minimum licence fee which will be subject to annual CPI adjustment and 5 yearly

reviews. These controls will significantly mitigate the City's risk associated with the "flexi licence fee" proposal. Therefore the proposed changes to the BJECA Jetty Licence are not considered to represent any risks identified as medium or greater.

CONSULTATION

Nil.

OFFICER COMMENT

Both the DoT Jetty Licence and the SWDC Grant agreement allow the City to enter into the BJECA Jetty Licence for purposes of engaging BJECA to undertake the Licenced Activities on the Busselton Jetty. As a result of BJECA's involvement in the Railway House project and also to provide a more flexible framework for managing and regulating the proposed (relatively long) licence period of 42 years, the City and BJECA agreed to review the existing BJECA Jetty Licence.

The key provisions of the proposed amended BJECA Jetty Licence, which have been negotiated and in principle agreed on at officer level, are as follows:

Licence Fee

It is proposed to replace with effect from the 2017/18 financial year the current annual "fixed licence fee" with a "flexi licence fee" based on with 25% of BJECA's annual "Gross Revenue". "Gross Revenue" is defined as all money received by BJECA from whatever source (including income from activities at/on the Busselton Jetty), with the exception grant funding, deductible gift recipient funding and GST. Based on a projected annual growth of 3% of BJECA's business, this "flexi licence fee" proposal could result in a significant increase compared to the licence fee payable in terms of the existing "fixed licence fee" arrangement (an estimated \$50K to \$60K increase). This additional income will to a certain extent reimburse the City for additional maintenance costs – see discussion under Maintenance and Repair of UWO and Interpretive Centre below.

In order to mitigate the City's risk in relation to a drastic decrease in BJECA's "Gross Revenue", the proposed amended BJECA Jetty Licence provides for the following:

- Payment of a minimum licence fee of \$700K per annum which will serve as a "floor price", guaranteeing a specified minimum income disregarding BJECA's "Gross Revenue". This minimum licence fee will annually be adjusted in accordance with CPI increases and also be subject to a 5 yearly review based on the average of the annual licence fees for the 5 years prior to each such review date.
- A reduction of more than 20% of BJECA's "Gross Revenue" in any financial year will be considered an event of default which could result in early termination by the City of the BJECA Jetty Licence, unless the City is satisfied that such a drastic reduction is not related to BJECA's performance under the BJECA Jetty Licence.
- Changes to the key performance indicators and performance review process which will increase the City's powers and ability to oversee BJECA's ongoing performance in terms of the BJECA Jetty Licence.

The proposed "flexi licence fee" arrangement will also resolve various practical issues which currently impact on BJECA's ability to pay the "fixed licence fee". These issues include:

- BJECA's lack of control over determination of the entrance fees payable by persons visiting the Busselton Jetty. The Busselton Jetty entrance fee, which form an integral part of BJECA's annual income, is determined by the City as part of its local government functions. The "flexi licence fee"

proposal will to a certain extent mitigate BJECA's risk in relation to irregular or inadequate entrance fee increases by Council.

- Under the proposed amended BJECA Jetty Licence the City reserves the right to close the Busselton Jetty for major events or to exempt under certain circumstances people from paying entrance fees (for example cruise ship passengers). The "flexi licence fee" arrangement will automatically factor in any resulting adverse impacts on BJECA's income and will significantly simplify ongoing management of the licence.

Maintenance and Repair of UWO and Interpretive Centre

The existing BJECA Jetty Licence provides for a hybrid system in relation to the City and BJECA's maintenance obligations in respect of the UWO and Interpretive Centre. In terms of this arrangement funds for external substructure repairs or maintenance of the UWO and Interpretive Centre are sourced from the City's Jetty Maintenance Reserve and, in the event of their being insufficient funding for that purpose, the financial responsibility concerning these repairs or maintenance will transfer to BJECA, subject to BJECA's capacity to pay such maintenance and repair costs.

From a contract management perspective these provisions create ambiguity and result in practical and management issues. Therefore it is proposed that the City assumes sole responsibility for all structural maintenance and repair obligations in relation to the UWO and Interpretive Centre, which will leave BJECA with the following repair and maintenance obligations:

- BJECA will be solely responsible for maintaining and repairing all aspects of the Jetty Train, BJECA's fixtures and fittings and any improvements made by BJECA.
- BJECA's maintenance obligations in respect of the UWO and Interpretive Centre will be limited to non-structural internal repair and maintenance thereof.

It is anticipated that the projected licence fee increase under the "flexi licence fee" proposal will, to a certain extent, reimburse the City for additional costs which may potentially be incurred as a consequence these changes.

Damage to or Destruction of the Busselton Jetty

The existing BJECA Jetty Licence states that *"if the whole or a significant part of the Busselton Jetty is damaged to such an extent that it becomes unusable, a fair and just proportion of the licence fee payable by BJECA will abate and not be payable for the period during which the Busselton Jetty is unusable."* This wording is considered to be ambiguous and open to differing interpretation.

The proposed changes to the BJECA Jetty Licence will replace this clause with a condition which provides for reduction of the minimum licence fee in proportion to the number of days which the Busselton Jetty is "unusable" (with "unusable" being defined as either the Busselton Jetty so damaged that it is substantially unfit for operation of the UWO and/or the Jetty Train, or the Busselton Jetty being closed by the City for maintenance, public safety or security reasons).

Performance Review

The proposed amended BJECA Jetty Licence seeks to acknowledge the strategic importance of the Busselton Jetty as a community facility and iconic tourist attraction. Therefore it requires from BJECA to not only successfully operate the Licenced Activities but also to grow its business and improve community engagement. In order to achieve these goals on an ongoing basis the performance review clauses of the BJECA Jetty Licence have been reviewed and, where necessary, strengthened to provide for a more robust performance review process (which includes the City's ability to early

termination of the licence should BJECA fail to rectify unsatisfactory performance). In addition, BJECA's key performance indicators have been extended to provide for, among other things:

- Development and achievement of an annual business plan that focuses on the sustainability of income from the Busselton Jetty;
- Development and achievement of an annual marketing plan with initiatives to encompass local, regional and state audiences;
- Development and achievement of an annual events program;
- Development and implementation of strategies that aim for an annual 3% increase in paying customers to the Busselton Jetty;
- Development and implementation of strategies that aim for an increase in gross revenue each year in line with CPI; and
- Development and implementation of a volunteer management program and strategies to improve the social connection between the community and the Busselton Jetty.

These changes will extend the City's ability to ensure the Licensed Activities are effectively managed and the Busselton Jetty is well maintained, providing a shared, vibrant and well planned facility for current and future generations.

Minor Changes

The proposed amended BJECA Jetty Licence will incorporate a number of minor changes which will remove ambiguity from the existing agreement, provide more clarity on certain operational issues and will update the agreement to reflect current terminology and legislative changes. For example references to "Shire" will be replaced with "City", reference to *Shire of Busselton Bylaw Relating to Use of Public Jetty* will be replaced by *"City of Busselton Jetties Local Law 2014"* and instead of referring to "Commissioner for Fair Trading" the amended licence will refer to the new *Associations Incorporation Act 2015 (WA)*.

The proposed changes to the BJECA Jetty Licence are the result of a detailed review by and intensive negotiations between City and BJECA officers. These changes should improve ongoing management of the Busselton Jetty and also align with the lease granted to BJECA in respect of Railway House.

CONCLUSION

The proposed amendment of the BJECA Jetty Licence will provide the City and BJECA with an updated, flexible and just and equitable framework for developing, managing and maximising the potential of the iconic Busselton Jetty as a significant community asset and tourist attraction.

OPTIONS

Council may resolve to negotiate alternative terms and conditions with BJECA for amending the BJECA Jetty Licence. However for the reasons mentioned in this report the terms and conditions outlined in this report are considered to be necessary and appropriate.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

All documentation relating to the proposed amendment BJECA Jetty Licence have been drafted and broadly agreed at officer level between the City and BJECA and is anticipated to be entered into within 4 to 6 weeks should Council adopt the Officer Recommendation. Entering into the amendment BJECA Jetty Licence is subject to the consent of the Minister for Lands and the approval of CEO of the Department of Transport.

Council Decision and Officer Recommendation**C1612/153** Moved Councillor G Bleechmore, seconded Councillor T Best

That the Council delegates to the CEO the power to negotiate and authorise the CEO to enter into an amendment Busselton Jetty licence agreement with Busselton Jetty Environment and Conservation Association Inc on the terms and conditions as outlined in this report and subject to the approval of the Minister for Lands and the Chief Executive Officer of the Department of Transport Western Australia.

CARRIED 9/0**EN BLOC**

15. CHIEF EXECUTIVE OFFICER'S REPORT

15.1 COUNCILLORS' INFORMATION BULLETIN

SUBJECT INDEX:	Councillors' Information
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Executive Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Reporting Officers - Various
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Planning Applications Received 1 November - 15 November ⇒
	Attachment B Planning Applications Determined 1 November - 15 November ⇒
	Attachment C State Administrative Appeals as at 24 November 2016 ⇒
	Attachment D Meelup Regional Park Management Committee Informal Meeting Minutes - 31 October 2016 ⇒

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 November, 2016 and 15 November 2016. 29 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 1 November, 2016 and 15 November, 2016. A total of 39 applications (including subdivision referrals) were determined by the City during this period with 39 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 24 November, 2016.

15.1.3 Meelup Regional Park Management Committee

The minutes from the Meelup Regional Park Management Committee 31 October 2016 informal meeting is available to view at Attachment D.

15.1.4 Margaret River Wine Association – Strategic Review 2016

The Margaret River Wine Association has provided their Strategic Review for 2016 and is available to view at the below link:

http://www.busselton.wa.gov.au/Managed_FTP/MRWA-Strategic-Plan.pdf

15.1.5 The Combined Churches of Busselton – Letter of Appreciation

Correspondence has been received from the Combined Churches of Busselton as follows:

'On behalf of the Combined Churches of Busselton Welfare Committee I sincerely thank the City for their grant of \$500 towards the costs of putting together Christmas Hampers & Toys for those of our community who would not be able to enjoy Christmas celebrations without our help. I have already contacted Janien Wesley with regard to using at least or 2 banners during the 3 days when the Hampers & Toys are put together. We will also be notifying the papers of the Council's contribution.'

Council Decision and Officer Recommendation

C1612/154 Moved Councillor G Bleachmore, seconded Councillor T Best

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
- 15.1.3 Meelup Regional Park Management Committee
- 15.1.4 Margaret River Wine Association – Strategic Review 2016
- 15.1.5 The Combined Churches of Busselton – Letter of Appreciation

CARRIED 9/0

EN BLOC

ITEMS CONSIDERED BY SEPARATE RESOLUTION

At this juncture, in accordance with Clause 5.6 (3)(a) & (b) of the Standing Orders, those items requiring an Absolute Majority or in which Councillors had declared Financial, Proximity or Impartiality Interests were considered.

10.1 Meelup Regional Park Management Committee - 31/10/2016 - MOUNTAIN BIKE NETWORK/FACILITY DEVELOPMENT - IMPLEMENTATION

SUBJECT INDEX:	Meelup Regional Park: Mountain Bike / Bicycle Planning
STRATEGIC OBJECTIVE:	Our natural environment is cared for and enhanced for the enjoyment of the community and visitors.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Environmental Management
REPORTING OFFICER:	Manager, Environmental Services - Greg Simpson
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Mountain Bike Trail Works Report and Trail Audit⇒ Attachment B Water Corporation Lot 272 and Mountain Bike Trail Alignments⇒ Attachment C Proposed Meelup Regional Park Bike Trails (revised)⇒ Attachment D Schedule of Submissions⇒

This item was considered by the Meelup Regional Park Management Committee at its meeting on 31 October 2016, the recommendations from which have been included in this report.

Note that the report to the Committee foreshadowed an ADDENDUM and AMENDED OFFICER RECOMMENDATION, which have been incorporated into this report.

PRÉCIS

Following an earlier (January 2014) Council decision to support in-principle the development of a mountain bike trail network/facility in Meelup Regional Park and the progression of the more detailed work required by that resolution, the Council is now asked to support the actual commencement of development and subsequent use of that network/facility, in the following specific ways –

1. Authorising the CEO to enter into an agreement with Cape Mountain Bikers Incorporated (CMB) that would allow CMB to develop the network/facility, subject to their appointment of an appropriate trail builder and CMB commitment to the ongoing maintenance of the network;
2. Foreshadowing consideration of a ‘determination’, pursuant to the City’s *Property Local Law*, to allow the riding of bicycles on trails developed and marked for that purpose, in Meelup Regional Park – note that, as per the notice requirements of the Local Law, the CEO will commence the process of advertising the proposed determination so that, when this matter is considered by the Council, the Council can formally consider the determination; and
3. Authorising the CEO to enter into an agreement with the Water Corporation to allow for the development and maintenance of portions of the network that will be located on/across a narrow Water Corporation reserve that is effectively within Meelup Regional Park.

Council is also asked to recognise the achievements of the Working Group (formed as a requirement of the earlier Council resolution) and confirm the ongoing need for that Group, with a view that the Group has a continuing role in developing and managing the network/facility. That would, however, continue to be assessed on an ongoing basis, and it is recommended that the CEO be allowed to

make that decision as and when necessary – noting that if any members are of a different kind to the CEO, there are a variety of means by which further Council consideration of that matter could occur.

Council is also advised that necessary environmental approvals have now been obtained for the network/facility, and that planning associated with management of the contaminated site that overlaps with and/or is adjacent to the proposed network/facility is now largely complete, ready for on-ground works, utilising funds allocated for the purpose in the 2016/17 budget, to commence in the first half of 2017, and allowing for further development of the network/facility in that area in future.

BACKGROUND

In January 2014, the Council resolved (resolution C1401/013) to support in principle the establishment of a mountain bike trail network/facility within Meelup Regional Park (within the area that the Park Management Plan identifies as 'Management Zone 6', or simply 'Zone 6') with the approach to development and management of the network being generally as follows (as set out in the Council resolution) –

- a) The first stage in developing the network is to consist of the physical formalisation, and realignment and rehabilitation as necessary, of the 'Brown Street Trail' and/or such other part or parts of trails identified in the Meelup Regional Park Mountain Bike Facility Trails Master Plan as the Working Group identified as being appropriate; as well as the development (or physical formalisation or similar as appropriate) of linking trails providing access from outside the park;
- b) That a 'Meelup Mountain Bike Trails Working Group' be formed to develop, subject to the provisions of the Meelup Regional Park Management Plan, the network, with the Working Group to consist of – the Meelup Regional Park Environment Officer, a City Officer and a nominee of the Meelup Regional Park Management Committee all representing the City of Busselton, two representatives from Cape Mountain Bikers Incorporated, plus one representative from the Dunsborough and Districts Country Club Inc, and others as the CEO determines to be appropriate;
- c) The Working Group to complete detailed design, implementation plans and costings for the development of the first stage described in b) above, including the ongoing maintenance and management of the network, identify an secure funding, secure necessary environmental approvals, and brief, inform or consult the Committee and Council regarding the outcomes of that work before the commencement of on ground works; and
- d) Once City officers have formed a view that the Working Group has or is likely to be in a position to commence on ground works, the CEO shall commence the process of making a determination, including advertising for community consultation, to allow bicycle riding by the general public on the network once developed.

This report is now being presented to the Council because City officers are now formed a view that commencement of on-ground works is, subject to continued Council support, imminent.

The approvals component of the project has comprised the following -

- a) Confirmation from the Department of Lands (DoL) that the pending establishment and use of Zone 6 for the purpose of a mountain bike facility is consistent with the purpose of the management order for the Park;
- b) Assessment under the EPBC Act to determine if a formal environmental assessment of the proposed action (mountain bike facility) will be required;

- c) Consultation with the Department of Parks and Wildlife (DPaW) relevant to the preparation of standards for construction of trails and for site remediation/rehabilitation, vegetation protection, dieback management and other relevant matters;
- d) Application to the Department of Environmental Regulation (DER) for a permit to clear vegetation to enable construction of the mountain bike trail network;
- e) Consultation with the Water Corporation on arrangements for proposed mountain bike trails to traverse Lot 272 within Zone 6 and which is vested with the Water Corporation for the purpose of water supply; and
- f) Site investigations and development of an Asbestos Management to guide the future site treatment works and environmental monitoring, acceptable to the DER for securing the appropriate site classification under the *Contaminated Sites Act 2003*, and for the establishment and use of a mountain bike trail facility on the former landfill areas within Zone 6.

During 2015, CMB completed mapping of the mountain bike trail alignment which formed part of the application to the DER for the vegetation clearing permit. In September 2016, CMB commissioned the preparation of a trails works report and trail audit to guide the procurement of a professional trail builder for the construction of the Brown Street trail component of the network/facility. The CMB have also been successful in securing \$100,000 Lotterywest funding for the purpose of constructing portions of the network/facility.

In August 2015, site investigations were also carried out to assess potential contamination within Zone 6, resulting from former waste disposal landfill activities and to identify/recommend an approach to manage potential contamination and allow for the development of a network/facility within the impacted area. These investigations identified the presence of Asbestos Containing Materials (ACM) in Zone 6 as a result of the former waste disposal landfill activities.

In June 2016, an Asbestos Management Plan was prepared for the treatment of the affected area to provide additional protection to the health and safety of the public. In addition to providing an overarching framework for managing risk from asbestos, this plan also provides a proposed approach for the future construction of those mountain bike trails that intersect the former waste disposal area.

STATUTORY ENVIRONMENT

The City of Busselton *Property Local Law 2010*, allows Council to formalize the use of bicycles on land of which the City is the management body under the *Land Administration Act 1997* by way of a Council 'determination'.

The CMB have expressed an interest in being directly involved in the construction and ongoing maintenance of the proposed mountain bike trails in zone 6. Subject to Council supporting the CMB direct involvement in construction and management, access arrangement will need to be determined. The City *Property Local Law 2010*, clause 3.13 indicates a number of activities that would require a permit which includes making and excavation on City property. A management agreement which incorporates a permit with appropriate conditions could be issued to CMB for the purpose of constructing and maintaining mountain bike facility within Zone 6.

Contaminated Sites Act 2003 provides for the identification, recording, management and treatment of contaminated sites.

Health Act 1911 and the relevant guidelines developed thereunder, administered through the Department of Health (WA) provide guidance for the investigation, treatment and management of

asbestos-contaminated sites, based on Australian and international best practise tailored to Western Australian conditions.

RELEVANT PLANS AND POLICIES

The *Meelup Regional Park Management Plan 2010* has been prepared in accordance with the *Land Administration Act 1997* guide the future management of the Meelup Regional Park for conservation and recreation.

The Meelup Regional Park Management Plan 2010 considers bicycle access within the Meelup Regional Park. Under visitor access section 25, this plan states that: *'Formalisation of cycle paths would need to be undertaken with due consideration of the requirements of this management plan.'* The Meelup Regional Park Management Committee has developed a Trails Policy for Meelup Regional Park, which details the principles that apply to the planning, development and management of all trails within the Park. The Trails Policy for Meelup Regional Park is included in the Zone 6 Mountain Bike Management Plan.

A Mountain Bike Management Plan has also been developed by the Committee to outline the requirements for the design, construction and operation of the proposed mountain bike trails network in Zone 6 to minimise environmental and social impacts, and to provide a safe and sustainable mountain bike trails network for all skill levels.

In January 2014, Council resolved (resolution C1401/013) to note the Meelup Regional Park Mountain Bike Facility Trails Master Plan and Zone 6 Mountain Bike Management Plan prepared by the Cape Mountain Bikers Incorporated as a guiding and background documents for the development of a mountain bike trail network within Zone 6.

In December 2014, Council resolved (resolution C1412/316) to note the Meelup Regional Park Management Committee recommendation to endorse the Meelup Regional Park Trails Master Plan 2014, as a basis for future trail development within Meelup Regional Park. This Trails Master Plan identified those trails outside of zone 6, with some trails being identified as suitable for mountain bike riding.

FINANCIAL IMPLICATIONS

It is proposed that the development of the mountain bike trails in Zone 6 will be constructed in stages and as funds become available for the trail construction works. Stage 1 of mountain bike trails development will involve upgrade and enhancement of the existing trails in the western sector of zone 6, referred to as Brown Street. These initial works will involve:

- Surface upgrade of the existing Brown Street Trail
- Realignment of some sections of the Brown Street
- Construction of a new descending trail
- Construction of a new climbing trail
- Installation of trail markers

Stage 2 will involve the formalization of the upper gravel pit trails in the eastern sector of Zone 6, with a final Stage 3 being the downhill trails that cross through the former waste disposal area that are intended to be constructed following treatment of the ACM affected area to the satisfaction of the Department of Health and DER.

The trail construction works associated with Stage 1, are to be delivered as a single project and CMB have commissioned a detailed works report and trail audit for the purpose of progressing the

development of the mountain bike trails to the quoting, procurement and construction process. The works report and trail audit are included with this report as **Attachment A**.

The Meelup Regional Park Mountain Bike Facility Trails Master Plan included a cost estimate for the construction of the Brown Street mountain bike trails in Zone 6. The cost of constructing Stage 1 which comprises the Brown Street trail was originally estimated at \$60,000.

CMB have been successful in securing \$100,000 Lotterywest funding for the purpose of trail construction and are seeking City approval to proceed to the procurement process and engage the services of a professional trail builder to work with the CMB members and guide the construction of the Brown Street trail. CMB propose to engage a professional trail builder on either a rates based or fixed price contract arrangement to guide the more technical components of the trail with the CMB members constructing the more basic trail components. The indicative rate for this arrangement is \$175/hour for trail design and project setup and \$45/hour for trail construction.

The trails works report commissioned by CMB in September 2016, indicates that the proposed works for Brown Street will involve 716 meters of realigned trail; 191 meters of trail closure; and 2506 meters of new trail sections. The trails works report indicates construction time based on the completion of approximately 100 lineal meters per day for standard trail construction and 50 lineal meters per day for those sections of trail with extensive trail features.

Based on the initial trail construction rates it is estimated that the cost of constructing Brown Street trails will be consistent with the original estimate and could be reduced further with CMB members involved in the physical construction of the trails.

The Meelup Regional Park Mountain Bike Facility Trails Master Plan also provides an indication of annual maintenance costs for the trail network. While a well designed and constructed mountain bike trail facility should require only minimal ongoing maintenance, industry standards and discussions with the Pemberton mountain bike trail operators indicate the annual ongoing maintenance expenditure ranges from 3% - 5% of the total capital spend. Based on the original estimates of \$300,000 included in the Meelup Regional Park Mountain Bike Facility Trails Master Plan for construction of zone 6 mountain bike trails, the ongoing maintenance costs of trails is expected to be in the vicinity of \$9,000 to \$15,000 per annum.

There is also an ongoing management and monitoring component of the trail network which involves regular routine inspections of the trails for reporting trail maintenance and to ensure public safety. The ongoing management and monitoring of the trails is expected to involve approximately 5 hours per month at an estimated cost of \$7,000 to \$10,000 per annum of staff time which, could be reduced further with CMB members involved in the ongoing management of the Zone 6 mountain bike trails.

The development of the trails will also require the formalisation of car parking and access points to the Zone 6 mountain bike trails. The entrance to Meelup Regional Park adjacent to the intersection of Endicott Loop and Cape Naturaliste Road has been identified as a suitable point for access to the mountain bike trails in zone 6.

The implementation of the Asbestos Management Plan to treat the former waste disposal area will require the importation of soils and the construction of a suitable truck access for this purpose. It is proposed that the Endicott Loop road access will be constructed as part of the former waste site treatment process. It is envisaged that works associated with site remediation would be met from the Waste Reserve (and \$100,000 has been allocated in this year's budget). Once quotes are received to undertake the necessary works, it will be known whether that allocation is sufficient, or whether an additional allocation may be required (either as an amendment to this year's budget, or in next year's budget).

Long-term Financial Plan Implications

There are no significant Long Term Financial Implications of the recommendations of this report.

STRATEGIC COMMUNITY OBJECTIVES

This matter is considered relevant to Key Goal Area 5 - Cared for and Enhanced Environment and Community Objective 5.1 - Our natural environment is cared for and enhanced for the enjoyment of the community and visitors.

RISK ASSESSMENT

An assessment of the potential implication of not implementing the officer recommendation has been undertaken using the City's risk assessment framework. The assessment sought to identify 'downside' risks only rather than 'upside' risks and where the risk, following implementation of controls has been identified, is medium or greater.

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Public Health/Financial/Reputational. Implementation of trails not completed to standard and failure to adequately maintain facility.	Implementation of robust agreement in place and clear understanding with Cape Mountain Bikers Incorporated of management and maintenance obligations.	Moderate	Possible	Medium 13

CONSULTATION

The Meelup Regional Park Mountain Bike Trail Working Group formed in January 2014, met monthly in the initial stages during its first 16 months and as required thereafter, to progress the development of the mountain bike trail network in zone 6.

In July 2016, the proposed development of mountain bike trails network in the zone 6 Meelup regional Park was presented at a meeting of the South West Boojarah Working Party.

Westcycle is the peak body for cycling throughout Western Australia and work with government agencies, corporate partners and the general public to promote and develop cycling in Western Australia as a form of transport, recreation and sport and operate under the Department of Sport and Recreation commissioned. Westcycle have offered to assist the design and development of the trails and there is potential for the contribution of funds to the project for which Westcycle are seeking a stakeholder agreement with the City and CMB

Part of Zone 6 includes Lot 272, which is vested with the Water Corporation for the purpose of water supply. Lot 272 comprises two square parcels of land approximately 1.0 Ha in area, located approximately 600 meters apart for the purpose of water supply tanks and connected by a 5.0 meter wide easement for the future installation of a water supply line connection between the water tanks. Lot 272 runs east/west across zone 6 and which proposed mountain bike trails traverse. A plan of the location of Lot 272 and proposed mountain bike trail alignments is included with this report as **Attachment B**.

The Working Group consider the realignment of the trails to avoid the Water Corporation reserve would significantly reduce the mountain bike experience in Zone 6, which has resulted in discussions with the Water Corporation to establish the terms of an agreement to enable the mountain bike trails to pass through the Water Corporation reserve. The Water Corporation have indicted their

support for the proposed mountain bike trail alignment to access Water Corporation land and seek to formalize access arrangements by way of a license agreement. The Water Corporation has advised the cost of the License Agreement will be \$1,350, with an annual fee of \$500 per annum.

In parallel with Committee consideration of this report, a proposed determination to allow mountain biking on the proposed network/facility is being advertised. When this matter is presented to the Council for consideration, it is envisaged that an addendum and amended officer recommendation will be presented setting out the consultation outcomes and making a specific recommendation about the potential determination (rather than just foreshadowing that determination). Given the timeframe associated with advertising of the draft determination, it is likely this report, together with the Committee recommendation and addendum/amended officer recommendation will be formally considered by the Council at its 14 December 2016 ordinary meeting. That timing would also allow for informal discussion of the draft determination, in light of any feedback received from the community, at the Meelup Committee informal meeting scheduled for 28 November 2016, and for any additional informal feedback from the Committee to be incorporated into the addendum. The timeframes would, however, be too tight to allow for formal Committee consideration of the matter prior to the Council's 14 December meeting.

OFFICER COMMENT

As part of the development of the mountain bike trail network within Zone 6, the Working Group have systematically worked through a number of key issues/steps, as follows -

- Identified and surveyed the preferred mountain bike trail alignment.
- Applied for and secured a \$100,000 Lotterywest grant for the construction of trails.
- Received a DER permit to clear vegetation for construction of the mountain bike trails.
- Investigated access arrangements with the Water Corporation to enable the mountain bike trails to access through the Water Corporation managed reserve that traverses Zone 6.
- Engaged a professional trail designer to provide a detailed works report and trail audit to guide the procurement of a professional trail builder for the upgrade and formalization of the existing Brown Street trail.

The trail construction works associated with Stage 1, are to be delivered as a single project and CMB have commissioned a detailed works report and trail audit for the purpose of progressing the development of the mountain bike trails to the quoting, procurement and construction process.

The CMB through the Working Group, have expressed a desire for its members to be actively involved in both the initial construction of trails and the ongoing maintenance and management of the mountain bike trails in Zone 6.

This level of involvement in the mountain bike fraternity is not uncommon and there are Mountain Bike Trail Adoption agreements currently in place between mountain bike groups and the Department of Parks and Wildlife. These agreements establish the arrangements for communication and reporting, health and safety, standards of maintenance, funding and various other matters.

The training of CMB members in trail building and trail maintenance can be incorporated as a requirement of the procurement process should the Council support CMB involvement in the future management of the mountain bike trail network.

There are a number of advantages of having an established key user group involved in the management and maintenance of the trail network over the longer term as well as providing a base for the CMB club to grow and develop mountain biking in the district.

To facilitate CMB involvement in both construction and maintenance of the mountain bike trails, it will be necessary to formalize access arrangements and it is recommended that the mountain bike trail construction phases and the ongoing monitoring and maintenance of the mountain bike trails following construction be formalized with CMB by way of a management agreement.

This report recommends the formalization of arrangements between the City and Cape Mountain Bikers that allows for the initial construction and the longer term ongoing maintenance of the network/facility within Zone 6

The Water Corporation water supply access reserve that currently crosses through Zone 6 also traverses the former waste disposal site and the proposed mountain bike trail network. As ACM has been identified within the former waste disposal area, the treatment measures that need to be undertaken within this area as part of the Asbestos Management Plan may limit the Water Corporations future use of the reserve for the intended purpose, being water supply. Further discussion with the Water Corporation will determine if the water supply easement can be realigned further north of its current location to avoid the former waste landfill area. In the interim and as discussed early in this report, access arrangements with the Water Corporation are proposed to enable the construction and use of those sections of the mountain bike trails in Stage 1 that traverse the Water Corporation land.

The *Property Local Law 2010* allows the Council to formalise the use of bicycles on land of which the City is the management body under the *Land Administration Act 1997* by way of a Council 'determination'. In accordance with Council's resolution in January 2014, and following the approach discussed in this report to formalise access arrangements with CMB to construct the mountain bike trails and for the ongoing management/ maintenance of the mountain bike trails, the process of making a determination has commenced, including the giving of public notice of Councils intent to make a determination, to allow bicycle riding by the general public on the network once developed. It is also proposed that the determination will also incorporate those trails identified in the Meelup Regional Park Trails Master Plan 2014. A plan of the proposed mountain bike trail area in Zone 6 and designated mountain bike trails in other areas of Meelup Regional Park is included with this report at **Attachment C**.

As already noted, an addendum and amended officer recommendation are envisaged to be presented to the Council – that is because advertising had not been completed at the time of presenting this report to the Committee, but is expected to be completed prior to Council consideration of this report.

CONCLUSION

The City, together with the Committee and CMB, has now reached a point where development and management of a mountain bike trails network/facility in Zone 6 of Meelup Regional Park can proceed, and the officer recommendation, subject to submission of an addendum and amended officer recommendation once advertising of the proposed determination, 'paves the way' for that to occur.

ADDENDUM

Since this report was considered by the Meelup Regional Park Management Committee at its meeting on 31 October 2016, the proposed determination to allow the riding of bicycles on trails developed and marked for that purpose in Meelup Regional Park, has been advertised for a period of 21 days, with the advertising period closing on 2 December 2016.

The effect of the proposed determination would allow the riding of a bike on the mountain bike trail area in Zone 6 and designated mountain bike trails in other areas of Meelup Regional Park as indicated on the plan included with this report at **Attachment C**.

The proposed determination does not include the riding of a bike within the contaminated area of the former waste disposal site until treatment of the ACM affected area and former waste disposal area has been completed to the satisfaction of the Department of Health and DER. The development of mountain bike trails within the former waste disposal areas may occur in the future as funds allow.

A schedule of the public submissions received during the advertising period is included with this report as **Attachment D**. At the time of preparing this report 23 submissions on the proposed determination had been received. Should any further submissions be received, Councillors will be provided with an updated schedule of submissions and, if appropriate in the circumstances, an amended officer recommendation.

In summary, 20 submissions were supportive of the proposed determination with three (3) submissions not supportive of the proposed determination. The main concerns expressed related to the use of a mountain bike on road link (Chapman Street) for which Council is not required to make a determination, safety concerns relating to mountain bikes using on road links, which can be managed by installation of safety signage to alert bike riders, lack of consultation with residents and that the access road to the Meelup Regional Park adjacent to the intersection of Endicott Loop and Cape Naturaliste Road be the only entry point to the proposed mountain bike zone. The proposed determination has been advertised as per the City's *Property Local Law 2010* Part 2, and while the current access road adjacent to Endicott Loop and Cape Naturaliste Road is a proposed bike trail access point, the connection to the proposed mountain bike zone via Chapman Street also provides a suitable access point to the proposed mountain bike zone.

The City's *Property Local Law 2010*, section 2 Procedure for making a determination requires Council to consider the submissions and decide whether or not to amend the proposed determination or not to continue with the proposed determination. The officer recommendation is that no changes be made and that the Council adopt the proposed determination as advertised and included with this report at **Attachment C**

OPTIONS

The Council may wish to seek further information before making a decision, or may wish to consider other options for the development and management of the network/facility, such as development and management by the City itself, rather than by CMB.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The aim is to complete implementation of the recommendation (other than actioning the foreshadowed determination, which would not occur until on-ground works are completed, or nearly completed) by no later than 15 February 2017. It is then anticipated that the first phase of construction would be complete by no later than 30 April 2017.

OFFICER RECOMMENDATION

That the Council, with respect to cycling in Meelup Regional Park, most particularly the development of a mountain bike trail network/facility in Management Zone 6 -

1. Authorise the CEO to enter into an agreement with Cape Mountain Bikers Incorporated (CMB) that would allow CMB to develop the network/facility, subject to their

appointment of an appropriate trail builder and CMB commitment to the ongoing maintenance of the network;

2. Foreshadow consideration of a 'determination', pursuant to the City's *Property Local Law*, to allow the riding of bicycles on trails developed and marked for that purpose, in Meelup Regional Park, including on the network/facility referred to in point 1 above, and on key connecting trails, generally as indicated on Attachment C to the agenda report;
3. Authorise the CEO to enter into an agreement with the Water Corporation to allow for the development and maintenance of portions of the network/facility that will be located on/across a narrow Water Corporation reserve that is effectively within Meelup Regional Park; and
4. Recognise the achievements of the 'Meelup Mountain Bike Trails Working Group' and the constituent members in advancing the project to this point, and confirm the continuing role of the Group in developing and managing the network/facility, until and unless the CEO forms a view that the Group is no longer required.

Note: Officers proposed a Revised Recommendation for Committee consideration that would amend Attachment C to show current trails suitable for bike riding, realignment of the Zone 6 Mountain Bike Area to include a section of the Brown Street mountain bike trail and the access road to the Water Corporation water tanks has also been amended to a mountain bike on road link.

COMMITTEE RECOMMENDATION AND REVISED OFFICER RECOMMENDATION

That the Council, with respect to cycling in Meelup Regional Park, most particularly the development of a mountain bike trail network/facility in Management Zone 6 –

1. Authorise the CEO to enter into an agreement with Cape Mountain Bikers Incorporated (CMB) that would allow CMB to develop the network/facility, subject to their appointment of an appropriate trail builder and CMB commitment to the ongoing maintenance of the network;
2. Foreshadow consideration of a 'determination', pursuant to the City's *Property Local Law*, to allow the riding of bicycles on trails developed and marked for that purpose, in Meelup Regional Park, including on the network/facility referred to in point 1 above, and on key connecting trails, generally as indicated in Revised Attachment C to the agenda report;
3. Authorise the CEO to enter into an agreement with the Water Corporation to allow for the development and maintenance of portions of the network/facility that will be located on/across a narrow Water Corporation reserve that is effectively within Meelup Regional Park; and
4. Recognise the achievements of the 'Meelup Mountain Bike Trails Working Group' and the constituent members in advancing the project to this point, and confirm the continuing role of the Group in developing and managing the network/facility, until and unless the CEO forms a view that the Group is no longer required.

Council Decision and Amended Officer Recommendation**C1612/155**

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council, with respect to cycling in Meelup Regional Park, most particularly the development of a mountain bike trail network/facility in Management Zone 6 –

1. Authorise the CEO to enter into an agreement with Cape Mountain Bikers Incorporated (CMB) that would allow CMB to develop the network/facility, subject to their appointment of an appropriate trail builder and CMB commitment to the ongoing maintenance of the network;
2. Makes a 'determination', pursuant to the City's *Property Local Law*, to allow the riding of bicycles on trails developed and marked for that purpose, in Meelup Regional Park, including on the network/facility referred to in point 1 above, and on key connecting trails, as indicated in Revised Attachment C to the agenda report;
3. Authorise the CEO to enter into an agreement with the Water Corporation to allow for the development and maintenance of portions of the network/facility that will be located on/across a narrow Water Corporation reserve that is effectively within Meelup Regional Park; and
4. Recognise the achievements of the 'Meelup Mountain Bike Trails Working Group' and the constituent members in advancing the project to this point, and confirm the continuing role of the Group in developing and managing the network/facility, until and unless the CEO forms a view that the Group is no longer required.

**CARRIED 9/0
BY ABSOLUTE MAJORITY
EN BLOC**

10.3 Policy and Legislation Committee - 17/11/2016 - REVIEW OF POLICY 001 - FEES, ALLOWANCES AND EXPENSES FOR ELECTED MEMBERS

SUBJECT INDEX:	Councillors
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Council & Councillor Services
REPORTING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Revised Policy 001 - Fees, Allowances and Expenses for Elected Members showing tracked changes⇒

This item was considered by the Policy and Legislation Committee at its meeting on 17 November 2016, the recommendations from which have been included in this report.

PRÉCIS

It is appropriate to amend Policy 001 – Fees, Allowances and Expenses for Elected Members so that it reflects current practice. In addition at a recent Policy and Legislation Committee the topic of private use of the Mayoral vehicle was raised and this report addresses this topic.

BACKGROUND

As part of the regular review of Council Policies, it is apparent that there is a need to review Council Policy 001 - Fees, Allowances and Expenses for Elected Members in relation to current practice re provision of laptops (as they are now not provided), changes in relation to sources of information that are relied upon in the Policy (as the source of information has changed), and motor vehicle usage by the Mayor (discussed at the Policy and Legislation Committee at its meeting on 29 September 2016 (Item 7.1). In addition, as elected members Allowances are considered and determined by Council during the annual budget process, it is good practice to have the Policy amended to reflect this.

Specifically, the proposed changes to the Policy are detailed as follows:

1. Clause 3.1.1 – provision of laptops

The current practice is not to provide laptops to elected members but instead to provide ipads in lieu. This clause has been amended to reflect this change (and therefore current practice) and to provide increased flexibility in the future should other mobile devices be used either as an alternative or in addition to ipads.

2. Clause 3.1.5 - Reimbursement of travel expenses - Sources of Information

The Policy at clause 3.1.5 makes reference to reimbursement of mileage allowance in accordance with the provisions of the Public Service Act 1992. Reference should now be made to the State Salaries and Allowances Tribunal as it is this body that now determines reimbursement of mileage rates for use of motor vehicles by Local Government elected members. As far as is known, payments have been made in accordance with the State Salaries and Allowances Tribunal so for all practical purposes there is no change – apart from Policy wording. As a matter of interest, the State Salaries and Allowances Tribunal relies on reimbursement rates set under the Local Government Officers Award – presumably to ensure there is no differentiation between rates reimbursed to either elected members or employees.

In addition changes are also proposed to reflect current practice that City vehicles should be used as a preference where training courses are held outside of the district.

3. The following is an extract from Council Policy 001 - Fees, Allowances and Expenses for Elected Members:

3.2.2 - Provision of a City-owned vehicle:

“The Mayor shall be provided with a City-owned motor vehicle for use in his or her official capacity. The Mayor is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use does not go beyond use of a minor incidental nature”.

The Policy is considered unnecessarily restrictive in that it does not allow for the periodic private use of the vehicle by the Mayor (or future Mayor). Many other Local Governments have adopted policy provisions that permit the Mayor or President to use the Mayoral vehicle for some form of private usage on a cost reimbursement basis so there is no cost to ratepayers. It is suggested that the Policy be amended to permit private usage and that details of private usage be recorded in a log book that would be used for reimbursement calculations. This allows periodic use of the Mayors vehicle for private purposes rather than prohibition.

4. Annual budget process.

A new clause should be added to the Policy to clarify when any new allowances become effective. The recommendations made by the Salaries and Allowances Tribunal are made prior to the end of the financial year which allows Local Governments to consider the implications during the budget process.

STATUTORY ENVIRONMENT

The proposal to provide the Mayor with a vehicle is allowable under Section 5.98 of the Local Government Act. The proposal to amend the Policy is consistent with Policies of other Local Governments in relation to private usage of the Mayoral Vehicle and consistent with Department of Local Government Circular 9-2011 (Use of Motor Vehicle for Official Purposes). The Salaries and Allowances Tribunal makes annual recommendations in relation to elected members allowances and expenses.

RELEVANT PLANS AND POLICIES

This report recommends that Policy 001 - Fees, Allowances and Expenses for Elected Members be updated to take into consideration the current practice changes in relation to sources of information that are relied upon in the Policy and motor vehicle usage by the Mayor. In addition, as elected members Allowances are considered and determined by Council during the annual budget process, it is good practice to have the Policy amended to reflect this.

FINANCIAL IMPLICATIONS

The Salaries and Allowances Tribunal makes recommendations in relation to Elected Members Fees, Allowances and Expenses are determined by Council during the annual budget process.

Long-term Financial Plan Implications

The Long-term Financial Plan provides for the payments to which elected members are entitled.

STRATEGIC COMMUNITY OBJECTIVES

The Strategic Community Plan includes the community objective of having an effectively managed organisation that achieves positive outcomes for the community. One of the key ways for this to occur is to provide financial recognition of the extensive responsibilities performed by elected members.

RISK ASSESSMENT

Not required for this policy review.

CONSULTATION

The actual levels of fees and allowances are established through the annual budget development process having regard for the determination made by the Salaries and Allowances Tribunal.

OFFICER COMMENT

As part of the regular review of Council Policies it is apparent that there is a need to review Policy 001 - Fees, Allowances and Expenses for Elected members in the following areas to reflect current and appropriate practice.

1. Clause 3.1.1 – provision of laptops

Changing reference in the Policy at clause 3.1.1 from “laptops” to “mobile devices” reflects current practice and provides for future flexibility. There are no additional costs to Council.

2. Clause 3.1.5 - Reimbursement of travel expenses - Sources of Information

Changing reference in the Policy at clause 3.1.5 from the “Public Service Act 1992” to the State Salaries and Administrative Tribunal described as “Local Government Elected Council Members Determination under the Salaries and Allowances Act 1975” reflects current practice.

3. 3.2.2 - Provision of a City-owned vehicle

The current policy with respect to private use of the Mayoral vehicle is considered to be unnecessarily restrictive and it is proposed to modify the relevant clause to permit private use. An amendment to the Policy to allow for greater flexibility is proposed which would permit the vehicle to be used for private purposes by the Mayor for convenience or necessity from time to time. The cost of private mileage would be payable by the Mayor on a reimbursement basis. The reimbursement rate would be that set by the State Salaries and Allowance Tribunal referred to above at clause 3.1.5. It is not envisaged that there would be any significant private usage of the Mayoral Vehicle.

The cost of the private use would be reimbursed by the Mayor to the City on a quarterly basis by reference to details of private use contained in a vehicle log book.

It is suggested that this clause amended with additional new clauses as follows:

“The Mayor may also use the vehicle for private use for convenience or necessity on a cost recovery basis. Details of private use shall be recorded in a log book which shall be provided to the City on a quarterly basis”.

Should Council agree with the proposal to amend the Policy, it is also suggested to provide flexibility as to how the value of the private use be reimbursed to the City. The policy would provide for the CEO and Mayor to be authorised to determine the actual process but would involve one two methods.

“The mayor is permitted to use the vehicle for private use without further authorisation on the basis that the cost reimbursement is made to the City in one of the following ways:

- *Calculation of the amount due and the quarterly members allowance payment be reduced accordingly; or*
- *Calculation of the amount due and an invoice be given to the Mayor for reimbursement.*

“The CEO and Mayor shall agree which of the two methods should apply. The mileage rate would be calculated at the rate determined by the State Salaries and Allowances Tribunal – which refers to the rate payable contained by reference to the decision of the Local Government Elected Council Members Determination under the Salaries and Allowances Act 1975”.

In addition, the following also seems an appropriate clause to be added:

“Unless Council approves otherwise, the mayoral vehicle may only be used for private purposes for travel within the State of WA”.

As a reimbursement is made, in terms operational cost there is no difference for the City whichever method of reimbursement is chosen.

4. Annual budget process.

The proposed new additional wording is as follows:

“All allowances in relation to Elected Members are reviewed on an annual basis and become effective following the adoption of the annual budget”.

A revised Policy showing marked up is attached showing proposed changes.

CONCLUSION

The policy is presented for updating, noting that the Absolute Majority is required in order to pay an annual allowance and to establish the percentage of the Mayor’s allowance to which the Deputy Mayor will be entitled.

OPTIONS

Other changes to the policy can be considered, however, the budget has been developed in accordance with the allowances described, such as clothing and travel reimbursement.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The new policy adopted will be effective immediately.

OFFICER RECOMMENDATION

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the revised Council Policy 001 - Fees, Allowances and Expenses for Elected Members as shown in Attachment A be adopted:

001	Fees, Allowances and Expenses for Elected Members	V9 Draft
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1. PURPOSE

In accordance with Division 8 of Part 5 of the *Local Government Act 1995* elected members are entitled to receive a fee for meeting attendance, be reimbursed for expenses and/or be paid an allowance for certain types of expenses. Certain payments are an automatic entitlement in accordance with the Act, while others require specific local government approval. The Fees, Allowances and Expenses for Elected Members policy provides the approval framework under which all fees, allowances and reimbursements to elected members will be made.

2. SCOPE

"Elected member" - Any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor;

"Schedule" – Information describing the current Local Government Band Allocation and fees and allowances established within that Band in accordance with any *Local Government Elected Council Members Determination* under the *Salaries and Allowances Act 1975*.

The Fees, Allowances and Expenses for Elected Members policy is to apply to the purchase of all local government-owned equipment for the specific and individual use of an elected member, the reimbursement of any expenses incurred by an elected member in the performance of their functions and duties, and fees and allowances provided to all elected members.

This policy provides the approval framework to enable the provision of equipment and certain payments to be made to elected members to enable them to carry out their role as an elected member effectively. All matters approved in this policy are in accordance with the relevant legislation and determinations, being the *Local Government Act 1995* and *Local Government Elected Council Members Determinations* in accordance with the *Salaries and Allowances Act 1975*.

All allowances in relation to elected members are reviewed annually by the City and become effective following adoption of the annual budget.

3. POLICY CONTENT

3.1 Elected members

3.1.1 Provision of equipment

Without limiting the application of any other clause in this policy, the local government will provide to elected members of the City of Busselton access to resources to enable them to carry out their duties efficiently and effectively. In accordance with Section 3.1 of the *Local Government Act 1995*, in order to provide for the good government of persons in the District, any newly elected member will have the opportunity to be furnished with the following equipment:

- A standard-issue mobile telephone;
- A standard issue mobile device that will be upgraded from time to time, inclusive of standard equipment associated with the day-to-day use of the device.

Any mobile telephone or mobile device purchased in accordance with this policy can be retained by the elected member at the completion of their term of office if they serve a minimum of 24 months as an elected member.

3.1.2 Meeting attendance fees

An elected member is entitled to receive an annual fee for attending Council and Committee meetings in accordance with the *Local Government Act 1995*. This payment is in lieu of any entitlement established for a fee per meeting under that Act.

The annual fee will be established during the annual budget process within the Band established in the relevant *Local Government Elected Council Members Determination*.

The annual meeting attendance fee is full and final satisfaction of an elected member's meeting entitlements and no other claims can be made for attendance at meetings, with the exception that an elected member's expenses incurred for travelling to and from the meeting can be reimbursed in accordance with clause 3.1.5 of this policy or childcare expenses incurred can be reimbursed in accordance with clause 3.1.4 of this policy.

Meeting attendance fees will be paid monthly or quarterly in arrears. The fee will be calculated on a pro-rata basis for any elected member who commences or ceases office during the month or quarter. Upon commencement of office, elected members, for the purposes of budget development, will be requested to indicate whether it is their intention to claim meeting attendance fees and their preferred payment method. Nothing in the relevant legislation or this policy prevents an elected member from changing their intention at any time.

3.1.3 Information and Communications Technology allowance

In accordance with the relevant *Local Government Elected Council Members Determination*, all elected members are eligible to claim an annual information and communications technology allowance the amount of which will be included in the Schedule. This allowance is to cover an elected member's costs in relation to the following equipment and services:

- Telephone rental charges;
- Any other expenses that relate to information and communications technology, for example telephone call charges and internet service provider fees, and that are a kind of expense prescribed by regulation 32(1) of the *Local Government (Administration) Regulations 1996*.

The information and communications technology allowance will be paid monthly or quarterly in arrears. The allowance will be calculated on a pro-rata basis for any elected member who commences or ceases office during the month or quarter. Upon commencement of office, elected members, for the purposes of budget development, will be requested to indicate whether it is their intention to claim the information and communications technology allowance and their preferred payment method. Nothing in the relevant legislation or this policy prevents an elected member from changing their intention at any time.

3.1.4 Reimbursement of childcare expenses

In accordance with the *Local Government Act 1995* an elected member who incurs childcare expenses due to their attendance at a Council meeting or a meeting of a formally constituted Council Committee of which they are a member is entitled to be reimbursed. The extent to which the childcare expenses incurred will be reimbursed will be in accordance with the relevant *Local Government Elected Council Members Determination*. For the purposes of this section, the number of hours claimed shall be limited to the actual length of the meeting, with a nominal time allowance for partaking in refreshments and travel to and from the place of care.

3.1.5 Reimbursement of travel expenses

In accordance with the *Local Government Act 1995* an elected member who incurs expenses to travel to a Council meeting or a meeting of a formally constituted Council Committee of which they are a member is entitled to be reimbursed. Elected members can also be reimbursed for other types of travel in accordance with Regulation 32 of the *Local Government (Administration) Regulations 1996*. The extent to which travel expenses can be reimbursed is in accordance with the State Salaries and Allowances Tribunal. The following list represents the meetings and events at which the attendance of an elected member is required for which the elected member will be able to claim reimbursement in accordance with the State Salaries and Allowances Tribunal for incurring travel expenses.

- Council meetings - ordinary and special;
- Committee meetings of a formally constituted Council committee of which they are a member or a deputy member acting in the capacity of a member;
- Electors' meetings - annual general and special;
- Civic receptions hosted by the City of Busselton;
- Visits by Ministers of the Crown;
- Inspection tours of matters arising before the Council;
- Any City-convened meeting requiring elected member attendance, including briefing sessions, workshops and other forums;
- Elected member training courses (if training course is held outside of the district, a City pool car should be used);
- Officially convened meetings with ratepayers;
- Attendance at community functions with a formal invitation as an elected member;
- Seminars and conferences attended in the capacity of an elected member;
- Meetings of community groups or other external organisations of which the elected member has been appointed the Council's representative by Council resolution (except where the other body pays the elected member for meeting attendance and/or travel eg ministerial appointment to State Advisory Boards).

The reimbursement will be made available to the elected member on the receipt of a certified claim form and in accordance with the rates set out in the State Salaries and Allowances Tribunal. Nothing in this section prevents an elected member from utilising a City-owned motor vehicle for the types of travel approved under this section and this is encouraged where practical for the elected member's purposes.

Subject to the approval of the Chief Executive Officer, the elected member is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use does not go beyond use of a minor incidental nature. Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.

3.1.6 Reimbursement of expenses while away from home on sanctioned activities

Expenses incurred for conferences, training, seminars and similar occasions requiring an elected member to stay overnight away from their place of residence will be reimbursed to the elected member or paid directly by the City in accordance with the following guidelines.

Air travel and accommodation will be arranged and paid for by the City in consultation with the elected member and the key considerations will be cost effectiveness and for accommodation also proximity to the location at which the conference, training, seminar or similar occasion is being held.

While staying in the accommodation provided by the City for the purpose of enabling attendance at the approved conference, training or seminar, the expenses to be met by the City will be:

Expenses and Restrictions	Elected Member	Spouse
Laundry > 2 nights	Y	Y
Taxi fares or other public transport - only where these directly relate to the activity and no other transport is provided	Y	Y
Daily sustenance per day allowance in accordance with the <i>Public Service Award 1992 (1)</i>	Y	N
Specific conference related dinners/meals	Y	Y
(1) Limited authority exists (refer to Mayor for prior approval) to purchase alcohol for networking purposes in a similar manner to the way the Council offers community members an invitation to share a drink after a Council meeting.		

3.1.7 Reimbursement of other expenses

3.1.7.1 Reimbursement of hospitality expenses

Elected members may seek reimbursement of the reasonable costs of beverages or snack items provided during any meeting or networking opportunity that relates to City activities, subject to the provision of receipts to the CEO.

3.1.7.2 Corporate attire reimbursement

Each elected member is eligible to claim up to \$1,000 reimbursement for the purchase of corporate attire, which may include a brief case or travel case. Payment will be made on the production of receipts for clothing, shoes or a case, but will be limited to \$500 for the period November to April and a further \$500 for the period May to October.

3.2 Mayor

3.2.1 Mayoral allowance

In addition to their entitlements as an elected member under Section 3.1 of this policy, the Mayor is eligible for a Mayoral allowance in accordance with the *Local Government Act 1995*. In accordance with the relevant *Local Government Elected Council Members Determination* the Mayor of the City of Busselton shall be paid an allowance within the Band established as set by Council when the annual budget is adopted, payable monthly or quarterly in arrears.

The allowance will be calculated on a pro-rata basis for any Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Mayoral allowance and their preferred payment method. Nothing in the relevant legislation or this policy prevents the Mayor from changing their intention at any time.

3.2.2 Provision of a City-owned vehicle

The Mayor shall be provided with a City-owned motor vehicle for use in his or her official capacity. The Mayor is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use does not go beyond use of a minor incidental nature. Nothing in this section prevents the vehicle from being utilised in accordance with City fleet guidelines by other elected members or officers with the agreement of the Mayor.

The Mayor may also use the vehicle for private use for convenience or necessity on a cost recovery basis. Details of private use shall be recorded in a log book which shall be provided to the City on a quarterly basis.

The Mayor is permitted to use the vehicle for private use without further authorisation on the basis that the cost reimbursement is made to the City in one of the following ways:

Calculation of the amount due and the quarterly members allowance payment be reduced accordingly; or

Calculation of the amount due and an invoice be given to the Mayor for reimbursement.

The CEO and Mayor shall agree which of the two methods should apply. The mileage rate would be calculated at the rate determined by the State Salaries and Allowances Tribunal – which refers to the rate payable contained by reference to the decision of the Local Government Elected Council Members Determination under the Salaries and Allowances Act 1975.

Unless Council approves otherwise, the mayoral vehicle may only be used for private purposes for travel within the State of WA.

3.3 Deputy Mayor

3.3.1 Deputy Mayor's allowance

In addition to their entitlements as an elected member under Section 3.1 of this policy, the Deputy Mayor may be paid a Deputy Mayor's allowance in accordance the *Local Government Act 1995*. In accordance with the relevant *Local Government Elected Council Members Determination* the Deputy Mayor can be paid up to 25% of the Mayoral allowance. The Deputy Mayor of the City of Busselton shall be paid the maximum percentage of the Mayoral allowance of 25%, payable monthly or quarterly in arrears.

The allowance will be calculated on a pro-rata basis for any Deputy Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Deputy Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Deputy Mayor's allowance and their preferred payment schedule. Nothing in the relevant legislation or this policy prevents the Deputy Mayor from changing their intention at any time.

The Deputy Mayor shall be permitted to use the City-owned vehicle provided to the Mayor during periods the Mayor is on leave and will have the same entitlements the Mayor has to use the City-owned vehicle for private use under the same conditions as set out in clause 3.2.2.

4. APPLICATION OF THE POLICY

Any request for reimbursement in accordance with the relevant clauses of this policy must be accompanied by an original supplier receipt or other relevant documentation.

Policy Background

Policy Reference No. - 001

Owner Unit – Governance

Originator – Director of Finance and Corporate Services

Policy approved by – Council

Date Approved – 27 August 2008

Review Frequency – As required

Related Documents –

Local Government Act 1995

Local Government Department Circular 9-2011

Local Government (Administration) Regulations 1996

Local Government Elected Council Members Determinations

Background/History - Initiated June 2008 to replace former policies:

- 054/1 - Councillors' Travelling Expenses;
- 055/1 - Attendance at Conferences, Training and Seminars;
- 193 - Communications Allowances - Councillors;
- 212/1 - Vehicle for Use by Shire President and Councillors;
- 226 - Laptop Computers - Councillors and Officers;
- 227 - Printer Consumables.

Last Policy Change

Council Resolution	Date	Information
		Adjustments of the Policy to reflect current practice and to allow the Mayor private use of vehicle.
C1608/200	10 August, 2016	Adjustments to state that fees and allowances to be determined in accordance with the relevant <i>Local Government Elected Council Members Determination</i> . Version 8

Note: The Committee proposed a Recommendation that would add a point to 3.1.5 stating that a City owned motor vehicle should be used where practicable and to remove the text '(refer to Mayor for prior approval) under section 3.1.6.

Council Decision and Committee Recommendation

C1612/156 Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the revised Council Policy 001 - Fees, Allowances and Expenses for Elected Members as shown below be adopted:

001	Fees, Allowances and Expenses for Elected Members	V9 Draft
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1. PURPOSE

In accordance with Division 8 of Part 5 of the *Local Government Act 1995* elected members are entitled to receive a fee for meeting attendance, be reimbursed for expenses and/or be paid an allowance for certain types of expenses. Certain payments are an automatic entitlement in accordance with the Act, while others require specific local government approval. The Fees, Allowances and Expenses for Elected Members policy provides the approval framework under which all fees, allowances and reimbursements to elected members will be made.

2. SCOPE

"Elected member" - Any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor;

"Schedule" – Information describing the current Local Government Band Allocation and fees and allowances established within that Band in accordance with any *Local Government Elected Council Members Determination* under the *Salaries and Allowances Act 1975*.

The Fees, Allowances and Expenses for Elected Members policy is to apply to the purchase of all local government-owned equipment for the specific and individual use of an elected member, the reimbursement of any expenses incurred by an elected member in the performance of their

functions and duties, and fees and allowances provided to all elected members.

This policy provides the approval framework to enable the provision of equipment and certain payments to be made to elected members to enable them to carry out their role as an elected member effectively. All matters approved in this policy are in accordance with the relevant legislation and determinations, being the *Local Government Act 1995* and *Local Government Elected Council Members Determinations* in accordance with the *Salaries and Allowances Act 1975*.

All allowances in relation to elected members are reviewed annually by the City and become effective following adoption of the annual budget.

3. POLICY CONTENT

3.1 Elected members

3.1.1 Provision of equipment

Without limiting the application of any other clause in this policy, the local government will provide to elected members of the City of Busselton access to resources to enable them to carry out their duties efficiently and effectively. In accordance with Section 3.1 of the *Local Government Act 1995*, in order to provide for the good government of persons in the District, any newly elected member will have the opportunity to be furnished with the following equipment:

- A standard-issue mobile telephone;
- A standard issue mobile device that will be upgraded from time to time, inclusive of standard equipment associated with the day-to-day use of the device.

Any mobile telephone or mobile device purchased in accordance with this policy can be retained by the elected member at the completion of their term of office if they serve a minimum of 24 months as an elected member.

3.1.2 Meeting attendance fees

An elected member is entitled to receive an annual fee for attending Council and Committee meetings in accordance with the *Local Government Act 1995*. This payment is in lieu of any entitlement established for a fee per meeting under that Act.

The annual fee will be established during the annual budget process within the Band established in the relevant *Local Government Elected Council Members Determination*.

The annual meeting attendance fee is full and final satisfaction of an elected member's meeting entitlements and no other claims can be made for attendance at meetings, with the exception that an elected member's expenses incurred for travelling to and from the meeting can be reimbursed in accordance with clause 3.1.5 of this policy or childcare expenses incurred can be reimbursed in accordance with clause 3.1.4 of this policy.

Meeting attendance fees will be paid monthly or quarterly in arrears. The fee will be calculated on a pro-rata basis for any elected member who commences or ceases office during the month or quarter. Upon commencement of office, elected members, for the purposes of budget development, will be requested to indicate whether it is their intention to claim meeting attendance fees and their preferred payment method. Nothing in the relevant legislation or this policy prevents an elected member from changing their intention at any time.

3.1.3 Information and Communications Technology allowance

In accordance with the relevant *Local Government Elected Council Members Determination*, all elected members are eligible to claim an annual information and communications technology allowance the amount of which will be included in the Schedule. This allowance is to cover an elected member's costs in relation to the following equipment and services:

- Telephone rental charges;
- Any other expenses that relate to information and communications technology, for example telephone call charges and internet service provider fees, and that are a kind of expense prescribed by regulation 32(1) of the *Local Government (Administration) Regulations 1996*.

The information and communications technology allowance will be paid monthly or quarterly in arrears. The allowance will be calculated on a pro-rata basis for any elected member who commences or ceases office during the month or quarter. Upon commencement of office, elected members, for the purposes of budget development, will be requested to indicate whether it is their intention to claim the information and communications technology allowance and their preferred payment method. Nothing in the relevant legislation or this policy prevents an elected member from changing their intention at any time.

3.1.4 Reimbursement of childcare expenses

In accordance with the *Local Government Act 1995* an elected member who incurs childcare expenses due to their attendance at a Council meeting or a meeting of a formally constituted Council Committee of which they are a member is entitled to be reimbursed. The extent to which the childcare expenses incurred will be reimbursed will be in accordance with the relevant *Local Government Elected Council Members Determination*. For the purposes of this section, the number of hours claimed shall be limited to the actual length of the meeting, with a nominal time allowance for partaking in refreshments and travel to and from the place of care.

3.1.5 Reimbursement of travel expenses

In accordance with the *Local Government Act 1995* an elected member who incurs expenses to travel to a Council meeting or a meeting of a formally constituted Council Committee of which they are a member is entitled to be reimbursed. Elected members can also be reimbursed for other types of travel in accordance with Regulation 32 of the *Local Government (Administration) Regulations 1996*. The extent to which travel expenses can be reimbursed is in accordance with the State Salaries and Allowances Tribunal. The following list represents the meetings and events at which the attendance of an elected member is required for which the elected member will be able to claim reimbursement in accordance with the State Salaries and Allowances Tribunal for incurring travel expenses.

- Council meetings - ordinary and special;
- Committee meetings of a formally constituted Council committee of which they are a member or a deputy member acting in the capacity of a member;
- Electors' meetings - annual general and special;
- Civic receptions hosted by the City of Busselton;
- Visits by Ministers of the Crown;
- Inspection tours of matters arising before the Council;
- Any City-convened meeting requiring elected member attendance, including briefing sessions, workshops and other forums;
- Elected member training courses
- Officially convened meetings with ratepayers;
- Attendance at community functions with a formal invitation as an elected member;
- Seminars and conferences attended in the capacity of an elected member;

- Meetings of community groups or other external organisations of which the elected member has been appointed the Council's representative by Council resolution (except where the other body pays the elected member for meeting attendance and/or travel eg ministerial appointment to State Advisory Boards).

When practicable a City-owned motor vehicle should be used in the first instance.

The reimbursement will be made available to the elected member on the receipt of a certified claim form and in accordance with the rates set out in the State Salaries and Allowances Tribunal. Nothing in this section prevents an elected member from utilising a City-owned motor vehicle for the types of travel approved under this section and this is encouraged where practical for the elected member's purposes.

Subject to the approval of the Chief Executive Officer, the elected member is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use does not go beyond use of a minor incidental nature. Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.

3.1.6 Reimbursement of expenses while away from home on sanctioned activities

Expenses incurred for conferences, training, seminars and similar occasions requiring an elected member to stay overnight away from their place of residence will be reimbursed to the elected member or paid directly by the City in accordance with the following guidelines.

Air travel and accommodation will be arranged and paid for by the City in consultation with the elected member and the key considerations will be cost effectiveness and for accommodation also proximity to the location at which the conference, training, seminar or similar occasion is being held.

While staying in the accommodation provided by the City for the purpose of enabling attendance at the approved conference, training or seminar, the expenses to be met by the City will be:

Expenses and Restrictions	Elected Member	Spouse
Laundry > 2 nights	Y	Y
Taxi fares or other public transport - only where these directly relate to the activity and no other transport is provided	Y	Y
Daily sustenance per day allowance in accordance with the <i>Public Service Award 1992</i> (1)	Y	N
Specific conference related dinners/meals	Y	Y
(1) Limited authority exists to purchase alcohol for networking purposes in a similar manner to the way the Council offers community members an invitation to share a drink after a Council meeting.		

3.1.7 Reimbursement of other expenses

3.1.7.1 Reimbursement of hospitality expenses

Elected members may seek reimbursement of the reasonable costs of beverages or snack items provided during any meeting or networking opportunity that relates to City activities, subject to the provision of receipts to the CEO.

3.1.7.2 Corporate attire reimbursement

Each elected member is eligible to claim up to \$1,000 reimbursement for the purchase of corporate attire, which may include a brief case or travel case. Payment will be made on the production of receipts for clothing, shoes or a case, but will be limited to \$500 for the period November to April

and a further \$500 for the period May to October.

3.2 Mayor

3.2.1 Mayoral allowance

In addition to their entitlements as an elected member under Section 3.1 of this policy, the Mayor is eligible for a Mayoral allowance in accordance with the *Local Government Act 1995*. In accordance with the relevant *Local Government Elected Council Members Determination* the Mayor of the City of Busselton shall be paid an allowance within the Band established as set by Council when the annual budget is adopted, payable monthly or quarterly in arrears.

The allowance will be calculated on a pro-rata basis for any Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Mayoral allowance and their preferred payment method. Nothing in the relevant legislation or this policy prevents the Mayor from changing their intention at any time.

3.2.2 Provision of a City-owned vehicle

The Mayor shall be provided with a City-owned motor vehicle for use in his or her official capacity. The Mayor is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use does not go beyond use of a minor incidental nature. Nothing in this section prevents the vehicle from being utilised in accordance with City fleet guidelines by other elected members or officers with the agreement of the Mayor.

The Mayor may also use the vehicle for private use for convenience or necessity on a cost recovery basis. Details of private use shall be recorded in a log book which shall be provided to the City on a quarterly basis.

The Mayor is permitted to use the vehicle for private use without further authorisation on the basis that the cost reimbursement is made to the City in one of the following ways:

Calculation of the amount due and the quarterly members allowance payment be reduced accordingly; or

Calculation of the amount due and an invoice be given to the Mayor for reimbursement.

The CEO and Mayor shall agree which of the two methods should apply. The mileage rate would be calculated at the rate determined by the State Salaries and Allowances Tribunal – which refers to the rate payable contained by reference to the decision of the Local Government Elected Council members Determination under the Salaries and Allowances Act 1975.

Unless Council approves otherwise, the mayoral vehicle may only be used for private purposes for travel within the State of WA.

3.3 Deputy Mayor

3.3.1 Deputy Mayor's allowance

In addition to their entitlements as an elected member under Section 3.1 of this policy, the Deputy Mayor may be paid a Deputy Mayor's allowance in accordance the *Local Government Act 1995*. In accordance with the relevant *Local Government Elected Council Members Determination* the Deputy Mayor can be paid up to 25% of the Mayoral allowance. The Deputy Mayor of the City of Busselton

shall be paid the maximum percentage of the Mayoral allowance of 25%, payable monthly or quarterly in arrears.

The allowance will be calculated on a pro-rata basis for any Deputy Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Deputy Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Deputy Mayor's allowance and their preferred payment schedule. Nothing in the relevant legislation or this policy prevents the Deputy Mayor from changing their intention at any time.

The Deputy Mayor shall be permitted to use the City-owned vehicle provided to the Mayor during periods the Mayor is on leave and will have the same entitlements the Mayor has to use the City-owned vehicle for private use under the same conditions as set out in clause 3.2.2.

4. APPLICATION OF THE POLICY

Any request for reimbursement in accordance with the relevant clauses of this policy must be accompanied by an original supplier receipt or other relevant documentation.

Policy Background

Policy Reference No. - 001

Owner Unit – Governance

Originator – Director of Finance and Corporate Services

Policy approved by – Council

Date Approved – 27 August 2008

Review Frequency – As required

Related Documents –

Local Government Act 1995

Local Government Department Circular 9-2011

Local Government (Administration) Regulations 1996

Local Government Elected Council Members Determinations

Background/History - Initiated June 2008 to replace former policies:

054/1 - Councillors' Travelling Expenses;

055/1 - Attendance at Conferences, Training and Seminars;

193 - Communications Allowances - Councillors;

212/1 - Vehicle for Use by Shire President and Councillors;

226 - Laptop Computers - Councillors and Officers;

227 - Printer Consumables.

Last Policy Change

Council Resolution	Date	Information
		Adjustments of the Policy to reflect current practice and to allow the Mayor private use of vehicle.
C1608/200	10 August, 2016	Adjustments to state that fees and allowances to be determined in accordance with the relevant <i>Local Government Elected Council Members Determination</i> . Version 8

CARRIED 9/0

**BY ABSOLUTE MAJORITY
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11.1 AMENDMENT 23 TO LOCAL PLANNING SCHEME 21 - INTRODUCING THE RESIDENTIAL ZONE TO UNZONED PORTIONS OF 'PART LOT' 9507 LAYMAN ROAD, GEOGRAPHE - FOR FINAL ADOPTION

SUBJECT INDEX:	Local Planning Scheme
STRATEGIC OBJECTIVE:	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
BUSINESS UNIT:	Strategic Planning and Development Services
ACTIVITY UNIT:	Strategic Planning and Development
REPORTING OFFICER:	Strategic Planner - Nick Edwards
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Subject Land and Location Context⇒ Attachment B Existing and Proposed Zoning Diagrams⇒ Attachment C Port Geographe Development Plan ⇒ Attachment D Draft Subdivision Layout⇒ Attachment E Schedule of Submissions⇒

PRÉCIS

Council is requested to consider adopting for final approval an Amendment to Local Planning Scheme No.21 (LPS21) by introducing a 'Residential' zoning over part of the unzoned portions of Pt Lot 9507 Layman Road, Geographe (Attachment A), adjusting the boundaries of the currently applicable residential density codes ('R20' and 'R30') and modifying the boundaries of two 'Recreation Reserves' to reflect a recent subdivision application over the land (Attachment B).

The proposal is considered to be a straightforward rationalisation of existing zoning, constituting a 'standard' amendment. It will allow the landowner to consider improved alternative design options for the next stage of subdivision and development in the 'Port Geographe Development Plan' (Attachment C).

The Amendment will not 'lock in' an alternative road layout or subdivision design, but will simply enable both the City and the Department of Planning the flexibility to consider options for the next stage of development of the Port Geographe Development Area (an example such as Attachment D).

The Amendment was advertised between 5 October and 16 November 2016 (42 days) and received seven submissions (Attachment E), including four objections from private residents. The concerns raised in the submissions appear to reflect, for the most part, misunderstandings as to the actual nature of the proposal.

City officers recommend that Council adopts the Amendment for final approval before referring it to WAPC for its consideration.

BACKGROUND

Located in the south-western part of the Port Geographe Development Area, Lot 9507 Layman Road contains the undeveloped balance of the Port Geographe Estate. This proposal applies to approximately 5 hectares of land (Pt Lot 9507) at the western area of the estate, near the intersection of Layman Road with Navigation Way. Land to the east and south contains the Vasse Estuary, public reserves and agricultural land with high landscape quality.

The majority of the land the subject of this proposal is identified within "No Zone" under the City of Busselton Local Planning Scheme No. 21 (LPS21), whilst a small sliver of affected land abutting Navigation Way is currently zoned "Residential" with a residential density coding of "R20".

Lot 9507 is included within the 'Port Geographe Development Area', a Special Control Area within which subdivision and development of the land has been guided and coordinated by the endorsed Port Geographe Development Plan (PGDP).

Part 6.9 of LPS21 identifies a number of development requirements specific to this area. Lot 9507 is also identified in Schedule 15 of LPS21 as being within Development Contribution Area No. 1, requiring the payment of a per lot/dwelling contribution towards the provision of community infrastructure. It should also be noted, though, that separate developer contributions arrangements apply to this land, by virtue of the Port Geographe Development Deed.

This Amendment proposal does not involve substantive modifications to any of the above, simply removal of the 'unzoned' (and redundant) road network, so as to provide the new landowner/developer with the flexibility to propose an updated structure plan and subdivision layout that better reflects the requirements of the current market and addresses land use efficiency requirements of the State Government.

STATUTORY ENVIRONMENT

City of Busselton Local Planning Scheme No.21 (LPS21)

The PGDA, which contains the subject land, is recognised within the LPS21 and coordinates the three development guiding documents, the PGDP, the *Port Geographe Landscape Master Plan* and the *Port Geographe Village Centre Precinct Plan*. These documents have previously been approved by the Council and endorsed by the WAPC.

RELEVANT PLANS AND POLICIES

The policies that are relevant to this proposal are the;

- City of Busselton Local Planning Strategy (2013);
- Port Geographe Development Plan (2005).

City of Busselton DRAFT Local Planning Strategy (2013)

The City's Local Planning Strategy (LPS) was adopted by Council on 14 September 2016 and includes the subject land as an ongoing urban development. It is expected to provide a mix of residential, commercial and recreation opportunities principally guided by a modified Structure Plan.

Port Geographe Development Plan (2005)

The endorsed PGDP can be considered as a 'Structure Plan' for this site as it identifies the intended development pattern. The majority of the subject land is identified for 'Residential Development' at an 'R20' development density with 'R30' land to the east, adjacent to the future recreation reserve.

FINANCIAL IMPLICATIONS

There are considered to be no financial implications arising from this proposal.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The Officer Recommendation is consistent with Community Objective 2.2 of the City's *Strategic Community Plan 2013*, which is – “a City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections”.

RISK ASSESSMENT

An assessment of the potential implications of the Officer Recommendation has been undertaken using the City's risk assessment framework. The implementation of the Officer Recommendation will involve amending the existing maps which forms part of the LPS21. No significant risks have been identified.

CONSULTATION

Discussions between the landowner, Department of Planning (DOP) and City Officers have clarified the management and ongoing development of the Port Geographe Estate precinct.

The Amendment was advertised for 42 days during October and November 2016 and seven submissions came from referral agencies and private residents. A Schedule of Submissions is provided as Attachment E.

Objections to the proposal were from private residents and were not specifically concerned with the Amendment outcomes but raised concerns about the broader development impacts within the PGDA. Since the submissions were not specifically concerned with the rezoning of the roads and reserves, it is considered that the majority of issues within the submissions would be more appropriately addressed when any significant changes to the PGDP are proposed.

Should Council resolve to adopt this Amendment for Final Approval, formal documentation will be prepared and submitted to the Western Australian Planning Commission for endorsement in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

OFFICER COMMENT

The proposed rezoning within the subject land will facilitate residential subdivision and modify recreation reserves. The intent and proposed design of this site is consistent with the PGDP without needing to amend the existing conditions. The landowner has indicated that the PGDP (Structure Plan) will be reviewed and modified in relation to the undeveloped balance of Lot 9507 Layman Road, but this will form a separate planning proposal.

The removal of the existing unzoned and redundant road network does not require substantive modifications to any guiding documents, nor will it necessitate any additional technical studies beyond those normally required as part of subdivision consideration.

The proposed residential zones placed over the 'No Zone' road ways are consistent with the surrounding development pattern. The 'R20' and 'R30' densities extend the existing zones on the land and improve the access of bordering lots to the enlarged recreation reserve, resulting in increases residential amenity and passive surveillance of the open space.

The increase of the smaller Recreation Reserve to the north will improve the drainage capacity for the proposed subdivision and provide more open space for public use.

CONCLUSION

The proposed Amendment seeks to rezone a relatively small (5 hectare) area of Lot 9507, to create a more flexible zoning arrangement that will allow both the City and the WAPC to consider immediate improvements to the layout and land use efficiency of the most immediately developable portion of Port Geographe Estate.

The Amendment is an opportunity to resume development within the PGDA which has stalled in recent years. By applying a zone to the road ways in part of Lot 9507, it will allow both the City and WAPC flexibility to consider alternative subdivision designs within the PGDA.

The subject land is identified for development and the effect of increasing the recreation reserves and applying the zones to the road ways is considered to have a minor impact.

The proposed changes will allow the consideration of alternative designs and any further changes including subdivision development, further approval will be required. The proposal complements the established planning framework without proposing any significant departures from its intent.

OPTIONS

Should the Council not support the Officer Recommendation the Council could instead resolve –

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

There are no substantive issues or reasonable grounds that would support any of these options.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Following Council's Final Adoption of the Amendment it will be referred to the WAPC for endorsement within one month of the resolution. Documents to be sent include the submissions, Agenda Report, all relevant attachments and the Council Resolution.

Council Decision and Officer Recommendation

C1612/157

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Pursuant to Part V of the *Planning and Development Act 2005*, adopts Amendment No. 23 to the City of Busselton Local Planning Scheme No. 21 for final approval for the purposes of:
 - a. Introducing the 'Residential' Zone over unzoned portions of subject Pt Lot 9507 Layman Road, Geographe;
 - b. Applying the 'R20' residential density coding to the unzoned areas of the land in line with the advertised Planning Scheme map;
 - c. Applying 'R30' residential density coding to land in line with the advertised

Planning Scheme map;

- d. Adjusting the boundary of the proposed 'Recreation' Reserve portion of Part Lot 9507 to align with the land use boundaries identified in the subdivision application for the subject land presented in Attachment B;
 - e. Reclassifying a smaller part of Pt Lot 9507 adjacent to Navigation Way from 'Residential' use to a 'Recreation' Reserve; and,
 - f. Amending all relevant Planning Scheme maps accordingly
2. Advise the Western Australian Planning Commission that the proposed Amendment is considered as a 'Standard' amendment under the provisions of the *Planning and Development (Local Planning Scheme) Regulations 2015*;
 3. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to endorse the Schedule of Submissions at Attachment E prepared in response to the public consultation undertaken in relation to Amendment No. 23.
 4. Upon preparation of the necessary documentation, refers the adopted Amendment 23 to the Western Australian Planning Commission for consideration according to the *Planning and Development Act 2005*.
 5. Pursuant to r.56 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should directions be given that modifications to draft Amendment No. 18 are required, these modifications are to be undertaken accordingly, on behalf of the Council, unless they are considered by Officers likely to significantly affect the purpose and intent of the draft Amendment, in which case the matter shall be formally referred back to the Council for assessment and determination.

CARRIED 9/0

**BY ABSOLUTE MAJORITY
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12. ENGINEERING AND WORKS SERVICES REPORT

12.1 ASPHALT AND SPRAY SEALING SERVICES - AWARD OF TENDER RFT 23/16

SUBJECT INDEX:	RFT23/16 - Asphalt and Spray Sealing Services
STRATEGIC OBJECTIVE:	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT:	Operation and Works Services
ACTIVITY UNIT:	Maintenance and Construction
REPORTING OFFICER:	Maintenance and Construction Coordinator - Matthew Twyman
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Confidential Tender Evaluation and Recommendation Report - RFT23/16 Asphalt & Spray Sealing Services

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

PRÉCIS

The Council is requested to consider the tenders received in response to Request for Tender RFT23/16 – Asphalt and Spray Sealing Services. The purpose of this report is to obtain the Council’s consent to award Tender – RFT23/16 in accordance with the Tender Evaluation panel recommendation.

BACKGROUND

A suitably qualified contractor is required to provide asphalt and spray sealing services within the City of Busselton:

- Supply, delivery and laying of hot asphalt;
- Supply and delivery of hot asphalt, cold-mix asphalt and bitumen emulsion; and
- Supply, delivery and spraying hot bitumen and supply, delivery and spread sealing aggregate.

Subject to the Principal’s right to early termination the term is for a period of three (3) years from the date of award, with two (2) optional one (1) year extensions to be exercised at the Principal’s discretion.

Two (2) submissions were received in response to this Request for Tender. Submissions were received from Fulton Hogan Industries Pty Ltd and Malatesta Road Paving & Hot Mix Pty Ltd.

The review process of all submissions for RFT23/16 has been completed by the Tender Evaluation Panel that comprised of the following City Officers:-

- Matthew Twyman Maintenance & Construction Coordinator
- Lisa McDonald Contracts & Tendering Officer
- George Workman Manager Operations Service.

STATUTORY ENVIRONMENT

Part 4 (Tenders) of the Local Government (Functions and General) Regulations 1996 apply. In particular, Regulation 14 (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."

RELEVANT PLANS AND POLICIES

The following Council policies have relevance to the Tender process.

Policy 239 – Purchasing:

The procurement process complies with this policy.

Policy 049/1 –Regional Price Preference:

The Regional Price Preference was applied to this tender.

Policy 031 – Tender Selection Criteria:

The procurement process complies with this policy.

FINANCIAL IMPLICATIONS

Application of appropriate selection criteria to the tender has contributed to ensuring that tenderers are offering the "best value" with respect to the supply of services.

In order to evaluate the pricing component of the tender representative requirement scenarios for asphalt and sealing works were applied to the tendered rates. This shows that there has been a nine (9) percent decrease in the recommended Tenderer's rates for sealing and asphalt services combined, when compared against the City's existing tender submitted for these services in 2013.

In comparison the Consumer Price Index for Perth (all groups) has increased by three and a half (3.5) percent between December 2013 and September 2016.

It should also be noted that the index for Automotive Fuel (Perth), a more representative comparison for the bitumen industry, has decreased by twenty two (22) percent between December 2013 and September 2016.

The costs of services within this tender are provided for in capital works and operational budgets for each financial year. Purchasing under this contract will be in accordance with these adopted budgets.

STRATEGIC COMMUNITY OBJECTIVES

Key Goal Area 2:

Well Planned, Vibrant and Active Places.

Community Objective 2.3:

Infrastructure assets that are well maintained and responsibly managed to provide for future generations.

RISK ASSESSMENT

The recommended tenderer has over thirty years experience in the required services, is based within Bunbury and has suitable material supply contingency measures in place to fulfil the requirements of the tender. The risk of poor service is therefore considered low.

The provision of referees and financial profile information further reinforces the City's confidence in the appointment as the Contractor is well-established, has the financial capacity to fulfil the contract and the risk of insolvency is low.

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Poor service	Project quality control	Minor	Unlikely	L5
Insolvency	Financial profile information request	Minor	Unlikely	L5

CONSULTATION

Nil

OFFICER COMMENT

City officers did not exercise the option of renewing the existing tender for Asphalt and Spray Sealing Services and instead went out to Tender. It was considered prudent with the changing market and lower oil prices, to determine if this would extend to reduce costs to the City. As noted in the report this has been proven to be beneficial.

As part of the tender evaluation 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 provision of requested information. All tender submissions were found to be compliant with the specified requirements.

The assessments of the tenders were based on the following Qualitative Criteria as included in the Request for Tender Document:

- (a) Relevant Experience 10%
- (b) Tenderer's Resources 20%

The Tendered price was given the following weighting and has been assessed in conjunction with the Qualitative Criteria:

- Tendered Price 70%

Representative requirement scenarios for asphalt and sealing works were applied to tendered rates and scored using the 'Average Based Scoring Method' recommended by WALGA in the 'Local Government Purchasing and Tender Guide'.

Regional Price preference was not applicable to either tender submission.

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

CONCLUSION

This report seeks the Council's endorsement of the officer's recommendation to award all requirements of the Contract to Malatesta Road Paving & Hot Mix Pty Ltd as their submission represents the best value for money option for the City of Busselton and demonstrates the company's ability to complete the contract requirements to the standard required and within the time frames required at a competitive price.

OPTIONS

The Council may consider the following alternate option:

1. The Council choose not to accept the Officers 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.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The award of the tender to the successful tenderer can be announced immediately after the Council has endorsed the officer’s recommendation. The successful Tenderer will receive formal written notification within seven (7) days of the decision being handed down. All unsuccessful tenderers will also be notified in this time.

Council Decision and Officer Recommendation**C1612/158**

Moved Councillor G Bleachmore, seconded Councillor C Tarbotton

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Endorses the outcomes of the evaluation panel’s assessment in relation to Tender RFT23/16 Asphalt and Spray Sealing Services which has resulted in the tender submitted by Malatesta Road Paving & Hot Mix Pty Ltd being ranked as the best value for money.
2. Delegate authority to the CEO to award the contract resulting from RFT23/16 – Asphalt and Spray Sealing Services to Malatesta Road Paving & Hot Mix Pty Ltd subject to negotiations, in accordance with the terms and conditions contained within the tender for a period of three (3) years from the date of award, with two (2) optional one (1) year extensions to be exercised at the Principal’s discretion.

CARRIED 9/0**BY ABSOLUTE MAJORITY
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14.1 AMENDMENT TO DELEGATION (INVITING TENDERS AND CHOICE OF TENDER)

SUBJECT INDEX:	Delegation
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Contract & Tendering Officer - Lisa McDonald
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

PRÉCIS

Council has delegated to the Chief Executive Office power and authority to exercise certain functions under Regulations 14 and 18 of the *Local Government (Functions and General) Regulations 1996 (Tender Regulations)*. This delegation, in respect of inviting tenders and choice of tender, is recorded in the City's Delegations Register as Delegation 3J (**Delegation 3J**).

An internal review of Delegation 3J indicated that minor amendments to this delegation could improve internal administrative processes and service delivery. This report recommends to Council to amend the Delegation 3J in accordance with the Officer Recommendation section of this report.

BACKGROUND

Pursuant to section 3.57 of the *Local Government Act 1995 (Act)* a local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services. Part 4 Division 2 of the Tender Regulations provides the statutory framework for inviting, assessing and accepting tenders by a local government. Regulation 14 of the Tender Regulations specifies the requirements for publicly inviting tenders and Regulation 18 sets out the requirements for rejecting and accepting tenders.

The majority of the local government functions under these regulations are purely of an administrative nature. Among other matters the Tender Regulations authorise or require from a local government to:

- Give State wide public notice of the invitation to tender [Reg 14(1)];
- Determine in writing the criteria for deciding which tender should be accepted before tenders are publicly invited [Reg 14(2a)];
- Vary the information published in an invitation to tender [Reg 14(5)];
- Reject tenders not submitted at a place, and within the time, specified in the invitation for tender [Reg 18(1)];
- Assess compliant tenders by means of a written evaluation for purposes of determining which of those tenders satisfy the tender selection criteria and is considered to be the most advantageous to the local government [Reg 18(4)];
- Request a tenderer to clarify the information provided in a tender [Reg 18(4a)];
- Decline to accept any tender [Reg 18(5)]; and
- Accept from the other tenders the tender which it thinks it would be most advantageous to the local government should the preferred tenderer, within 6 months of acceptance, either fail to enter into a contract with the local government or terminate the contract [Reg 18(6) and (7)].

The only provision under Regulations 14 and 18 considered not to be a purely administrative function, is Council's power and ability to select and accept the most advantageous tender and decide to award a contract pursuant to that tender to the preferred tenderer [Reg 18(4)].

Under Delegation 3J Council has delegated to the Chief Executive Officer the following duties and powers under Regulations 14 and 18 of the Tender regulations:

- To exercise the powers and discharge the duties of the local government under Regulation 14 to publicly invite tenders by determining the written criteria for deciding which tender should be accepted; and
- To exercise the powers and discharge the duties of the local government under Regulation 18 relating to choice of tender.

These delegations are subject to the following conditions:

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

Delegation 3J does however not provide the Chief Executive Officer with the power and authority to exercise some of abovementioned functions which are to a large extent relatively straight forward administrative functions with very limited scope for the exercise of discretion. See for instance the functions under Regulations 14(1), 14(5), 18(1), 18(5), 18(6) and (7) above. For purposes of improving the City's tendering processes it is recommended that Council amend Delegation 3J in accordance with the Officer Recommendation section of this report.

STATUTORY ENVIRONMENT

Pursuant to section 5.42(1)(a) of the Act Council may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under the Act, other than those referred to in section 5.43. The Act prescribes that any such delegation requires an absolute majority vote of Council.

Council's powers and duties under Regulations 14 and 18 of the Tender Regulations fall within the scope of functions which can be delegated to the Chief Executive Officer pursuant to section 5.42(1)(a) of the Act.

RELEVANT PLANS AND POLICIES

The proposed delegation of Council's powers and duties under Regulations 14 and 18 of the Tender Regulations is consistent with the City's Purchasing Policy, Tender Selection Criteria Policy and Tender Pre Selection Policy.

FINANCIAL IMPLICATIONS

The proposed amendment to Delegation 3J does not limit Council's function or ability to approve the allocation of resources through the annual budget process in respect of all tenders that may be awarded by the City. Therefore adoption of the Officer Recommendation will not have any direct financial implication for the City.

Long-term Financial Plan Implications

The proposed policy and delegations to the Chief Executive Officer do not have any long term financial implications.

STRATEGIC COMMUNITY OBJECTIVES

The proposed amendment to Delegation 3J aligns with Strategic Community Objective 6.2 which requires the City's governance systems to deliver responsible, ethical and accountable decision making.

RISK ASSESSMENT

Amending Delegation 3J will allow for implementation of a relatively straight forward administrative process with limited scope for the exercise of discretion and is therefore considered low risk with no risks identified as "low" or greater.

CONSULTATION

Not applicable as the proposed delegation relates to internal administrative processes only.

OFFICER COMMENT

Except for the provisions of Regulation 18(4) of the Tender Regulations, which provides Council with the ability to accept the tender considered to be the most advantageous, the functions and duties under Regulations 14 and 18 are to a large extent relatively straight forward administrative functions with very limited scope for the exercise of discretion (as outlined under the BACKGROUND section of this report).

Under Delegation 3J Council has already delegated to the Chief Executive Officer the power to accept tenders where the consideration does not exceed \$500,000. The proposed amendment of Delegation 3J does not seek to change this arrangement, but rather to include under this delegation the power of the Chief Executive Officer to exercise the administrative functions under these regulations, which include inviting, rejecting and evaluating tenders. The proposed amendment to Delegation 3J will prevent staff from having to refer a significant number of relatively straight forward day-to-day administrative functions to Council, which will improve efficiency and optimise use of the City's resources.

The proposed change to Delegation 3J does not affect the special delegations to the Chief Executive Officer in relation to the Administration building project and the Airport Redevelopment Project.

Under normal circumstances, this matter would initially have been referred to the Policy and Legislation Committee for consideration. However due to the fact that there won't be a Policy and Legislation Committee meeting within the next 6 to 8 weeks it was considered appropriate to present this Report directly to Council.

CONCLUSION

Adoption of the Officer Recommendation will streamline City operations and improve efficiency without compromising statutory compliance or Council's existing powers in relation to choice of tenderer.

OPTIONS

Council may resolve not to amend Delegation 3J in accordance with the Officer Recommendation. However for the reasons mentioned in this report this option is not recommended.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The amendment to Delegation 3J will be effectively immediately upon adoption by the Council.

Council Decision and Officer Recommendation**C1612/159**

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council resolves to amend Delegation 3J by replacing it with the following:

INSTRUMENT OF DELEGATION

Ref No	LG Act Ref	Delegate	Delegation Subject
3J	3.57 F and G Regs 14 and 18	Chief Executive Officer	Inviting Tenders and Choice of Tender

Delegator

Council.

Power/Duty

To exercise the powers and discharge the duties of the local government under Regulations 14 and 18 of the *Local Government (Functions and General) Regulations 1996* subject to the undermentioned conditions:

Conditions

This delegation is subject to:

- a) Utilising the standard selection criteria as per Policy 031;
- b) Following the City's operational practice utilising tender evaluation processes and documentation developed by WALGA;
- c) Compliance with the requirements of the City's Purchasing Policy as it relates to tendering; 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 Regulation 14 and Regulation 18 of the *Local Government (Functions and General) Regulations 1996* subject to the above conditions.

Local Government Act Section 3.57.***Tenders for providing goods or services***

- (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 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. Choice of Tender

- (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 it thinks would be most advantageous to the local government to accept.*
- (4a) *To assist the local government in deciding which tender would be 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.*

Verification

Council Resolution
C1606/140

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1103/079

Review Requirements

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

Review Dates

08 June, 2016

10 June, 2015

10 June, 2014

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2012

9 March, 2011 (implementation).

Related Documents

Tender Register.

Notes of Alterations

08/06/2016 – Increase of value to \$500,000

10/06/2015 – Increase of value to \$350,000

26/06/2013 – Increase of value to \$300,000 and other minor alterations.

CARRIED 9/0
BY ABSOLUTE MAJORITY
EN BLOC

14.2 PROPOSED CITY OF BUSSELTON WASTE LOCAL LAW

SUBJECT INDEX:	Local Laws
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal
REPORTING OFFICER:	Legal Services Coordinator - Cobus Botha
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Proposed City of Busselton Waste Local Law 2016⇒

PRÉCIS

Council previously resolved to authorise the preparation and advertising of the proposed *City of Busselton Waste Local Law 2016 (Waste Local Law)*. The purpose of this report is for Council to consider submissions received in relation to the proposed Waste Local Law and to consider whether to make the proposed Waste Local Law pursuant to Section 3.12 of the *Local Government Act 1995 (the Act)*.

It is recommended that Council resolve to make the proposed Waste Local Law.

BACKGROUND

Council resolved at its meeting on 14 October 2015:

That the Council:

(1) That the Council commences the law-making process, for the City of Busselton Waste Local Law 2015, the purpose and effect of the local law being as follows:

Purpose: The purpose of the local law is to provide for the regulation, control and management of activities and issues relating to waste collection, recycling, reuse and disposal within the district.

Effect: The effect of the local law is to control activities and manage influences on waste collection, recycling, reuse and disposal within the district.

(2) That the Council carry out the law-making procedure under section 3.12(3) of the Local Government Act, by:

- (i) giving State-wide public notice and local public notice of the proposed local law; and*
- (ii) giving a copy of the proposed local law and public notice to the Minister for Local Government and the Minister for Environment.*

(3) That the CEO, after the close of the public consultation period, submits a report to the Council on any submissions received on the proposed local law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.

Pursuant to abovementioned Council Resolution the proposed Waste Local Law was published for public comment and a copy given to the Minister for Local Government and Communities and the Minister for Environment and Heritage for consideration. No public submissions, other than from the Western Australian Local Government Association (**WALGA**), have been received and the responses from the Department of Local Government and Communities (**DLGC**) and the Department of Environmental Regulation (**DER**) are discussed under the CONSULTATION section of this report.

The advice and comments received from the abovementioned government departments resulted in minor changes being made to the draft local law which was presented to Council at its 14 October 2015 meeting. These changes, which are discussed in more detail under the OFFICER COMMENT section of this report, do not cause the proposed Waste Local Law to be significantly different from what was originally proposed. Therefore, the proposed Waste Local Law is now referred back to Council to consider these minor changes and to resolve whether or not to make the proposed Waste Local Law.

STATUTORY ENVIRONMENT

Section 3.5 of the Act and section 64 of the *Waste Avoidance and Resource Recovery Act 2007 (WARR Act)* provide Council with the heads of power for making a waste local law.

The procedure for making local laws is set out in section 3.12 of the Act and Regulation 3 of the *Local Government (Functions and General) Regulations 1996*. In terms of section 3.12(4) of the Act, Council is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was originally proposed. A decision to make a local law has to be supported by an absolute majority of Council.

If Council resolve to make the proposed Waste Local Law then the process required under section 3.12(5) and (6) of the Act needs to be carried out. Section 3.12(5) requires that the local law be published in the *Government Gazette* and a copy be provided to the Minister for Local Government and the Minister for Environment. Section 3.12(6) requires that after the local law has been published in the *Government Gazette*, the City must give local public notice stating the title of the local law, summarising the purpose and effect of the local law and advising that copies of the local law may be inspected or obtained from the City offices.

Section 64(2) of the WARR Act specifies specific matters which can be dealt with under a local law. The proposed Waste Local Law is consistent with the relevant provisions of the WARR Act.

In accordance with section 3.14 of the Act the local law will come into operation 14 days after publication in the *Government Gazette*

RELEVANT PLANS AND POLICIES

The proposed Waste Local Law is consistent with the City's Refuse Collection Service Policy.

FINANCIAL IMPLICATIONS

Costs associated with the advertising and gazettal of the proposed Waste Local Law will come from the Legal budget. These costs are unlikely to exceed \$2,000 and there are sufficient funds in the legal budget for this purpose. Making and implementing the proposed Waste Local Law should not have any other financial implications for the City.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The proposal aligns with the *City of Busselton Strategic Community Plan 2013* as follows:

6.2 *Governance systems that deliver responsible, ethical and accountable decision making.*

RISK ASSESSMENT

The proposed Waste Local Law does not involve any significant changes from current practices and is therefore considered low risk with no risks identified as “medium” or greater.

CONSULTATION

The proposed Waste Local Law was advertised publicly in both local and state-wide newspapers for a minimum of 6 weeks in accordance with the requirements under section 3.12(3)(a) of the Act. No public submissions have been received, other than from WALGA, to be discussed under OFFICER COMMENT below.

In accordance with section 3.12(3)(b) of the Act a copy of the proposed local law was forwarded for consideration and comment to the Minister for Local Government and Communities and the Minister for Environment and Heritage (who is responsible for the administration of the WARR Act). The DLGC and the DER responded on behalf of their respective Ministers and suggested various minor changes to the proposed Waste Local Law. Most of these changes, which are dealt with in more detail in the OFFICER COMMENT section of this report, have been implemented.

The proposed Waste Local Law intends to replace sections of the *City's Shire of Busselton Health Local Laws 1997* which relate to waste. The proposed Waste Local Law was therefore also given to the Minister for Health for consideration and comment. The Minister advised that consent from the Executive Director, Public Health was not required for the making of the local law, and that any relevant comment would be provided by the DER and the DLGC.

OFFICER COMMENT

Department of Local Government and Communities

The DLGC recommended certain minor drafting changes as well as changing the wording of certain clauses of the proposed Waste Local Law. These changes, which are aimed at avoiding potential ambiguity of certain terms and expressions used in the local law and ensuring consistency with current parliamentary requirements, have subsequently been made to the original version of the proposed Waste Local Law. They include the following:

- Under Part 2 of the original version of the proposed Waste Local Law, the area within the City's district where waste collection is undertaken was defined by reference to the City's *Refuse Collection Service Policy*. Although the City already has the power, under the WARR Act itself, to decide on this aspect of the application of the Waste Local Law, concerns were raised that, as a policy can be amended by Council at any time, without any form of public notification or parliamentary scrutiny, it could be considered as an inappropriate sub-delegation of legislative power. For this reason the definition of “*prescribed area*” (which referenced the *Refuse Collection Service Policy*) was deleted. Subsequent correspondence with the DER also provided input on this issue, as discussed below.
- Subclause 2.2(1) of the original version of the local law, which required from an owner or occupier of residential premises to take reasonable steps to ensure that a sufficient number of general waste receptacles are provided and used for those premises and kept in good condition, was considered to be a duplication of subclause 2.8(c) and has therefore been deleted. This also required renumbering of the subclauses within clause 2.2.
- Current subclause 2.8(c) has been amended to require from an owner or occupier of a premises to take reasonable steps to ensure that each receptacle is kept in good condition and repair.
- For clarification purposes, current clause 2.10 has been amended to distinguish ‘*damage or destruction of a receptacle*’ from ‘*interfering with a receptacle*’. It is also stipulated that a person, who is not the owner of a receptacle or the occupier of the premises where a receptacle is kept/used, will commit an offence if he/she interferes with such a receptacle, but waste services

undertaken by the City or its contractors will not constitute “*interference*” with a receptacle for purposes of clause 2.10.

- Other minor drafting and formatting changes have been made, for example referencing the current calendar year in the title of the proposed local law (“2016” instead of “2015”), deleting in Schedule 1 paragraph (i) the words “*non-frangible metal*” and by referencing in Schedule 2 Item 20 the correct clause number (clause 2.11 instead of clause 2.10 which was incorrectly referenced).

Department of Environmental Regulation

Extensive consultation has occurred between the City and DER regarding this local law. Several issues regarding clauses that were contained in the model local law, as well as amendments made to the model by the City, were raised by the DER. This consultation, regarding clauses which were potentially ambiguous or beyond power, resulted in amendments to the local law (or clarification from the City), including the following:

- Following on from comments provided by the DLGC, the City amended the application of Part Two of the local law (regarding local government waste) from the “prescribed area” (being defined by reference to a policy), to a “collection area” (being defined by where the local government chooses to undertake waste collection services in accordance with its powers pursuant to the WARR Act). The DER found this second definition circular, and requested its deletion, which was accepted. This change does not impact on the effect of the local law.
- The DER raised issues regarding current clause 2.7(c) which provides for the City, at the City’s option, to either provide (and maintain) waste receptacles or require from owners/occupiers to provide and maintain their own receptacles. Currently the City provides (and retains ownership) of the receptacles used for recyclable waste (“yellow bins”), but require from owners/occupiers to provide and maintain at their cost receptacles for general household waste (“green bins”). As most other local governments have a different arrangement (the local government providing and maintaining all residential receptacles) the City had to make minor changes to the wording of this clause of the model local law. These changes have been ultimately accepted by the DER..
- Further amendments were made to current clause 2.9 and sought to distinguish between “authorised” and “unauthorised” interference, tampering and removal of receptacles and prohibit acts considered to be “unauthorised”.
- Clause 3.4 (concerning depositing waste) contained in the original version of the local law presented to Council (but not in the model), was considered by DER likely to be beyond power. The City considered it had sufficient alternate means of addressing issues that would otherwise be dealt with by this clause and accordingly deleted the clause.

Consent of the Director General of the DER in relation to the local law has been obtained, as per DER’s requirements.

WALGA

WALGA provided comment to the City for consideration based on their experience in preparing the WALGA model local law. The issues related to the “prescribed area” and local government policy (original clause 2.1), and the requirement to provide and maintain waste receptacles (original clause 2.2(1)). Both of these issues were dealt with under DLGC and DER comments.

In terms of Section 3.13 of the Act if, during the procedure for making a proposed local law, Council decides to make a local law that would be significantly different to what it first proposed, the law making process has to be recommenced. It is considered that the abovementioned modifications to the original version of the proposed Waste Local Law will add clarity to the text of the proposed local law, ensure consistency with relevant legislation and avoid any concerns which parliament may have had with the wording of the original version of the proposed local law. These modifications do not change the purpose, intent and effect of the original version of the proposed Waste Local Law.

Therefore the proposed Waste Local Law is not considered to be significantly different from what was first proposed.

CONCLUSION

The proposed Waste Local Law will provide the City with a modern approach to regulation and control of waste and waste services within then City's district. The proposed local law is consistent with the heads of power under the WARR Act and the relevant WALGA model local law which has been developed in collaboration with the WA Waste Authority and the Department of Local Government and Communities. The proposed local law will also replace certain sections of the City's Health Local Law which is considered to be outdated. For these reasons it is recommended that Council adopt the proposed Waste Local Law.

OPTIONS

Council has the following options as alternatives to the OFFICER RECOMMENDATION:

Option 1

Not to proceed with the making of a new waste local law and rely on the provisions under the WARR Act and the City's Health Local Law to regulate waste and waste services within the City's district. This option is not recommended as the WARR Act, which has come into operation since the City's Health Local Law was adopted, severely restricts Council's ability to review and amend outdated waste provisions in the City's Health Local Law.

Option 2

Council could choose to vary the provisions of the proposed new Waste Local Law in any number of ways. This is however the form of local law recommended for the reasons stated in this and the previous report. Any substantive changes could also cause the proposed new local law to be considered significantly different from what was first proposed, which will require recommencement of the law making process.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should Council resolve to make the proposed Waste Local Law it will need to be gazetted and will come into operation 14 days after publication. The timeframe for completion of the gazettal process is approximately thirty days from the date of the Council resolution.

Council Decision and Officer Recommendation

C1612/160

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Resolves to make the *City of Busselton Waste Local Law 2016* in accordance with section 3.12(4) of the *Local Government Act 1995*.
2. Authorises the Chief Executive Officer to carry out the processes required to make the *City of Busselton Waste Local Law 2016* in accordance with section 3.12(5) and section 3.12(6) of the *Local Government Act 1995*.

CARRIED 9/0

**BY ABSOLUTE MAJORITY
EN BLOC**

13.1 2016/2017 COMMUNITY BIDS ROUND 2 ALLOCATIONS

SUBJECT INDEX:	Donations, Contributions and Subsidies
STRATEGIC OBJECTIVE:	A City where the community has access to quality cultural, recreation, leisure facilities and services.
BUSINESS UNIT:	Community Services
ACTIVITY UNIT:	Community Services
REPORTING OFFICER:	Community Development Officer - Naomi Davey
AUTHORISING OFFICER:	Director, Community and Commercial Services - Naomi Searle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

DISCLOSURE OF INTEREST	
Date	14 December 2016
Meeting	Council
Name/Position	Paul Needham, Director, Planning and Development Services
Item No./Subject	13.1 - 2016/2017 Community Bids Round 2 Allocations
Type of Interest	Impartiality Interest
Nature of Interest	I, Paul Needham, Director Planning & Development Services, declare an impartiality interest in Item 13.1. I am a member of the Board, and Treasurer, of South West Counselling Incorporated, which is an applicant for funding pursuant to the Community Bids Programme. The application in question is subject of the report and recommendation. I have had no involvement whatsoever in the assessment of the application.

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 9 November 2016, and seeks formal endorsement regarding the community bid submissions to be funded in the second round of the 2016/17 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 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.*

In September 2014, City officers prepared and distributed a 'Community Bids Guidelines' to interested parties which contained general guidelines for applications and eligibility. The guidelines reflected direction provided by Council during previous Community Bids rounds.

The guidelines indicate eligibility for Community Bids as follows:

- Not for profit groups and organisations located in the City of Busselton, except circumstances where a proposed project, program or activity will take place in the City or have significant regional benefit;
- Project/ program delivery within the 2016/17 financial year;
- One application per category, per organisation;
- Completion of the application form provided;
- ABN and Incorporation required.

The guidelines also provided the following as considerations for funding:

Supported

- Programs/ projects providing benefit to the broader community;
- One off projects or activities;
- Equipment grants for durable equipment only;
- One-off program related operational expenses.

Not supported

- On-going operational expenses;
- Consumable equipment;
- Retrospective funding/ projects already commenced;
- Projects that are an event (separately funded);
- Training;
- Facility maintenance;
- Programs, projects and services considered the responsibility of other government departments, individuals and private for-profit groups;
- Activities that do not relate to the Key Result Areas in the City's Strategic Community Plan;
- Proposals not complementary to the services and functions of local government.

Applications for the second round of Community Bids funding for the 2016/17 financial year opened in October 2016 and a total of nine (9) applications were received requesting \$30,750.

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 31 October 2016. The outcomes of the workshop form the basis of the Officer recommendations in this report.

STATUTORY ENVIRONMENT

N/A

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 Council endorsed Social Plan 2015-2025

FINANCIAL IMPLICATIONS

Based on the current funding model, the total funds available for allocation in the second round allocation of the Community Bids program for 2016/17 is \$28,804 for minor projects. The City's 2016/17 adopted budget includes these funding contributions. Consequently entering into funding agreements with these organisations will not have a financial implication on the City's 2016/17 budget.

Long-term Financial Plan Implications

The ongoing allocation of funds towards the Community Bids Program has been incorporated into the Long-Term Financial Plan.

STRATEGIC COMMUNITY OBJECTIVES

Well Planned, Vibrant and Active Places:

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

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>
Applicants do not obtain relevant and adequate insurances such as Public Liability exposing the City and/or Applicant to litigation.	Ensure conditions of funding are clear and copies of relevant insurances are obtained.	Moderate	Rare	Medium

CONSULTATION

The Community Bids Funding Program was advertised in the Council for the Community page on 14, 21 and 28 September and 5 October 2016. Recognised Community Groups and Sporting Clubs in

the City of Busselton were also notified of the Community Bids process via email and a hard copy of the Community Bids funding application form and guidelines were available at the City of Busselton Customer Information Centre.

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 9 November 2016, where the following recommendations were made:

	APPLICANT	PROJECT TITLE	RECOMMENDATION	SPECIFIC CONDITIONS OF FUNDING
1	South West Counselling Inc	Permanent Building Access Ramps	\$3470	
2	Smiths Beach Surf Lifesaving Club	SBSLC Radios	\$2980	
3	Vasse Cricket Club	Newtown Oval Cricket Facilities	\$3885	Funding for cricket nets only, subject to an agreement to relocate the nets to the Vasse Sporting Complex when the complex is available for cricket competition
4	Windsurfing WA auspicing the South West Junior Windsurf School	Safety boat and windsurfing boards	\$4,408	
5	GMAS Swimming Club	Equipment Cage	\$1,425	
6	Busselton Croquet Club	Equipment Upgrade and replacements	\$1,709	Funding for Fridge, microwave, urn and fan only
7	Busselton Water Polo Association	Busselton Water Polo Goals	\$3,909	Funding subject to: equipment being available to other users by agreement with the Busselton Water Polo Club

8	Choose Respect Busselton	Purchase of merchandise such as t-shirts and wristbands	Nil	
9	West's Hockey Club	Match shirts	Nil	
		Total	\$21,786	

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 (2013).

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

OPTIONS

Council may wish to consider differing 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 2016/17 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

C1612/161 Moved Councillor J McCallum, seconded Councillor P Carter

That the Council:

1. Endorses the provision of funding for Round one of the 2016/17 Community Bids funding program as outlined in the table below, subject to the specific conditions as stated:

	APPLICANT	PROJECT TITLE	RECOMMENDATION	SPECIFIC CONDITIONS OF FUNDING
1	South West Counselling Inc	Permanent Building Access Ramps	\$3470	
2	Smiths Beach Surf Lifesaving Club	SBSLC Radios	\$2980	
3	Vasse Cricket Club	Newtown Oval Cricket Facilities	\$3885	Funding for cricket nets only, subject to an agreement to relocate the nets to the Vasse Sporting Complex when the complex is available for cricket competition

4	Windsurfing WA auspicing the South West Junior Windsurf School	Safety boat and windsurfing boards	\$4,408	
5	GMAS Swimming Club	Equipment Cage	\$1,425	
6	Busselton Croquet Club	Equipment Upgrade and replacements	\$1,709	Funding for Fridge, microwave, urn and fan only
7	Busselton Water Polo Association	Busselton Water Polo Goals	\$3,909	Funding subject to: equipment being available to other users by agreement with the Busselton Water Polo Club
8	Choose Respect Busselton	Purchase of merchandise such as t-shirts and wristbands	Nil	
9	West's Hockey Club	Match shirts	Nil	
		Total	\$21,786	

- Endorses the funding allocation of \$7,019 from the Round 2 2016/17 Community Bids towards the Youth and Community Activities Building for youth specific equipment.

CARRIED 9/0

11.3 DA16/0503 - DEVELOPMENT APPLICATION FOR A MARKET - LOT 400 (NO.24) DUNN BAY ROAD, DUNSBOROUGH

SUBJECT INDEX:	Development /Planning Applications
STRATEGIC OBJECTIVE:	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
BUSINESS UNIT:	Development Services and Policy
ACTIVITY UNIT:	Statutory Planning
REPORTING OFFICER:	Senior Development Planner - Andrew Watts
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Location Plan⇒ Attachment B Development Plans⇒ Attachment C Schedule of Submissions⇒

PRÉCIS

The Council is asked to consider an application seeking approval for a Market on Lot 400 (No.24) Dunn Bay Road, Dunsborough (“the site”). This follows the City’s earlier deferral of consideration at its 24 August 2016 meeting, with a request for the applicant to provide additional information prior to the application being determined. That additional information has now been received.

The planning proposal has been placed before Council due to the volume of public submissions received raising concern with the development and, more particularly, the nature of the issues that require consideration in determining the application. The key matters for consideration are amenity and design.

It is considered that the proposal is consistent with the relevant planning framework and is recommended for approval subject to conditions including a temporary approval timeframe of five years.

BACKGROUND

Lot 400 (No.24) Dunn Bay Road is bound by Dunn Bay Road to the north-west, Seymour Boulevard to the south-west, Chieftain Crescent to the south-east and Lot 200 Dunn Bay Road (Bay Village Resort) to the north-east. A location plan is provided in **Attachment A**.

Under Local Planning Scheme 21 the site is zoned ‘Special Purposes – Mixed Use’ and is subject to Special Provision 49. Special Provision 49 in respect to commercial uses states that:

“Land-use permissibility shall be the same as for the ‘Business’ Zone...”

The proposed development takes the form of an open sided roof structure, with market ‘stalls’ operating out of a series of converted sea containers. The proposal is for twenty five shipping containers to be used as a market with eleven sea containers proposed to be used as ‘market stalls’ for artists (or similar) and twelve sea containers to be used for food ‘kiosk stalls’, with car parking, landscaping and open-sided roofed structure over much of the site. The proposed building has a maximum total height of approximately 5.50 metres, which is consistent with the Scheme height limit. Development plans are provided in **Attachment B**.

General hours of operation have been indicated as market stalls Friday and Saturday 4pm-10pm, with potential additional trading on school holidays, public holidays, special events and Sunday mornings. Proposed operating hours for food kiosks are Monday – Sunday 7am–10pm.

Under the Scheme this fits within the use class of 'Market' which is a 'D' use (i.e. discretionary, with or without consultation, depending on whether consultation is considered to be appropriate given the particular circumstances) in the Business Zone. In this case, it was considered that consultation should occur before the application is determined.

The proposal was previously presented to Council at its meeting of 24 August 2016 where it was resolved by Council that decision on this matter be deferred until the applicant has provided additional information as specified by Council including: a noise management plan to demonstrate that acceptable noise levels can be maintained at the boundaries of neighbouring residential properties; and details for buildings facing Dunn Bay Road and Seymour Boulevard and to ensure the development is compatible with its setting, represents a high architectural standard and will provide for activation of Dunn Bay Road and Seymour Boulevard street frontages and bin storage details.

STATUTORY ENVIRONMENT

The key elements of the statutory environment that relate to the proposal are set out in Local Planning Scheme No.21.

The site is zoned 'Special Purpose-Mixed Use'. Special Provision 49 also relates to the site -

No.	PARTICULARS OF LAND	ZONE	SPECIAL PROVISIONS
SP49	Lot 202 Dunn Bay Road, Dunsborough	Special Purpose – Mixed Use	<p>1. Land-use permissibility shall be the same as for the 'Business' Zone, other than as varied by point 2 below.</p> <p>2. The Council may approve the use of up to, but no more than, 75% of any future accommodation units developed on-site with no restriction of length of stay. The remainder of the accommodation units shall be subject to length of stay restrictions limiting occupancy to no more than 3 months in any 12 month period.</p> <p>For the purpose of this provision 'accommodation unit' means any tourist accommodation unit, grouped dwelling unit, multiple dwelling unit or other unit used for overnight accommodation or as a place of residence.</p>

As Special Provision 49 states that "land permissibility shall be the same as for the 'Business' Zone, the objectives and policies of the 'Business' Zone effectively apply. The objectives of that Zone are as follows -

- (a) To provide for conveniently-located shopping and other service associated commercial activities to service each centre's catchment area, as determined by the relevant planning framework.
- (b) To maintain and reinforce the viability of existing commercial centres, including those supporting adjoining agricultural areas.

Policies of the 'Business' zone relevant to this application are -

- (a) To encourage the provision of retail and other business services and associated development to add to the strength and diversity of existing centres.

- (b) As far as is practical and appropriate to allow market forces to influence the location of retail and office uses within existing centres with minimal intervention by the local government.
- (c) To allow residential development only where it is a component of commercial development.
- (d) To utilise and strengthen the existing town centres of Busselton and Dunsborough as the primary retail and commercial centres of the City by active discouragement of any new “out of town” shopping centres other than neighbourhood shopping centres, convenience stores and the like.
- (e) The consolidation of land to assemble larger land parcels suitable for integrated development or redevelopment is encouraged and supported. Fragmentation of land, unless it is part of an overall plan for integrated development or redevelopment, will generally not be supported.

In considering the application, the Council needs to consider the ‘Matters to be considered’ set out in clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, particularly relevant considerations in relation to this application are the following –

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (g) *any local planning policy for the Scheme area;*
- (h) *any structure plan, activity centre plan or local development plan that relates to the development;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following –*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (u) *the availability and adequacy for the development of the following –*
 - (i) *public transport services;*
 - (ii) *public utility services;*
 - (iii) *storage, management and collection of waste;*
 - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
 - (v) *access by older people and people with disability;*
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*

(y) any submissions received on the application;

(zb) any other planning consideration the local government considers appropriate.

RELEVANT PLANS AND POLICIES

Assessment of the parking needs for the development has been made based on the *City's Local Planning Policy 8A: Carparking Provisions*. The applicable parking rate for Business Zoned properties in the Busselton and Dunsborough CBD's is 4 car parking bays per 100m² Net Lettable Area (NLA). The NLA does not include service areas, toilets, areas set aside as public space or general thoroughfare areas that are not for the exclusive use of occupiers of a building. The total NLA has been determined to be approximately 300m², which generates the need for 12 bays. The development plan indicates 11 bays onsite, including 1 disabled bay, resulting in a shortfall of 1 on-site parking bay.

The Car Parking Provisions Policy and Scheme 21 include provisions for the option of a payment of cash-in-lieu of the shortfall of parking bays where considered appropriate by the City

The applicant is seeking that the cash-in-lieu be accepted by Council. The City's current cash-in-lieu payment figure is \$10,278.42 per bay.

The City has recently completed Dunsborough townscape upgrade works which have increased parking capacity along Seymour Boulevard.

FINANCIAL IMPLICATIONS

This application may result in financial implications in respect to the payment of cash-in-lieu of required parking bays.

Long-term financial plan implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The recommendation of this report reflects Community Objectives 2.2 and 3.1 of the Strategic Community Plan 2013, which are –

- 2.2 A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
- 3.1 A strong, innovative and diversified economy that attracts people to live, work, invest and visit.

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. Risks are only identified where the individual risk, once controls are identified, is medium or greater. No such risks were identified.

CONSULTATION

The initial proposal was referred to adjoining landowners of the proposed development site and was also advertised in the local newspaper for a period of 14 days.

A total of 24 submissions have been received from the general public. Issues raised highlight concerns with the proposal for the following reasons -

- Visual appearance of the proposal.
- Detrimental impact of the proposed market on existing businesses.
- Inadequate provision of parking and that the proposal will impact on availability of existing parking in the town centre.
- The proposal is not keeping with the atmosphere and character of Dunsborough
- Concern with impact of the proposal on neighboring residential properties on Chieftain Crescent.
- The potential noise resulting from the proposed development.

Submissions received in support of the proposed development raise the following points -

- The proposed markets will utilise local products and produce.
- Economic opportunities for local producers, suppliers and artisans will be provided.
- The Dunsborough town centre will benefit from further activation.
- Opportunities for varying forms of entertainment will be available.
- The proposed development will be family friendly.

The points raised in the submissions are discussed further below and specific consideration of each of the submissions is given at **Attachment C**.

OFFICER COMMENT

The fundamental questions around land-use and car parking relating to this site and development of a market or similar were addressed and considered when the Council determined an earlier application relating to the site (which was for a conventional structure/building). As that application was approved, there is not seen to be any need to re-assess those considerations in any detail. It is, however, considered clear that a development that consists of a market, including food premises, is fundamentally appropriate on this site.

Through the provision of additional information as requested by Council when consideration of this current application was deferred and through some modifications made to the plans by the applicant, previous concerns regarding the form and layout of the development proposed and noise impacts on neighbouring land have been addressed to an extent such that City officers are now prepared to recommend approval.

The broad concept of a market development, that provides an opportunity for small-scale and start-up enterprises to sell from a site in the Dunsborough Town Centre, and provide some additional vibrancy, especially in the evening, is seen as very desirable, however there have been some concerns raised about the sea container form proposed, on the site in question.

In response to the Council deferring consideration of the proposal and requesting additional information be provided by the applicant prior to being prepared to make a determination on the application, the applicant has provided revised plans showing a reconfigured layout which is more enclosed on the Dunn Bay Road and Chieftain Crescent ends, provides for activation of the Dunn Bay Road and much of the Seymour Boulevard interfaces by kiosks trading toward the street and inclusion of extensive alfresco areas adjacent to the streets, provision of indicative details of the external finishes of containers fronting Dunn Bay Road and Seymour Boulevard and a lowering of the height of the dome roof.

The applicant has also provided a noise impact assessment report with recommendations included to indicate how, with the revised plans, the proposed development is able to comply with the requirements of the *Environmental Protection (Noise) Regulations 1997*. Ongoing implementation of

the recommendations of the noise impact assessment report forms part of the conditions of the officer's recommendation.

The revised plans show 'sea container concepts' to get an idea of the intended treatment possibilities for how the externally exposed parts of the development proposal would provide for a suitable aesthetic appearance from Dunn Bay Road and Seymour Boulevard. A condition is, though, recommended that, prior to commencement of the development, details are submitted and approved of for the final finished appearance of each of the buildings facing (i.e. those that will trade into areas visible from) Dunn Bay Road and Seymour Boulevard; and of all of the externally visible aspects of the development. This is to ensure that the development is compatible with the amenity of its setting.

Similarly to the above, to ensure that development will provide for activation of Dunn Bay Road and Seymour Boulevard it is recommended that those buildings with openings facing onto Dunn Bay Road or Seymour Boulevard must at all times they are open, trade towards the street.

City officers are of the view that the proposed development is not designed to be a long term development. This view has been formed because the development is of a relatively 'pop-up' nature, consisting of relatively low capital investment structures (sea containers and fabric roof) with ongoing maintenance requirements to maintain suitable amenity and aesthetics. This type of development is expected to have one-third to a half of the lifespan of development using normal construction. For these reasons officers do not believe that it is appropriate to provide a permanent approval and instead recommend a time-limited approval. After considering issues such as likely needs for a return on investment, officers recommend a temporary/time-limited approval of ten years.

CONCLUSION

It is recommended that the Council grant a time limited approval to the development, and subject to a range of detailed conditions.

OPTIONS

The Council could:

1. Refuse the proposal, setting out reasons for doing so.
2. Apply additional or different conditions.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The proponent will be advised of the Council decision within two weeks of the Council meeting.

OFFICER RECOMMENDATION

That the Council resolve:

1. That application DA16/0503 submitted for development at Lot 400 (No.24) Dunn Bay Road, Dunsborough is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.
2. That a time-limited Development Approval is issued for the proposal referred to in 1. above subject to the following conditions:

General Conditions:

1. All development is to be in accordance with the approved Development Plan (attached), including any amendments placed thereon by the City and except as may be modified by the following conditions.
2. The development hereby approved is permitted for a period of ten years from the date of this Decision Notice.
3. The placement of all sea containers, roof structure and external finish of sea containers with a street front presentation is to be completed in one stage.
4. Construction of the development hereby approved shall be completed within two years from the date of the first building permit issued pursuant to this approval.

Prior to Commencement of Any Works Conditions:

5. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing:
 - 5.1 A Construction Management Plan.
 - 5.2 Details for the final finished appearance of each of the buildings facing (i.e. those that will trade into areas visible from) Dunn Bay Road and Seymour Boulevard, and of all of the externally visible aspects of the development, to ensure the development is compatible with the amenity of its setting, and in this context that it represents a high architectural standard, the details should include:
 - external cladding of the buildings (sea containers) - the materials, colours, textures and projections to be used – verandas may be provided extending over the footpath road verge;
 - activation of Dunn Bay Road and Seymour Boulevard frontages through the use of facing windows, doorways, lighting, and artwork;
 - external signage – location and dimensions.
 - 5.3 A Drainage Management Plan setting out details of stormwater and surface water drainage works. The Plan shall include but not be limited to the following:
 - 5.1.1 Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 40m² of impervious area;
 - 5.1.2 Kerbing or grade changes for paved areas;
 - 5.1.3 installing and maintaining stormwater collection systems, such as bio-retention gardens and soak wells to intercept roof and general runoff;
 - 5.1.4 establishing soaks that collect and permit infiltration of stormwater.
 - 5.4 Details of the finished treatment of all hard surfaced areas to be used for the construction of the parking and manoeuvring areas and pedestrian footpaths as shown on the Approved Development Plans;
 - 5.5 Details of the bicycle parking facilities. The details shall include, as a minimum, the location, design and materials to be used in their construction.
 - 5.6 Details of bin storage and collection arrangements, including confirmation that bin storage areas can and will be screened from public view at all times, other than when refuse collection is taking place. The Bin Storage Area is to be not to be less than 10m² in area or 1m² per bin (whichever is greater) with a minimum internal dimension of 3.5m.

- 5.7 Details of bin wash facilities to be provided.
 - 5.8 A Landscape Plan providing details of onsite landscaping works.
 - 5.9 A plan detailing, footpaths and other hard landscaping elements, to be undertaken on street verges adjacent the site.
6. The development hereby approved, or any works required to implement the development, shall not commence until the following contributions have been paid to the City:
 - 6.1 A contribution of \$10,278.42 to the City associated in lieu of a shortfall of one on-site parking bay.

Prior to Occupation/Use of the Development Conditions:

7. The development hereby approved shall not be occupied or used until all plans, details of works required by Conditions(s) 1, 3 and 5 have been implemented and the following conditions have been complied with:
 - 7.1 Landscaping and reticulation shall be implemented in accordance with the approved Landscape Plan and shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.
 - 7.2 A minimum number of 11 car parking bays (including 1 disabled bay) shall be provided on site. The parking area(s), driveway(s) and point(s) of ingress and egress [including crossover(s)] shall be designed, constructed, sealed, drained and marked.
 - 7.3 The development being connected to a reticulated water supply.
 - 7.4 The development being connected to reticulated sewerage.

On-going Conditions:

8. The works undertaken to satisfy Condition(s) 1, 5.1-5.8 and 7 shall be subsequently maintained for the life of the development and subject to the following condition:
 - 8.1 Recommendations in the approved Noise Impact Assessment shall be implemented in accordance with the approval details.
9. Buildings with openings facing onto Dunn Bay Road or Seymour Boulevard must at all times they are open, trade towards the street.
10. No more than one vendor is permitted to sell alcohol.
11. Permitted opening hours are Monday – Sunday 7am -10pm.
12. All buildings and structures are to be removed from the site, by the owner or his successor, within 6 months of the expiry of the operation and the condition of the land made good.

Note: Officers provided Councillors with an Amended Recommendation, that would reword condition 5.2, renumber conditions 5.3, include an additional condition in 5.4 and reword condition 10.
Councillor Bennett proposed an Alternative Motion for Council consideration that would defer consideration of DA16/0503.

Council Decision and Alternative Motion**C1612/162** Moved Councillor R Bennett, seconded Councillor J McCallum

That consideration of DA16/0503 be deferred until we have a clearer idea of how noise will be cushioned so it does not have a detrimental effect on the resort next door.

CARRIED 5/4

Voting:

For the motion: Councillor R Bennett, Mayor G Henley, Councillor J McCallum, Councillor C Tarbotton and Councillor R Reekie.

Against the motion: Councillor T Best, Councillor G Bleechmore, Councillor P Carter and Councillor R Paine.

Reasons for Change to Officers Recommendation:

I believe there is too big a difference in the findings of the two companies providing noise assessment advice to make an informed and quick decision.

Note: As Councillor Bennett's Alternative Motion was carried, the Alternative Officer Recommendation was not presented for Council Consideration.

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

17. CONFIDENTIAL REPORTS

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

RECOMMENDATION

That the meeting is closed to members of the public to discuss the following items which are confidential for the reasons as shown.

17.1 LAND TRANSACTION: EXTENSION OF BOARD APPROVAL TO PROCEED WITH THE PURCHASE OF LOTS 121 AND 122 KENT STREET AND LOT 309 PRINCE STREET

This report contains information of a confidential nature in accordance with Section 5.23(2)(e)(ii) of the Local Government Act 1995, as it contains information relating to a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government

17.1 LAND TRANSACTION: EXTENSION OF BOARD APPROVAL TO PROCEED WITH THE PURCHASE OF LOTS 121 AND 122 KENT STREET AND LOT 309 PRINCE STREET

SUBJECT INDEX:	Townscape/Busselton
STRATEGIC OBJECTIVE:	Growth is managed sustainably and our environment is protected and enhanced as we develop.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Legal Services Coordinator - Cobus Botha
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Busselton Central Shopping Centre - Report to Council 9 March 2016

This item is confidential in accordance with section 5.23(2) (e)(ii) of the Local Government Act 1995, as it contains information relating to a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government.

Council Decision and Officer Recommendation**C1612/163**

Moved Councillor J McCallum, seconded Councillor C Tarbotton

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council resolves to:

1. Extend the deadline by which the board of the Trust Company (Australia) Limited has to grant approval to proceed with acquisition of Lots 121 and 122 Kent Street and Lot 309 Prince Street until 17 November 2017.
2. Authorise the Chief Executive Officer to negotiate the further contract variations (as outlined in this report) and vary the contract of sale between the City and Trust Company (Australia) Limited accordingly.

CARRIED 9/0**BY ABSOLUTE MAJORITY**

At this time the Mayor requested Councillors indicate the acceptance of a late items 9.6, 10.6 and 10.7 for consideration.

The Council indicated their acceptance with a show of hands.

9.6 Minutes of the Finance Committee Meeting held 8 December 2016

Council Decision

C1612/164 Moved Councillor J McCallum, seconded Councillor T Best

- 1) That the minutes of the Finance Committee Meeting held 8 December 2016 be received.
- 2) That the Council notes the outcomes from the Finance Committee Meeting held 8 December 2016 being:
 - a) The Finance Committee Information Bulletin - October 2016 item is noted.
 - b) The List of Payments Made - October 2016 item is presented for Council consideration at item 10.6 of this agenda.
 - c) The Financial Activity Statements - Period Ending 31 October 2016 item is presented for Council consideration at item 10.7 of this agenda.
 - d) The Budget Planning and Reporting item is presented for Council consideration at item 10.8 of this agenda.

CARRIED 9/0

EN BLOC

10.6 Finance Committee - 8/12/2016 - LIST OF PAYMENTS MADE - OCTOBER 2016

SUBJECT INDEX:	Financial Operations
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Financial Services
ACTIVITY UNIT:	Finance
REPORTING OFFICER:	Strategic Financial Plan Accountant - Stuart Wells
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A List of Payments - October 2016⇒

This item was considered by the Finance Committee at its meeting on 8 December 2016, 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 October 2016, 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 6.3 – 'An organisation that is managed effectively and achieves positive outcomes for the community'.

RISK ASSESSMENT

NA.

CONSULTATION

NA.

OFFICER COMMENT

NA.

CONCLUSION

NA.

OPTIONS

NA.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

NA.

Council Decision /Committee Recommendation and Officer Recommendation

C1612/165 Moved Councillor J McCallum, seconded Councillor T Best

That the Council notes payment of voucher numbers M113521 – M113615, EF048675 – EF049139, T007288 – T007291, and DD002894 – DD002921; together totaling \$7,555,507.44.

CARRIED 9/0

EN BLOC

10.7 Finance Committee - 8/12/2016 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 OCTOBER 2016

SUBJECT INDEX:	Budget Planning and Reporting
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Financial Services
ACTIVITY UNIT:	Financial Services
REPORTING OFFICER:	Strategic Financial Plan Accountant - Stuart Wells
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Financial Activity Statements - October 2016⇒ Attachment B Investment Report - October 2016⇒

This item was considered by the Finance Committee at its meeting on 8 December 2016, 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 October 2016.

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

As above.

STRATEGIC COMMUNITY OBJECTIVES

This matter principally aligns with Key Goal Area 6 – ‘Open and Collaborative Leadership’ and more specifically Community Objective 6.3 - ‘An organisation that is managed effectively and achieves positive outcomes for the community’. 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 OCTOBER 2016

Operating Activity

- Operating Revenue

As at 31 October 2016, there is a variance of -0.62% (-\$350K) in total operating revenue, with the following categories exceeding the 10% material variance threshold:

Description	Variance %	Variance \$000's
Operating Grants, Subsidies and Contributions	+69%	+\$666
Other Revenue	+41%	+\$51
Interest Earnings	+45%	+\$475
Non-Operating Grants Subsidies and Contributions	-43%	-\$1,470
Profit on Asset Disposals	+90%	+\$6

Operating Grants, Subsidies and Contribution (+\$666K)

- BJECA contributions are ahead of year to date budget by +\$367k. A half yearly Busselton Jetty (BJECA) contribution was recorded in October, whilst the budget has the first amount being received in December 2016. This variance is timing in nature only and will correct in December.
- Fire prevention DFES receipts are ahead of budget by +\$154k. +\$70k of this total is a permanent difference caused by a refund from DFES for 2015/16 over expenditure incurred by the City of Busselton. This amount is included in a separate budget amendment report being submitted to Council. +\$65k is due to a timing difference relating to early receipt of 2016/17 funds in 2015/16. This will correct in June 2017. The remaining \$19k is a timing adjustment relating to quarterly contributions with two quarterly payments having been received against a budget of only one. The will correct in December month end.
- Airport Operations is ahead of year to date budget by +\$45k. This is a timing variance and will correct in December.
- Meelup Regional Park is ahead of budget by +\$27k. This is a permanent difference where 2015/16 funds received in 2016/17 from Coastwest will incur offsetting expenditure. This variance is subject to a separate budget amendment report being submitted to Council.
- Environmental Implement Management Plans is ahead of budget by +\$19k. +\$14k of this variance is a permanent difference where 2015/16 funds were received in 2016/17 from South West catchment council and will result in a corresponding increase in expenditure. This variance is subject to a separate budget amendment report being prepared for Council. The remaining +\$5k difference is timing related due to the total budget being divided by twelve months and

actual receipts not being received in equal monthly amounts. This timing variance will correct itself by June 2017.

- Civic and Administration Centre Construction has recorded revenue of \$19k against a full year budget of nil, resulting in a +\$19k variance for the year. This revenue is a charge to MCG Architects for additional re-engineering costs over and above what was included in the initial tender from BGC for the same, with additional costs expected to be split equally between BGC, MCG Architects and the City of Busselton. The amount is offset by additional costs relating to the construction cost of the Civic and Administration Centre building.
- Operation Services Works is ahead of budget by +\$16k. This is due to workers compensation receipts currently tracking ahead of budget. Usually this is offset by increased salaries and wages as the person on compensation is generally replaced.
- Community Assistance Fund is ahead of budget by +\$15k. This is due to an unbudgeted amount being received from Perron Developments for construction of an acoustic wall associated with Vasse Newtown and will be offset by an equivalent expenditure amount.
- Property and Business Development is ahead of budget by +\$15k. \$20k has been received against a budget of \$5k year to date. This is due to the receipt of monies from Regional Centres Development Fund relating to preparatory work. The adjustment is timing in nature only.
- Railway House is ahead of budget by +\$10k. \$10k has been invoiced to Margaret River/Busselton Tourist Association for Railway House variations requested. This will be offset by a corresponding increase in expenditure, with no impact to municipal funds.
- Miscellaneous Bridge Maintenance receipts are behind budget by -\$55k. This is timing in nature only and will correct by June 30, 2017.

Other Revenue (+\$51K)

- Parking Control is ahead of year to date budget by +11k. Based on current trends it is likely collection of fines will be ahead of budget for the full year.
- Animal Control is favourable against budget by +\$6k. Based on current trends it is likely collection of fines will be ahead of budget for the full year.
- Busselton Transfer Station and Dunsborough Waste Facility are favourable against budget by +\$15k. This is due to sales of scrap and recyclable materials currently trending ahead of budget. Any variance is transferred to waste reserve at the end of the year with no impact to overall municipal surplus/(deficit) position.
- Busselton and Dunsborough Cemetery's currently +\$4k ahead of budget due to sale of memorialisation stock. Unknown as to whether this trend will continue for the year.
- Receipts of unbudgeted long service leave amounting to +\$16k. The amount will be offset by a corresponding expenditure amount at the time the leave is taken, therefore no impact to the overall surplus/(deficit) position.
- Sale of Artworks +\$3k. These amounts result in a liability and expense being paid at a later date to the artist concerned. Therefore timing difference only
- Mayoral breakfast registration fees were +\$1k ahead of budget. Any excess funds resulting from the hosting of the breakfast are donated to charity and subsequently offset by an increase in expenditure.
- Public Relations sale of number plates are +\$2k ahead of budget. Based on the current trend it is likely this will exceed budget for the full year.
- Bush Fire Acts fines and costs are +\$2k ahead of budget. Budget for the full year is \$45k against actual receipts to date of \$2k, so likely only timing in nature.
- Building Services is +\$2k ahead of budget due to sale of building lists to external third parties exceeding budget by the same amount. Based on current trends this will exceed budget for the full year.
- NCC Standpipe is -\$7k behind budget due to sale of water because of a timing difference. The budget assumed monthly receipts however they will be received bi-annually.
- Other Law, Order and Public Safety, local government act fines and costs is trending below budget by -\$5k. Likely to not meet full year budget targets based on actuals to date.

Interest Earnings (+\$475K)

- Interest on municipal funds +\$37k.
- Interest on reserve funds +\$34k.
- Interest on restricted funds +\$416k.
- Late payment interest on rates -\$13k.

Non-Operating Grants, Subsidies and Contributions (-\$1,470K)

- There are a number of items that make up the current year to date variance. All variances are timing related except:
 - Foreshore East Youth Precinct (Skate Park & Adv.Playground). An accrual was raised for a Lotterywest grant in the 2015/16 financial year equal to \$613k. In the 2016/17 financial year only \$480k has been received. This leaves a current budget shortfall of \$133k. The shortfall is subject to ongoing discussions between the City of Busselton and Lotterywest.

Profit on Asset Disposals (+\$6K)

- Sales of the CEO's Toyota Prado +\$12k. It was budgeted the vehicle would be sold at its book value but +\$12k more than budget was received.
- Offset against this is the sale of two items (Massey Ferguson Tractor and Holden Captiva) which are yet to occur amounting to -\$6k. These were expected to be sold in October and the sales have not yet occurred. The adjustments are timing in nature only.

- Operating Expenditure

As at 31 October 2016, there is a variance of +4% (+\$794K) in total operating expenditure, with the following categories exceeding the 10% material variance threshold:

Description	Variance %	Variance \$000's
Materials and Contracts	+27%	+\$1,289
Utilities	+17%	+\$130
Allocations	-52%	-\$378
Loss on Asset Disposals	-100%	-\$47

Materials and Contracts (+\$1,289K)

- By directorate, materials and contracts is showing the following variances at 31 October 2016;
 - Engineering and Works Services +\$559k
 - Community and Commercial Services +\$362k
 - Finance and Corporate Services +\$264K
 - Planning and Development Services +\$19k
 - Executive Services +\$35K
- From a natural account perspective the variances are predominantly attributable to contractors +\$626k, Consultants +\$310k, Information Technology related +\$188k and Fuels, Oils and Grease +\$64k. Of those variances it is only Fuel, Oils and Grease that is likely to result in a permanent difference for the full year at this stage if fuel prices remain stable at current levels.

Utilities (+\$130K)

- The predominant variance for utilities relates to water +\$135k. This variance is a timing variance related to the irregular way in which water invoices are received.

Allocations (-\$378K)

- This activity incorporates numerous internal accounting allocations. The first component is Activity Based Costing (ABC) allocations where allocations are based on actual costs. The second

component is the overhead allocations whereby the monthly charges are based on budget. The -\$404k variance is a timing variance that reflects an under allocation at 30 September. It is expected this will correct by end of the financial year.

Loss on Asset Disposals (-\$47K)

- The loss on asset disposals relates to numerous items of plant and equipment sold in the first four months of the financial year. The loss represents the difference between the book value of the assets and the amounts received in cash for those assets sold. The variance of -\$47k between actual and budget is considered to be timing related at this stage due to no loss on sale being budgeted in the first four months of the year.

Capital Activity

▪ Capital Revenue

As at 31 October 2016, there is a variance of -7% (-\$1,558K) in total capital revenue, with the following categories exceeding the 10% material variance threshold:

Description	Variance %	Variance \$000's
Transfer from Reserves	-23%	-\$2,900
Transfer from Restricted Assets	-16%	-\$1,635
Proceeds from Sale of Assets	-19%	-\$18
Self-Supporting Loans	-24%	-\$5

Transfer from Reserves (-\$2,900K)

- Timing difference relating to use of the Civic and Administration Centre Construction Reserve. Offset by an equivalent amount under capital expenditure. No impact to net current position.

Transfer from Restricted Assets (-\$1,635K)

- Timing difference relating to use of Airport and Foreshore grants -\$10,500k. Offset by an equivalent under expenditure in capital. No impact to net current position.
- Movement of Community and Rec Facilities +\$7,323k, Vasse Diversion Drain +\$383k, Drainage held in Restricted Assets +\$211k, Aged Housing +\$846k from restricted assets into reserves. These movements were budgeted to occur in June 2017 but have occurred in October and are timing in nature only. No impact to net current position.

Proceeds from Sale of Assets (-\$18K)

- Proceeds from sale of assets, includes timing differences of -\$39k and permanent differences of +\$21k. Of the permanent differences, +\$12k relates to additional funds received for sale of Toyota Prado with the remainder being a number of smaller plant items, the sale of which is unbudgeted.

▪ Capital Expenditure

As at 31 October 2016, there is a variance of 41% (+\$20,520K) in total capital expenditure, with the following categories exceeding the 10% material variance threshold:

Description	Variance %	Variance \$000's
Land and Buildings	+41%	+\$3,867
Plant and Equipment	+45%	+\$260
Furniture and Equipment	+49%	+\$135
Infrastructure	+82%	+\$17,377

Transfers to Restricted Assets	-158%	-\$766
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The attachments to this report include detailed listings of the following capital expenditure (project) items, to assist in reviewing specific variances:

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

All capital expenditure variances are considered to be a timing adjustment at this time, with no impact expected against the net current position.

Transfers to Restricted Assets (-\$766K)

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 financial year. The performance in this activity does not have any direct impact on the surplus/deficit position, as whilst recognised as operating revenue upon receipt, 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 favourable financial year to date variance of +\$766k is primarily attributable to the receipt of Cash in Lieu – Parking +\$126k, Bonds and Deposit +\$81k, and receipt of interest in excess of budget attributable to the airport grant +\$416k.

Investment Report

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

As at 31st October 2016, the value of the City's invested funds totalled \$126.3M, increasing from \$125.9M as at 1st October.

During the month of October \$11.0M in term deposit funds matured. All deposits were renegotiated, for an average of 122 days at an average rate of 2.60% (up from 2.56% in September).

Additionally, two term deposits totalling \$36.8M held at the WA Treasury matured. These deposits are entirely Airport Redevelopment funds and must be maintained at the WATC until able to be drawn down under the terms of the contract. As the next milestone should soon be achieved, the funds (plus interest) were reorganised to match the contracted future draw down amounts. Accordingly, \$31m will be available on 30 November and is earning 1.56%, while the remainder will mature on 27 April 2017 and is earning 1.88%.

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) remained steady during the month.

The RBA left official rates on hold during October and November. Future rate movements are unclear at this point in time, however further cuts are not expected at this point in time.

Please refer to Attachment B for further information.

CONCLUSION

As at 31 October 2016, the City's financial performance is considered satisfactory. Whilst current variances exist in some operational areas, these are primarily due to timing differences, and if not timing are not material in nature or are transactions that have no direct impact on the Net Current Position. Trends identified that could lead to permanent differences will continue to be monitored in future periods to ensure corrective action is taken in a timely manner if required.

Whilst acknowledging capital is presently tracking below year to date budget estimates, this is also seen to be attributable to timing differences at this time. There is no indication at this time of any material cost overruns on any capital items in this years budget.

OPTIONS

The Council may determine not to receive the statutory financial activity statement reports.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Reports are received as at the date of the relevant Council meeting

Council Decision / Committee Recommendation and Officer Recommendation

C1612/166 Moved Councillor J McCallum, seconded Councillor T Best

That the Council receives the statutory financial activity statement reports for the period ending 31 October 2016, pursuant to Regulation 34(4) of the Local Government (Financial Management) Regulations.

CARRIED 9/0

EN BLOC

At this time the Mayor requested Councillors indicate the acceptance of a late item 10.8 for consideration.

The Council indicated their acceptance with a show of hands.

10.8 Finance Committee - 8/12/2016 - BUDGET PLANNING AND REPORTING

SUBJECT INDEX:	Budget Planning and Reporting
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Financial Services
REPORTING OFFICER:	Manager Financial Services - Kim Dolzadelli
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Appendix A Schedule of Requested Budget Amendments⇒

This item was considered by the Finance Committee at its meeting on 8 December 2016, the recommendations from which have been included in this report.

PRÉCIS

This report seeks recommendation of the Finance Committee to Council for the approval of budget amendments as detailed in the attached "Appendix A Schedule of Requested Budget Amendments". Adoption of the Officers recommendation will result in an Amended Budgeted Surplus Position of \$70,892.

BACKGROUND

Council adopted its 2016/2017 Municipal Budget on Thursday 21 July 2016.

Since the adoption of the Municipal Budget Council Officers have successfully applied for Grant funding and contributions to enhance the activities and infrastructure opportunities for Council and its Community.

In all 20 grants and contributions at a total value of \$10,828,185.70 have been successfully applied for as follows:

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Busselton Airport	Tourism Western Australia - Perth - TWA1617007	BMRRRA Airline Engagement Working Group - Airline Engagement Consultant	177,100
Busselton Airport	Federal Grant – Community Development Grants Program	Upgrade of Busselton-Margaret River Regional Airport	9,779,765
Community Services	The Good Guys Discount Warehouse Busselton	Sponsorship Package for Battle of the Bands 2017	1,000

Community Services	Government of WA - Deputy Premier of WA, Minister for Police, Road Safety, Training & Workforce Development, Women's Interests & Cabinet	Road Safety Community Grant - Battle of the Bands 2017 - 45-43743	1,000
Community Services	Government of Western Australia - Local Government Community Services, Seniors & Volunteering, Youth	Youth Activities Grants Program - Battle of the Bands 2017 - 57-00204	5,000
Community Services	Government of Western Australia - Local Government Community Services, Seniors & Volunteering, Youth	Country Local Government Fund - Youth Development Scholarship - Senior Customer Information Officer	10,000
Community Services	Government of Western Australia - Local Government Community Services, Seniors & Volunteering, Youth	Country Local Government Fund - Youth Development Traineeship Program	19,610
Cultural Planning	Department of Infrastructure & Regional Development - Stronger Communities Programme - SCP2001230	Railway House Interpretive Display cabinets, lights and research for Ballarat Engine, Timber industry & Rails to Trails network	13,825
Engineering & Works	Keep Australia Beautiful National Assoc Ltd	Public Place Recycling Bin Project - Beverage Container	13,001.70
Geographe Leisure Centre	The Pod Education & Care Services Activity Grant	GLC - Implement Marketing Strategies & Purchase Program Support Software	4,000
Geographe Leisure Centre	Government of Western Australia - Department of Sport & Recreation	Geographe Leisure Centre - Pool Revitalisation Program (CPRP) 2016/17 Funding Round	32,000
Health Department	Shire of Capel	CLAG Funding - EPBC Referral Fee 2016/7780	7,352
Environmental Services	South West Catchment Council	Weed control, feral animal control, installation of interpretive signage and limestone sheeting of a section of dieback infected firebreak track in the south west corner of the Carbunup Reserve	13,500

Environmental Services	Coastwest grant	Implementing dieback management measures along the Meelup coast.	26,540
Ranger Services – Fire Protection	Local Government Grants Scheme - DFES	Vasse Bushfire Brigade 3.4 Urban Tanker	518,200
Ranger Services	Local Government Grants Scheme - DFES	SES vehicle	70,600
Ranger Services – Fire Protection	Local Government Grants Scheme - DFES	Building Improvements Vasse Bushfire Brigade	45,500
Ranger Services – Fire Protection	Local Government Grants Scheme - DFES	Reimbursement ESL Levy Brigades – increased funding from \$160,790 to \$180,000	19,210
Ranger Services – Fire Protection	Local Government Grants Scheme - DFES	Bushfire Brigade Reimbursement Prior Period Adjustments	69,820
Ranger Services	Local Government Grants Scheme - DFES	Busselton Branch SES Reimbursement Prior Period Adjustments	1,162
Total			10,828,185.70

STATUTORY ENVIRONMENT

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

RELEVANT PLANS AND POLICIES

There are multiple Plans and Policies that support the proposed Budget Amendments.

FINANCIAL IMPLICATIONS

Budget amendments being sought will result in an increase of Budget Surplus from \$0.00 to \$70,982, this is due to the reimbursement by DFES of over expenditure items which occurred in the 2015/2016 Financial year that at the time were funded by Councils Municipal Budget.

The two items are Ranger Services- Fire Protection Bushfire Brigade Reimbursement Prior Period Adjustments \$69,820 and Ranger Services - Branch SES Reimbursement Prior Period Adjustments \$1,162.

Long-term Financial Plan Implications

A small number of the grants and contributions may not be fully expended in the current financial year and any unspent funding and matching expenditure may need to be incorporated in to the 2017/2018 Municipal Budget.

STRATEGIC COMMUNITY OBJECTIVES

Caring and Inclusive Community

- 1.1 A community where people feel safe, empowered, included and enjoy a sense of good health and wellbeing.
- 1.2 A community that provides opportunities for our youth to learn, grow, work and become healthy adults.

Well Planned, Vibrant and Active Places

- 2.1 A City where the community has access to quality cultural, recreation, and leisure facilities and services.
- 2.3 Infrastructure assets that are well maintained and responsibly managed to provide for future generations.

Connected City

- 4.2 A community that is well connected to its neighbours and the broader world.

Cared for and Enhanced Environment

- 5.1 Our natural environment is cared for and enhanced for the enjoyment of the community and visitors

Open and Collaborative Leadership

- 6.2 Governance systems that deliver responsible, ethical and accountable decision making.
- 6.3 An organisation that is managed effectively and achieves positive outcomes for the community.

RISK ASSESSMENT

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

CONSULTATION

The Author has consulted with effected Coordinators, Managers and Senior Executive regarding the attached Requested Budget amendments.

OFFICER COMMENT

The Budget Amendments being sought are the result of successful applications for grants and contributions that enhance the activities and infrastructure opportunities for Council and its Community. The Officer commends these requested Budget Amendments to the Finance Committee for consideration.

The following summary is provided with respect to each of individual grants/contributions for the above items:

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Busselton Airport	Tourism Western Australia - Perth - TWA1617007	BMRRRA Airline Engagement Working Group - Airline Engagement Consultant	177,100

BACKGROUND

The City was successful in receiving \$177,100 in grant funding from Tourism WA to engage an Airline Engagement Consultant over a three year period. In 2016/17 the City will receive two instalments of \$45,950, \$91,900 in total with the balance of grant to be included in future Budgets. To date one instalment has been received.

PLANNED EXPENDITURE ITEMS

\$45,950 has been expended and the remaining \$45,950 is to be expended in March 2017. Funding over the next two financial years will be included in future budget preparations.

PROPOSED OUTCOME

The City has engaged a three Consulting through a formal RFT process to provide airline engagement services, including the preparation of business cases and pitch proposals to airlines, as part of the Busselton Margaret River Airport Development Project. The RFT term is for 2 years plus 1 year option commencing 1st September 2016.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Busselton Airport	Federal Grant – Community Development Grants Program	Upgrade of Busselton-Margaret River Regional Airport	9,779,765

BACKGROUND

The above grant builds onto a commitment of \$59.95 million project budget which is comprised of contributions of \$45.9 million from the WA State Government Royalties for Regions fund; \$10 million from the Department of Transport's Regional Airport Development Scheme; \$3.5 million City of Busselton; \$300,000 South West Development Commission and \$250,000 Tourism Western Australia towards interstate passenger flights.

PLANNED EXPENDITURE ITEMS

Expansion of the Busselton-Margaret River Regional Airport to support international air freight export opportunities.

PROPOSED OUTCOME

This project will provide regional business with access to markets. It will achieve the creation of a facility that supports the agribusiness sector, enabling a supply chain hub that will service the whole South West of Western Australia. Raising the standard of the runway and taxiways will facilitate air freight services, adding significant value to the overall airport capacity upgrade that will see the expansion of passenger services.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Community Services	The Good Guys Discount Warehouse Busselton	Sponsorship Package for Battle of the Bands 2017	1,000

Community Services	Government of WA - Deputy Premier of WA, Minister for Police, Road Safety, Training & Workforce Development, Women's Interests & Cabinet	Road Safety Community Grant - Battle of the Bands 2017 - 45-43743	1,000
Community Services	Government of Western Australia - Local Government Community Services, Seniors & Volunteering, Youth	Youth Activities Grants Program - Battle of the Bands 2017 - 57-00204	5,000

BACKGROUND

The Busselton YAC (Youth Advisory Council) and the City's Youth Services will conduct the 2017 Battle of Bands community event over a three (3) day period in mid-January 2017.

An additional \$7,000 (as per the table above) has been secured in direct cash grants from the Department of Local Government and the Communities, a Road Safety community grant and corporate sponsorship from the Good Guys Busselton. Other key project partners include Sonup Studios, the Esplanade Hotel, the Cancer Council and Headspace Bunbury.

PLANNED EXPENDITURE ITEMS

Expenditure for the project will be centred on hiring of equipment and personnel to ensure the staging of a professional event. Items such additional Public Amplifier, sound, staging, seating and lighting equipment is required to make this a reality. In addition key personnel will be hired such as Videographers, photographers and security to ensure all event elements are covered.

PROPOSED OUTCOME

Young local musicians will be given the opportunity to show case their musical talents at this free community event, in an encouraging open atmosphere for families and youth to embrace youth culture and community participation. The event will also opportunities for young people to learn and develop life skills to help them get to where they want to be.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Community Services	Government of Western Australia - Local Government Community Services, Seniors & Volunteering, Youth	Country Local Government Fund - Youth Development Scholarship - Senior Customer Information Officer	10,000

BACKGROUND

The purpose of the grant is for the City of Busselton to provide a Youth Development Traineeship through our Building Services business unit that enables a young person under the age of 30 to develop long-term employment skills and to expose them to future employment opportunities and networks within local government.

The City of Busselton Workforce Plan identifies attracting and retaining skilled workforce as critical to ensuring the service quality and achieving long term sustainability.

The total cost of the Traineeship is estimated at \$14,431.45 of which the City of Busselton will use the \$10,000 grant to support payment of course fees and the participant will contribute the balance of cost.

PLANNED EXPENDITURE ITEMS

The City of Busselton will in effect auspice this grant by providing payment up to the grant value for course fees to the approved training body being the Institute of Building Technology Western Australia Trading as Builders Training of WA.

PROPOSED OUTCOME

The participant, whom currently works for the City of Busselton, will achieve an Advanced Diploma of Building Surveying.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Community Services	Government of Western Australia - Local Government Community Services, Seniors & Volunteering, Youth	Country Local Government Fund - Youth Development Traineeship Program	19,610

BACKGROUND

The purpose of the grant is for the City of Busselton to provide a Youth Development Traineeship through our Community Services business unit that enables a young person under the age of 30 to develop long-term employment skills and to expose them to future employment opportunities and networks within local government. Funding of \$19,610 has been secured through the Department of Local Government and Communities for wages and training courses fees.

PLANNED EXPENDITURE ITEMS

Subject to a successful recruitment and employment process, the goal of staff within the Community Services business unit is to commence employment of the Trainee for a 12 month period from 1st February 2017 – 31st January 2018. Subsequent to the starting date, City Officers will be in direct contact with a local training provider to enrol in a Certificate level traineeship course that as a minimum will include a Certificate III in Community Services.

The project Budget is Wages – (Community Services) \$15,000 and Training Course Fees \$4,610.

PROPOSED OUTCOME

Trainee's role - to assist the Community Development team;

- Identify community needs using a variety of methods including community consultation and then contribute to the development of strategies to meet those needs.
- Contribute to the development of community development and social planning policy, programs and action plans commensurate with and which give effect to Council's strategic objectives.
- Assist in facilitating Council sanctioned community events and functions.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Cultural Planning	Department of Infrastructure & Regional Development - Stronger Communities Programme - SCP2001230	Railway House Interpretive Display cabinets, lights and research for Ballarat Engine, Timber industry & Rails to Trails network	13,825

BACKGROUND

City received funding for Railway House Interpretive Display cabinets, lights for tracking and restoration and moving of the Ballarat Engine.

The City of Busselton has allocated \$100,000 to total interpretation works.

Total: \$113,825

PLANNED EXPENDITURE ITEMS (FIGURES INC GST)

Railway House fit out:

- Southern Restoration / sandblasting and painting (\$4,500 expended)
- RCM Rigging Pty / moving the engine and re-installing (\$3,250 expended)
- South West Machining Centre / final works to engine in-situ (\$1,200 – December 2016)
- Aura Lighting / lights for track lighting (\$7,000 December 2016 – January 2017)
- Cabinet maker (not selected as yet) / 4 display cabinets (\$10,000 December 2016-January 2017)

PROPOSED OUTCOME

Completion of Ballarat engine works, lighting for interpretation installed, display cabinets for interpretation items for timber industry at Railway House.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Engineering & Works	Keep Australia Beautiful National Assoc Ltd	Public Place Recycling Bin Project - Beverage Container	13,001.70

BACKGROUND

There are currently no recycling bins installed in public areas. While the City had previously installed recycling bins at the foreshore and in some restricted areas within the Central Business District, the outcome was not satisfactory in respect to the quality of the materials collected because of the amounts of contamination found therein.

The City has therefore decided to trial a new model of recycling in some high profile public places, where properly enclosed bins would be placed, with clear, graphic communication to convey instructions about what materials shall be recycled. Hence, part of this trial involves the design, development, supply and installation of public bin enclosures and the City has successfully applied for a grant from Keep Australia Beautiful.

PLANNED EXPENDITURE ITEMS

The design stage of the project is already being undertaken and we expect the supply and installation of the bins to occur in December this year.

PROPOSED OUTCOME

The City intends to have up to 10 recycling bin enclosures and bins installed in various public places at the Busselton foreshore. The exact number, specifications and location of the bins and bin enclosures is still to be finalised prior to final installation and servicing.

The benefit to the Community will be the possibility of extending recycling activities to public areas, as a means of providing recycling education to the public and thus contributing to better waste management practices. These ties in with the objective of diverting waste from landfill and improving recycling rates, in line with State waste management policy and Community expectations.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Geographe Leisure Centre	The Pod Education & Care Services Activity Grant	GLC - Implement Marketing Strategies & Purchase Program Support Software	4,000

BACKGROUND

The grant funding will be used for operational purposes and marketing support for the GLC and NCC vacation care services.

PLANNED EXPENDITURE ITEMS

Expenditure will be on manufacture of calendar fridge magnets, roadside banners and some specific vacation care software IT.

PROPOSED OUTCOME

The expected outcomes are sustainability of the programs and increased communication with parents through an applicable vacation care software program.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Geographe Leisure Centre	Government of Western Australia - Department of Sport & Recreation	Geographe Leisure Centre - Pool Revitalisation Program (CPRP) 2016/17 Funding Round	32,000

BACKGROUND

\$32,000 received Ex GST which is part of a 3 year forward planning grant from the Department of Sport and Recreation Community Pools Revitalisation Program. (\$32,000 is held over from last year's grant in a restricted assets account)

PLANNED EXPENDITURE ITEMS

Expenditure is likely to be on part payment of resurfacing of the pools at GLC. This will be subject to an engineer's report currently underway as well as a master plan which will be completed 2017.

PROPOSED OUTCOME

Expected outcome is a contribution towards the refurbishment of the pools at GLC which are currently in need of repair /maintenance /possible replacement dependant on the recommendations of the engineers report and master plan.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Health Department	Shire of Capel	CLAG Funding - EPBC Referral Fee 2016/7780	7,352

BACKGROUND

The City of Busselton belongs to a Contiguous Local Authority Group (CLAG) together with the Shire of Capel and the Department of Health for the purpose of mosquito management. An MOU exists between the members of the CLAG and each year the City applies for funding support from the Department of Health to implement portions of the City's mosquito management strategy. Traditionally this funding includes the provision of the helicopter to conduct aerial larviciding, purchase of mosquito control chemicals and communications. Additionally, within 2016 the City has been required to renew the federal licence for mosquito treatments to occur within the Vasse-Wonnerup wetlands. This application resulted in a \$7,352 application fee which was subsequently made available to the City through the Department of Health grant process. Currently all grant funded expenditure is made through a centralised account held by the Shire of Capel but as the federal Department of Environment required the payment or the application to come from the local government from which the application was submitted, this budget amendment reflects the transfer of grant money from the Shire of Capel to the City of Busselton to support this process

PLANNED EXPENDITURE ITEMS

The City has been required to renew the federal licence for mosquito treatments to occur within the Vasse-Wonnerup wetlands. This application resulted in a \$7,352 application fee which was subsequently made available to the City through the Department of Health grant process.

PROPOSED OUTCOME

The application to the federal Department of Environment allows for the consideration of whether the actions employed to treat the internationally recognised RAMSAR classified Vasse-Wonnerup wetlands for mosquito control are to be deemed controlled or non-controlled actions as defined within the Environment Protection and Biodiversity Conservation Act 1999. The City has applied for the assessment to be completed on a non-controlled basis which if supported will remove the complexity surrounding the treatment of this wetland going forward. Should this application not be supported, further information will be submitted to the Department of Environment for assessment as a controlled action as defined.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Environmental Services	South West Catchment Council	Weed control, feral animal control, installation of interpretive signage and limestone sheeting of a section of dieback infected firebreak track in the south west corner of the Carbunup Reserve	13,500

BACKGROUND

The Carbunup Reserve 38583 is a vegetated bushland with high regional conservation values and the Carbunup *Reserve Management Plan 2002*, was developed specifically to protect the Reserves conservation values for the benefit of future generations.

The reserve comprises 31 Ha, located near the Carbunup town site and is a 'C' class Reserve vested with the City for the purpose of 'Parkland'. The Carbunup Reserve Management Plan guides the community based 'Friends of Carbunup Reserve Group' to undertake activities and to care for the reserve.

PLANNED EXPENDITURE ITEMS

Grant to be utilised for weed control, feral animal control, installation of interpretive signage and limestone sheeting of a section of dieback infected firebreak track in the south west corner of the Carbunup Reserve.

PROPOSED OUTCOME

The City has received a South West Catchment Council grant of \$13,500, to assist the implementation of weed control, feral animal control, installation of interpretive signage and limestone sheeting of a section of dieback infected firebreak track in the south west corner of the Carbunup Reserve.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Environmental Services	Coastwest grant	Implementing dieback management measures along the Meelup coast.	26,540

BACKGROUND

Meelup regional Park was initially surveyed for Phytophthora Dieback in 1994, and a subsequent dieback interpretation report in 2013, indicated that 25.5% of the Park was infected with *Phytophthora cinnamomi*, 61% is uninfested with the remainder Park is identified as unprotectable. Consequently, a major component of the strategy to constrain this disease involves managing access and soil-disturbance activities within native vegetation. Knowledge of the occurrence of the disease in the landscape is also an essential prerequisite to formulating suitable hygiene management practices.

PLANNED EXPENDITURE ITEMS

The City has received approval for a Coastwest grant of \$29,488 for the purpose of implementing dieback management measures along the Meelup coast, \$26,540, will be received during the current

2016/17 Budget period, to assist the efforts to manage the spread of dieback within Meelup Regional Park. The balance of this grant, \$2,949, will be received during the 2017/18 financial year.

PROPOSED OUTCOME

The Coastwest grant will assist the Meelup regional Park Management Committee to build on current dieback knowledge and enhance dieback control activities.

This project includes the installation of dieback hygiene stations for walkers at key locations, dieback signage and markers, limestone sheeting of tracks to prevent the spread of dieback and phosphite treatment for the protection of vulnerable species.

Business Activity Unit	Funding Organisation	Grant / Project Title / Details	Grant
Ranger Services – Fire Protection	Local Government Grants Scheme - DFES	Vasse Bushfire Brigade 3.4 Urban Tanker	518,200
Ranger Services	Local Government Grants Scheme - DFES	SES vehicle	70,600
Ranger Services – Fire Protection	Local Government Grants Scheme - DFES	Building Improvements Vasse Bushfire Brigade	45,500
Ranger Services – Fire Protection	Local Government Grants Scheme - DFES	Reimbursement ESL Levy Brigades – increased funding from \$160,790 to \$180,000	19,210
Ranger Services – Fire Protection	Local Government Grants Scheme - DFES	Bushfire Brigade Reimbursement Prior Period Adjustments	69,820
Ranger Services	Local Government Grants Scheme - DFES	Busselton Branch SES Reimbursement Prior Period Adjustments	1,162

BACKGROUND

The Emergency Services Levy provides funds through the Local Government Grants Scheme (LGGS) to local government by way of grants to fund operating and Capital/plant expenditure incurred as part of the provision of bushfire brigade service for the community and also for the provision of the State Emergency Service in Busselton.

The release of the LGGS capital and operating grants grant acquittal deadlines do not align with Council's budget preparation timelines, therefore a combination of historical and current data used to estimate the likely Volunteer Bush Fire Brigade (VBFB) and State Emergency Services (SES) operating revenue and expenditure for consideration in the preparation of Council's 2016/17 Budget. Should there be a variation between the final LGGS 2016/17 allocation and Councils adopted budget, then it is necessary to report these variations to the Council.

The 2016/17 LGGS allocation which are discussed further in this report includes the allocation and reimbursement of operational funding for the VBFB and SES, the provision of funds for upgrading to the Vasse VBFB buildings and for the purchase of vehicles.

PLANNED EXPENDITURE ITEMS

Ranger Services- Fire Protection DFES	
Description	Amount
Brigade allocation (multiple cost codes)	19,210
Vasse Bush Fire Brigade Appliance Bay	45,500
Vasse Bushfire Brigade 3.4 Urban Tanker	518,200
SES Vehicle replacement	70,600

PROPOSED OUTCOME

The operating reimbursement funding provided to the City under the LGGs ensures the City's approximately 550 volunteer bushfire brigade members are provided with essential equipment and all the necessary protective clothing to enable fire fighters to perform their duties during a fire incident.

The capital component of the LGGs grant offer, will enable the construction of a new appliance bay for the Vasse VBFB is part of the ongoing improvement of bushfire brigade facilities and these works can be completed in the current financial year.

Council's approval is sought to accept this funding and document it within the City's financial management system via a budget adjustment.

CONCLUSION

Council's approval is sought to amend the budget as per the details contained in this report. Upon approval the proposed works will be planned, organized and completed, where works are unable to be completed in the current financial year appropriate carryovers will be included in the Draft 2017/2018 Municipal Budget.

OPTIONS

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

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

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

Council Decision / Committee Recommendation and Officer Recommendation**C1612/167**

Moved Councillor C Tarbotton, seconded Councillor P Carter

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Finance Committee recommends to Council endorsement of Appendix A Schedule of Requested Budget Amendments, resulting in an Amended Budgeted Surplus Position of \$70,892.

CARRIED 9/0**BY ABSOLUTE MAJORITY**

At this time the Mayor requested Councillors indicate the acceptance of a late item 11.4 for consideration.

The Council indicated their acceptance with a show of hands.

11.4 DEVELOPMENT APPLICATION FOR A USE NOT LISTED (POP UP BAR AND EATERY) AT 29 COMMONAGE ROAD QUINDALUP

SUBJECT INDEX:	Development/Planning Applications
STRATEGIC OBJECTIVE:	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
BUSINESS UNIT:	Development Services and Policy
ACTIVITY UNIT:	Statutory Planning
REPORTING OFFICER:	Planning Officer - Stephanie Izzard
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Location Plan⇒ Attachment B Proposed Development Application⇒ Attachment C Summary of Submissions⇒

PRÉCIS

The Council is asked to consider a development (planning) application seeking approval for a Use Not Listed (Pop up bar and Eatery) at 29 Commonage Road, Quindalup.

The proposal is placed before the Council due to the level of community interest and nature of the issues requiring consideration. Consultation on the application concludes on 7 December and as the applicant wants to commence operations on 16 December 2016, it is necessary, should the proposal go ahead, that a determination be made on the application prior to this date. The application was lodged on 20 October, but sufficient information to allow consultation to commence was not received until 4 November. Given the minimum lead-times associated with consultation, there was no possibility of the application being determined by the Council prior to the 14 December meeting.

The application is recommended for refusal for the following reasons:

- The proposal is likely to have an adverse impact upon the amenity of surrounding residential properties as well as residences and guests of the Dunsborough Lakes Caravan Park;
- Noise from the proposal is likely to be audible from surrounding residential properties as well as residences and guests of the Dunsborough Lakes Caravan Park and it is considered that this will likely have an adverse impact upon these properties;
- The proposal will result in increased traffic to the area and is likely to have an impact on traffic flow and safety in particular along Commonage Road; and
- Safe access for pedestrians and cyclists has not been provided for and the proposal will likely result in a hazard to pedestrians and cyclists, in particular those attempting to cross Commonage Road.

In this report, officers have also, however, provided a fully drafted option to approve, should Councilor's be minded to do so.

BACKGROUND

The City has received a development application for a Use Not Listed (Pop up bar and eatery) at Dunsborough Lakes Holiday Resort and Caravan Park, located at 29 Commonage Road, Quindalup. A location plan is provided at Attachment A.

The site is located 1.8km to the south-east of the Dunsborough Town Centre, on the south-east of Commonage Road, south of the intersection with Caves Road. Directly to the west of the site, on the opposite side of Commonage Road, is the Dunsborough Lakes Estate.

The site is zoned "Agriculture" under the City of Busselton Local Planning Scheme No. 21 (the Scheme) and currently the site operates as a caravan park and camping ground. There is a Special Provision (SP60) on the site which permits permanent occupation of up to 15% of the park homes on site.

The proposed development is to be located within the north-western portion of the site. The development is proposed to operate from 16 December 2016 until 1 January 2017. Operating hours of the proposal are from 11am until Midnight and will accommodate a maximum of 200 people. The development will include food vans and bar service enclosed within a 'hay bale square.' The information submitted as part of the application, including an Event and Risk Management Plan, is provided at Attachment B.

The application was advertised for public comment with a number of issues raised from surrounding land owners and members of the community.

Further assessment of the proposal against the requirements of the Scheme is provided in the Officer Comment section of this report.

STATUTORY ENVIRONMENT

The key statutory environment is set out in the City of Busselton *Local Planning Scheme No. 21* ('the Scheme'), as modified by the *Deemed provisions for local planning schemes* set out in Schedule 2 of the *Planning and Development Regulations 2015* (the deemed provisions).

Use not listed

The proposed Pop-up Bar and Eatery does not fall under any use listed in Table 1 of the Scheme and therefore the proposed development is considered to be a 'use not listed'. Clause 4.4.2 of the Scheme, as amended by the deemed provisions, allows the City to consider a development application for a land use not listed under the zoning table. In this instance it was considered that the use may be consistent with the objectives and policies of the zone and therefore advertising was undertaken in accordance with clause 67 of the Deemed Provisions.

4.4.2. If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may -

(a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted; or

(b) determine that the use may be consistent with the objectives and policies of the particular zone and thereafter follow the advertising procedures of clause 10.4 in considering an application for planning approval; or

(c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

Note that clause 10.4 of the City's scheme reference above is now superseded by the equivalent and very similar clause 67 of the Deemed Provisions.

Agriculture Zone

The site is located in the 'Agriculture' zone. Objectives of this zone relevant to this application are as follows:

- (a) To conserve the productive potential of rural land.
- (d) To enable the development of land for other purposes where it can be demonstrated by the applicant that suitable land or buildings for the proposed purposes are not available elsewhere and that such purposes will not detrimentally affect the amenity of any existing or proposed nearby development.
- (e) To encourage low-key rural tourism associated with traditional forms of agriculture or rural retreat as a contributor to the overall rural economy of the City.
- (f) To exclude urban development. Any such land adjacent to existing urban areas and identified as generally suitable for urban expansion may be used for urban development after it has been suitably rezoned.
- (h) To discourage ribbon development along Caves Road and other tourist roads and maintain the rural and natural ambience of transport corridors generally.

Policies of the 'Agriculture' zone relevant to this application are as follows:

- (b) To permit rural tourist accommodation and rural tourist facilities where these will not conflict or detrimentally impact established farming pursuits and/or associated with rural activities.

Matters to be considered

Clause 67 of the deemed provisions outline the key matters to be considered by local government when considering a development application. Those matters which are considered to be particularly relevant to this application are as follows:

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following —*
 - (i) environmental impacts of the development;*
 - (ii) the character of the locality;*
 - (iii) social impacts of the development;*
- (s) the adequacy of —*
 - (i) the proposed means of access to and egress from the site; and*
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) the availability and adequacy for the development of the following —*
 - (i) public transport services;*
 - (ii) public utility services;*
 - (iii) storage, management and collection of waste;*
 - (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
 - (v) access by older people and people with disability;*

- (v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) any submissions received on the application;*
- (za) the comments or submissions received from any authority consulted under clause 66;*
- (zb) any other planning consideration the local government considers appropriate.*

RELEVANT PLANS AND POLICIES

The key policy implications for consideration are set out in the following policy documents:

- *Local Planning Policy 8A - Car Parking Provisions*

FINANCIAL IMPLICATIONS

The recommendation of this report is a planning determination. It does not impose any direct financial implications upon the City.

STRATEGIC COMMUNITY OBJECTIVES

The recommendation of this report reflects Community Objective 5.2 of the Strategic Community Plan 2013, which is; "Growth is managed sustainably and our environment is protect and enhanced as we develop."

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. Risks are only identified in Council reports where the residual risk, once controls are identified, is 'medium' or greater.

No such risks have been identified.

CONSULTATION

Clause 64 of the *Deemed Provisions* requires that any development application for a use not listed be referred to the public for comment. This proposal was referred to adjoining landowners for a period of 14 days ending on the 7 December 2016.

At the time that this report was prepared 7 objections had been received on the proposal. A summary of the concerns raised in these submissions is provided below:

- Noise & Operating hours;
- Proximity to residential area;
- Traffic;
- Insufficient parking;

A schedule of submissions is provided at Attachment C. Any submissions received before the Council meeting on 14 December 2016 will be made available to the Councillors as an additional attachment.

OFFICER COMMENT

The City has assessed the application having regard to the objectives and principles of the Agriculture Zone and the Matters to be considered as outlined by the Scheme.

Planning Framework

The development has been treated as a "Use not Listed" as there is no use class under the Scheme which the development would meet. When considering an application for a "Use not Listed" the City is required to assess the consistency of the development against the Policy and Objectives of the relevant zone as well as the relevant Matters to be considered as outlined above. It is considered that insufficient information has been provided to demonstrate that the proposal is consistent with the objectives and policies of the Agriculture zone. While use of the land for purposes other than traditional agricultural uses may be considered within this zone, the application is required to demonstrate to the City that the proposal will not detrimentally affect the amenity of any existing or proposed nearby development.

Further to this, it is considered that the application does not adequately demonstrate that the proposal will be consistent with the Matters to be considered, in particular in terms of access to the site, potential traffic impacts as well as the impact of the development on the greater community.

Proximity to residential area

The location of the proposed Pop-up bar and Eatery is to be located in the north-western portion of the site. The proposed car parking area is to be approximately 70m from the nearest dwelling with the proposed Pop-up bar and Eatery area to be approximately 85m. It is noted that the Pop-up bar and Eatery will be approximately 35m from park homes located on site. The applicant has advised that noise from the proposal will not be an issue due to the distance of the event from residences.

It is considered that the distance between the proposed Pop-up bar and Eatery is not sufficient alone to mitigate any external impact of the proposal in terms of noise and traffic. These issues are discussed further below.

Noise & Operating Hours

The applicant has proposed that the development will operate from 11am until Midnight from 16 December 2016 until 1 January 2017. The proposal includes live music and DJs. No noise management plan has been submitted as part of the proposal however the applicant has advised that the hay bales around the area designated area for the proposal will assist in reducing noise and that noise complaints are to be managed as the location of the event is to be "away from residences."

No technical information was submitted with the proposal regarding anticipated noise levels and therefore it is not possible to fully determine if the proposal will be audible from nearby residential properties and what type of impact, if any, there will be on nearby residential properties. City officers, however, consider it would be very highly likely, if not certain, that amplified music, especially at any time after 7pm (when controls become tighter), could be played without breaching the maximum noise levels permitted at the nearest sensitive premises – both those within the site (i.e. permanently occupied park homes) and outside the site (i.e. dwellings in the Dunsborough Lakes Estate, on the opposite side of Commonage Road). Note that, whilst the park homes within the site are located on the same lot, permanent park home residents have essentially the same rights as the occupiers of residential houses.

Should the Council approve the proposal it is considered that the operating hours should be limited to assist in mitigating noise and that no amplified music be permitted.

Traffic

The applicant has advised that the proposed Pop-up bar and Eatery will accommodate a maximum of 200 people. The application does not include any information regarding anticipated additional traffic or traffic management measures which are to be implemented during the operation of the proposal.

Access to the site is to be via the existing crossover to the caravan park and camping grounds off Commonage Road. The site currently has approval for 275 park homes and caravan sites as well as two additional areas for camping which is currently approved for 30 camp sites. The time of the year which the Pop-up bar and Eatery is proposed is considered to be one of the busiest times of year for the existing caravan park and camping ground. It is considered that increase of traffic to the site as a result of the Pop-up bar and Eatery will further increase traffic movements to the site during this period. It is noted that the Event and Risk Management plan submitted by the applicant indicates that increased traffic is a likely risk and they have proposed bollards and signage to denote in and out lanes for vehicles. The application does not however detail any traffic management measures external to the site.

Should the Council consider approving the development it is recommended that the applicant be required to submit a traffic management plan including details for both vehicle and pedestrian management along Commonage Road.

Parking

The application does not provide details as to the proposed car parking layout. An area adjacent to the proposed location of the “Pop-up Bar and Eatery” has been indicated on the plans as being the proposed car parking area however no details as to the dimensions or treatment of this area has been provided. While there is not set car parking standing for this type of development under the City of Busselton Local Planning Policy 8A - Car Parking Provisions it is considered that a car parking standard of 1 space per 4 persons accommodated would be appropriate in this instance. It is noted that this is the car parking standard for a restaurant and public hall/place of assembly under the Policy. Applying this car parking standard, with a maximum of 200 patrons proposed, it is considered that adequate provision for 50 car bays should be required to be provided on site.

As no details have been provided in relation to the area to be set out for car parking or the proposal layout of the car parking area it is not possible to determine if adequate provision for car parking has been made on site.

Timeframes

The applicant, as well as a number of members of the community, have raised concerns regarding the processing time for the application, The applicant has expressed concerns that the application has taken too long to process while nearby residential properties have advised that they felt that have not been given enough time before the event is scheduled to start to make a submission on the proposal. It is noted that the statutory timeframe for a development application is 90 days and an application for an Event is required to be lodged 12 weeks (84) days prior to the event. At the time that the application is to be presented to the Council the application has been processing for 40 days.

Had there been more intensive case management of this particular application by City officers, it is possible that the application may, had it been reasonable to determine the application under delegation, determined earlier. It is considered unlikely, however, that the outcome in terms of consultation responses would have been any different, and that the same judgement would have been made in terms of referring the application to the Council for determination. Given the volume of applications received by the City, it is also not possible to intensively case manage all applications – and those that are intensively case managed should generally be those of most strategic importance to the City and our community.

Business opportunities/vitality

The applicant has advised that they proposed to use local businesses for the hire of equipment as well as engage local staff and offer local produce. It is therefore likely that the proposal would offer additional business opportunities, and a greater range of options for the community and visitors. It

will also provide an entertainment option for nearby residents and those staying or living in the caravan park, which would not otherwise exist.

The proposal is representative of a trend towards ephemeral, responsive ways of providing services and generating vitality and interest. These kinds of approaches also provide relatively low cost, low risk (to the proponents) ways of developing new businesses, and provide an entry point for those with less access to capital.

Liquor licensing considerations

At the time of writing, the City was yet to receive clear advice in terms of whether the proponent will require a separate liquor licence, extended trading permit or similar to allow the proposal to go ahead. As soon as clear advice is received from the Department of Racing, Gaming and Liquor, City officers will provide that advice to Councillors.

CONCLUSION

It is considered that the proposal is highly likely to have an adverse impact in terms of amenity, noise, traffic and pedestrian safety and therefore it is recommended that the application be refused. In future, however, similar proposals might be able to be considered, but would need additional lead-time to enable a full assessment to occur.

OPTIONS

Should the Council be minded to approve the development; the Council could determine the application is consistent with the objectives and policies of the zone in which development is proposed, and approve the proposal subject to the following conditions, and accompanied by the following advice notes -

General Conditions

1. *The development hereby approved shall operate commence operations on 16 December 2016 and shall cease on 30 January 2016 (inclusive).*
2. *Notwithstanding condition 1 above, the Pop-up bar and Eatery shall not operate on Christmas Day (25 December 2016).*
3. *Hours of operation are restricted to between 11am and 9pm.*
4. *A minimum number of ablution facilities is to be provided as follows:*
 - 4.1 *Male – 1 WC, 1 Urinal (or second WC) and 1 Hand basin*
 - 4.2 *Female – 3 WCs, and 2 hand basins.*
 - 4.3 *Disabled – 1 x unisex disabled facility consisting of an accessible WC, hand basin, shelf or bench top within the compartment*

These shall remain on site for the duration of this approval and shall be decommissioned and removed at the conclusion of this approval.

5. *A maximum of 200 persons shall be permitted within the area designated for the Pop-up bar and Eatery at any one time.*
6. *No amplified music shall be permitted.*

Prior to Commencement

7. *The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City's Planning department and have been approved in writing:*

7.1 *A plan is to be submitted to the City indicating a minimum of 50 car bays to be provided on site for the patrons of the Pop-up bar and Eatery.*

7.2 *A traffic management plan is to be submitted to the City including details of traffic management measures for both vehicles and pedestrians along Commonage Road.*

Advice notes

1. You are advised that noise emissions are to be in accordance with the *Environmental Protection (Noise) Regulations 1997*.
2. Applicant is to provide a list of all food vendors, and their corresponding Food Business Registration certificates, that will be trading as part of this application to the City's Environmental Health Department prior to the commencement of activity. All food vendors are to comply with the *Food Act 2008* at all times.

Some of the key conditions above seek to manage the concerns raised during the consultation period and include -

- Operating hours - it is considered that limiting the operating hours of the proposal until 9pm will assist in managing external impacts of the proposal, particularly in terms of noise;
- Operating days - it is considered that by prohibiting operation on Christmas day that this will further limit the impact of the proposal on the nearby residential properties as this would traditionally be a day spent at home. It is noted that the liquor license that the proposal will operate under also prohibits operation on Christmas Day. It is also recommended that operation on New Year's Eve be prohibited as this will assist in mitigating the impact of the proposal upon Police resources within the area.
- Amplified music - it is considered that there are inadequate provisions for noise mitigation and management. By limiting the proposal to include no amplified music it is considered that the impacts of the proposal in terms of noise are able to be contained within the site.

From the applicant's perspective, if they are able to provide the requested information required as per proposed condition 7 after the publication of this report, but before Council's determination on the 14 December 2016, they could form part of the approved plans removing the need for this condition.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The applicant will be notified of the Council's decision within 24 hours of a decision consistent with the officer recommendation.

Council Decision and Officer Recommendation**C1612/168**

Moved Councillor R Bennett, seconded Councillor J McCallum

That the Council resolve to refuse the development application for Use not listed (Pop-up bar and Eatery) (DA16/0840) at Lot 2761 (29) Commonage Road, Quindalup, because it is not consistent with the objectives and policies of the zone in which development is proposed, and that it be refused for

the following reasons –

1. The proposal is likely to have an adverse impact upon the amenity of surrounding residential properties as well as residences and guests of the Dunsborough Lakes Caravan Park;
2. Noise from the proposal is likely to be audible from surrounding residential properties as well as residences and guests of the Dunsborough Lakes Caravan Park and it is considered that this will likely have an adverse impact upon these properties;
3. The proposal will result in increased traffic to the area and is likely to have an impact on traffic flow and safety in particular along Commonage Road; and
4. Safe access for pedestrians and cyclists has not been provided for and the proposal will likely result in a hazard to pedestrians and cyclists, in particular those attempting to cross Commonage Road.

CARRIED 8/1

Voting:

For the motion: Councillor R Bennett, Councillor T Best, Councillor G Bleechmore, Mayor G Henley, Councillor J McCallum, Councillor C Tarbotton, Councillor P Carter and Councillor R Reekie.

Against the motion: Councillor R Paine.

Note: Officers proposed an Alternative Additional Motion for Council consideration that would coincide with the Original Officer Recommendation.

Council Decision and Alternative Additional Officer Recommendation

C1612/169 Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

That the Council also resolve, as a separate resolution –

That the Council advise the proponents that the City is amicable to discussing a similar event/s on other site/s, including potentially City managed sites, that would be better located and have less impact on nearby residents and amenity, and would support activation of the Dunsborough Town Centre and public space areas, that allows time for appropriate approvals and community consultation periods to be achieved.

CARRIED 9/0

It was noted that in accordance with Section 5.6 (3) (a) of the Standing Orders an adoption by exception resolution may not be used for a matter that requires an absolute majority, a 75% majority or a special majority. Consequently items 10.1, 10.3, 11.1, 12.1, 14.1, 14.2 were re endorsed.

10.1 Meelup Regional Park Management Committee - 31/10/2016 - MOUNTAIN BIKE NETWORK/FACILITY DEVELOPMENT - IMPLEMENTATION

SUBJECT INDEX:	Meelup Regional Park: Mountain Bike / Bicycle Planning
STRATEGIC OBJECTIVE:	Our natural environment is cared for and enhanced for the enjoyment of the community and visitors.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Environmental Management
REPORTING OFFICER:	Manager, Environmental Services - Greg Simpson
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Mountain Bike Trail Works Report and Trail Audit Attachment B Water Corporation Lot 272 and Mountain Bike Trail Alignments Attachment C Proposed Meelup Regional Park Bike Trails (revised) Attachment D Schedule of Submissions

Council Decision and Amended Officer Recommendation

C1612/170

Moved Councillor R Reekie, seconded Councillor T Best

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council, with respect to cycling in Meelup Regional Park, most particularly the development of a mountain bike trail network/facility in Management Zone 6 –

1. Authorise the CEO to enter into an agreement with Cape Mountain Bikers Incorporated (CMB) that would allow CMB to develop the network/facility, subject to their appointment of an appropriate trail builder and CMB commitment to the ongoing maintenance of the network;
2. Makes a 'determination', pursuant to the City's *Property Local Law*, to allow the riding of bicycles on trails developed and marked for that purpose, in Meelup Regional Park, including on the network/facility referred to in point 1 above, and on key connecting trails, as indicated in Revised Attachment C to the agenda report;
3. Authorise the CEO to enter into an agreement with the Water Corporation to allow for the development and maintenance of portions of the network/facility that will be located on/across a narrow Water Corporation reserve that is effectively within Meelup Regional Park; and
4. Recognise the achievements of the 'Meelup Mountain Bike Trails Working Group' and the constituent members in advancing the project to this point, and confirm the continuing role of the Group in developing and managing the network/facility, until and unless the CEO forms a view that the Group is no longer required.

CARRIED 9/0

BY ABSOLUTE MAJORITY

10.3 Policy and Legislation Committee - 17/11/2016 - REVIEW OF POLICY 001 - FEES, ALLOWANCES AND EXPENSES FOR ELECTED MEMBERS

SUBJECT INDEX:	Councillors
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Council & Councillor Services
REPORTING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Revised Policy 001 - Fees, Allowances and Expenses for Elected Members showing tracked changes

Council Decision and Committee Recommendation

C1612/171 Moved Councillor G Bleechmore, seconded Councillor P Carter

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the revised Council Policy 001 - Fees, Allowances and Expenses for Elected Members as shown below be adopted:

001	Fees, Allowances and Expenses for Elected Members	V9 Draft
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1. PURPOSE

In accordance with Division 8 of Part 5 of the *Local Government Act 1995* elected members are entitled to receive a fee for meeting attendance, be reimbursed for expenses and/or be paid an allowance for certain types of expenses. Certain payments are an automatic entitlement in accordance with the Act, while others require specific local government approval. The Fees, Allowances and Expenses for Elected Members policy provides the approval framework under which all fees, allowances and reimbursements to elected members will be made.

2. SCOPE

"Elected member" - Any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor;

"Schedule" – Information describing the current Local Government Band Allocation and fees and allowances established within that Band in accordance with any *Local Government Elected Council Members Determination* under the *Salaries and Allowances Act 1975*.

The Fees, Allowances and Expenses for Elected Members policy is to apply to the purchase of all local government-owned equipment for the specific and individual use of an elected member, the reimbursement of any expenses incurred by an elected member in the performance of their functions and duties, and fees and allowances provided to all elected members.

This policy provides the approval framework to enable the provision of equipment and certain payments to be made to elected members to enable them to carry out their role as an elected member effectively. All matters approved in this policy are in accordance with the relevant legislation and determinations, being the *Local Government Act 1995* and *Local Government Elected Council Members Determinations* in accordance with the *Salaries and Allowances Act 1975*.

All allowances in relation to elected members are reviewed annually by the City and become effective following adoption of the annual budget.

3. POLICY CONTENT

3.1 Elected members

3.1.1 Provision of equipment

Without limiting the application of any other clause in this policy, the local government will provide to elected members of the City of Busselton access to resources to enable them to carry out their duties efficiently and effectively. In accordance with Section 3.1 of the *Local Government Act 1995*, in order to provide for the good government of persons in the District, any newly elected member will have the opportunity to be furnished with the following equipment:

- A standard-issue mobile telephone;
- A standard issue mobile device that will be upgraded from time to time, inclusive of standard equipment associated with the day-to-day use of the device.

Any mobile telephone or mobile device purchased in accordance with this policy can be retained by the elected member at the completion of their term of office if they serve a minimum of 24 months as an elected member.

3.1.2 Meeting attendance fees

An elected member is entitled to receive an annual fee for attending Council and Committee meetings in accordance with the *Local Government Act 1995*. This payment is in lieu of any entitlement established for a fee per meeting under that Act.

The annual fee will be established during the annual budget process within the Band established in the relevant *Local Government Elected Council Members Determination*.

The annual meeting attendance fee is full and final satisfaction of an elected member's meeting entitlements and no other claims can be made for attendance at meetings, with the exception that an elected member's expenses incurred for travelling to and from the meeting can be reimbursed in accordance with clause 3.1.5 of this policy or childcare expenses incurred can be reimbursed in accordance with clause 3.1.4 of this policy.

Meeting attendance fees will be paid monthly or quarterly in arrears. The fee will be calculated on a pro-rata basis for any elected member who commences or ceases office during the month or quarter. Upon commencement of office, elected members, for the purposes of budget development, will be requested to indicate whether it is their intention to claim meeting attendance fees and their preferred payment method. Nothing in the relevant legislation or this policy prevents an elected member from changing their intention at any time.

3.1.3 Information and Communications Technology allowance

In accordance with the relevant *Local Government Elected Council Members Determination*, all elected members are eligible to claim an annual information and communications technology allowance the amount of which will be included in the Schedule. This allowance is to cover an elected member's costs in relation to the following equipment and services:

- Telephone rental charges;
- Any other expenses that relate to information and communications technology, for example telephone call charges and internet service provider fees, and that are a kind of expense prescribed by regulation 32(1) of the *Local Government (Administration) Regulations 1996*.

The information and communications technology allowance will be paid monthly or quarterly in

arrears. The allowance will be calculated on a pro-rata basis for any elected member who commences or ceases office during the month or quarter. Upon commencement of office, elected members, for the purposes of budget development, will be requested to indicate whether it is their intention to claim the information and communications technology allowance and their preferred payment method. Nothing in the relevant legislation or this policy prevents an elected member from changing their intention at any time.

3.1.4 Reimbursement of childcare expenses

In accordance with the *Local Government Act 1995* an elected member who incurs childcare expenses due to their attendance at a Council meeting or a meeting of a formally constituted Council Committee of which they are a member is entitled to be reimbursed. The extent to which the childcare expenses incurred will be reimbursed will be in accordance with the relevant *Local Government Elected Council Members Determination*. For the purposes of this section, the number of hours claimed shall be limited to the actual length of the meeting, with a nominal time allowance for partaking in refreshments and travel to and from the place of care.

3.1.5 Reimbursement of travel expenses

In accordance with the *Local Government Act 1995* an elected member who incurs expenses to travel to a Council meeting or a meeting of a formally constituted Council Committee of which they are a member is entitled to be reimbursed. Elected members can also be reimbursed for other types of travel in accordance with Regulation 32 of the *Local Government (Administration) Regulations 1996*. The extent to which travel expenses can be reimbursed is in accordance with the State Salaries and Allowances Tribunal. The following list represents the meetings and events at which the attendance of an elected member is required for which the elected member will be able to claim reimbursement in accordance with the State Salaries and Allowances Tribunal for incurring travel expenses.

- Council meetings - ordinary and special;
- Committee meetings of a formally constituted Council committee of which they are a member or a deputy member acting in the capacity of a member;
- Electors' meetings - annual general and special;
- Civic receptions hosted by the City of Busselton;
- Visits by Ministers of the Crown;
- Inspection tours of matters arising before the Council;
- Any City-convened meeting requiring elected member attendance, including briefing sessions, workshops and other forums;
- Elected member training courses
- Officially convened meetings with ratepayers;
- Attendance at community functions with a formal invitation as an elected member;
- Seminars and conferences attended in the capacity of an elected member;
- Meetings of community groups or other external organisations of which the elected member has been appointed the Council's representative by Council resolution (except where the other body pays the elected member for meeting attendance and/or travel eg ministerial appointment to State Advisory Boards).

When practicable a City-owned motor vehicle should be used in the first instance.

The reimbursement will be made available to the elected member on the receipt of a certified claim form and in accordance with the rates set out in the State Salaries and Allowances Tribunal. Nothing in this section prevents an elected member from utilising a City-owned motor vehicle for the types of travel approved under this section and this is encouraged where practical for the elected member's purposes.

Subject to the approval of the Chief Executive Officer, the elected member is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use does not go beyond use of a minor incidental nature. Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.

3.1.6 Reimbursement of expenses while away from home on sanctioned activities

Expenses incurred for conferences, training, seminars and similar occasions requiring an elected member to stay overnight away from their place of residence will be reimbursed to the elected member or paid directly by the City in accordance with the following guidelines.

Air travel and accommodation will be arranged and paid for by the City in consultation with the elected member and the key considerations will be cost effectiveness and for accommodation also proximity to the location at which the conference, training, seminar or similar occasion is being held.

While staying in the accommodation provided by the City for the purpose of enabling attendance at the approved conference, training or seminar, the expenses to be met by the City will be:

Expenses and Restrictions	Elected Member	Spouse
Laundry > 2 nights	Y	Y
Taxi fares or other public transport - only where these directly relate to the activity and no other transport is provided	Y	Y
Daily sustenance per day allowance in accordance with the <i>Public Service Award 1992 (1)</i>	Y	N
Specific conference related dinners/meals	Y	Y
(1) Limited authority exists to purchase alcohol for networking purposes in a similar manner to the way the Council offers community members an invitation to share a drink after a Council meeting.		

3.1.7 Reimbursement of other expenses

3.1.7.1 Reimbursement of hospitality expenses

Elected members may seek reimbursement of the reasonable costs of beverages or snack items provided during any meeting or networking opportunity that relates to City activities, subject to the provision of receipts to the CEO.

3.1.7.2 Corporate attire reimbursement

Each elected member is eligible to claim up to \$1,000 reimbursement for the purchase of corporate attire, which may include a brief case or travel case. Payment will be made on the production of receipts for clothing, shoes or a case, but will be limited to \$500 for the period November to April and a further \$500 for the period May to October.

3.2 Mayor

3.2.1 Mayoral allowance

In addition to their entitlements as an elected member under Section 3.1 of this policy, the Mayor is eligible for a Mayoral allowance in accordance with the *Local Government Act 1995*. In accordance with the relevant *Local Government Elected Council Members Determination* the Mayor of the City of Busselton shall be paid an allowance within the Band established as set by Council when the annual budget is adopted, payable monthly or quarterly in arrears.

The allowance will be calculated on a pro-rata basis for any Mayor who commences or ceases office

during the month or quarter. Upon commencement of office, the Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Mayoral allowance and their preferred payment method. Nothing in the relevant legislation or this policy prevents the Mayor from changing their intention at any time.

3.2.2 Provision of a City-owned vehicle

The Mayor shall be provided with a City-owned motor vehicle for use in his or her official capacity. The Mayor is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use does not go beyond use of a minor incidental nature. Nothing in this section prevents the vehicle from being utilised in accordance with City fleet guidelines by other elected members or officers with the agreement of the Mayor.

The Mayor may also use the vehicle for private use for convenience or necessity on a cost recovery basis. Details of private use shall be recorded in a log book which shall be provided to the City on a quarterly basis.

The Mayor is permitted to use the vehicle for private use without further authorisation on the basis that the cost reimbursement is made to the City in one of the following ways:

Calculation of the amount due and the quarterly members allowance payment be reduced accordingly; or

Calculation of the amount due and an invoice be given to the Mayor for reimbursement.

The CEO and Mayor shall agree which of the two methods should apply. The mileage rate would be calculated at the rate determined by the State Salaries and Allowances Tribunal – which refers to the rate payable contained by reference to the decision of the Local Government Elected Council members Determination under the Salaries and Allowances Act 1975.

Unless Council approves otherwise, the mayoral vehicle may only be used for private purposes for travel within the State of WA.

3.3 Deputy Mayor

3.3.1 Deputy Mayor's allowance

In addition to their entitlements as an elected member under Section 3.1 of this policy, the Deputy Mayor may be paid a Deputy Mayor's allowance in accordance the *Local Government Act 1995*. In accordance with the relevant *Local Government Elected Council Members Determination* the Deputy Mayor can be paid up to 25% of the Mayoral allowance. The Deputy Mayor of the City of Busselton shall be paid the maximum percentage of the Mayoral allowance of 25%, payable monthly or quarterly in arrears.

The allowance will be calculated on a pro-rata basis for any Deputy Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Deputy Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Deputy Mayor's allowance and their preferred payment schedule. Nothing in the relevant legislation or this policy prevents the Deputy Mayor from changing their intention at any time.

The Deputy Mayor shall be permitted to use the City-owned vehicle provided to the Mayor during periods the Mayor is on leave and will have the same entitlements the Mayor has to use the City-owned vehicle for private use under the same conditions as set out in clause 3.2.2.

4. APPLICATION OF THE POLICY

Any request for reimbursement in accordance with the relevant clauses of this policy must be accompanied by an original supplier receipt or other relevant documentation.

Policy Background

Policy Reference No. - 001

Owner Unit – Governance

Originator – Director of Finance and Corporate Services

Policy approved by – Council

Date Approved – 27 August 2008

Review Frequency – As required

Related Documents –

Local Government Act 1995

Local Government Department Circular 9-2011

Local Government (Administration) Regulations 1996

Local Government Elected Council Members Determinations

Background/History - Initiated June 2008 to replace former policies:

054/1 - Councillors' Travelling Expenses;

055/1 - Attendance at Conferences, Training and Seminars;

193 - Communications Allowances - Councillors;

212/1 - Vehicle for Use by Shire President and Councillors;

226 - Laptop Computers - Councillors and Officers;

227 - Printer Consumables.

Last Policy Change

Council Resolution	Date	Information
		Adjustments of the Policy to reflect current practice and to allow the Mayor private use of vehicle.
C1608/200	10 August, 2016	Adjustments to state that fees and allowances to be determined in accordance with the relevant <i>Local Government Elected Council Members Determination</i> . Version 8

CARRIED 9/0

BY ABSOLUTE MAJORITY

11.1 AMENDMENT 23 TO LOCAL PLANNING SCHEME 21 - INTRODUCING THE RESIDENTIAL ZONE TO UNZONED PORTIONS OF 'PART LOT' 9507 LAYMAN ROAD, GEOGRAPHE - FOR FINAL ADOPTION

SUBJECT INDEX:	Local Planning Scheme
STRATEGIC OBJECTIVE:	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
BUSINESS UNIT:	Strategic Planning and Development Services
ACTIVITY UNIT:	Strategic Planning and Development
REPORTING OFFICER:	Strategic Planner - Nick Edwards
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Subject Land and Location Context Attachment B Existing and Proposed Zoning Diagrams Attachment C Port Geographe Development Plan Attachment D Draft Subdivision Layout Attachment E Schedule of Submissions

Council Decision and Officer Recommendation

C1612/172

Moved Councillor C Tarbotton, seconded Councillor J McCallum

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Pursuant to Part V of the *Planning and Development Act 2005*, adopts Amendment No. 23 to the City of Busselton Local Planning Scheme No. 21 for final approval for the purposes of:
 - a. Introducing the 'Residential' Zone over unzoned portions of subject Pt Lot 9507 Layman Road, Geographe;
 - b. Applying the 'R20' residential density coding to the unzoned areas of the land in line with the advertised Planning Scheme map;
 - c. Applying 'R30' residential density coding to land in line with the advertised Planning Scheme map;
 - d. Adjusting the boundary of the proposed 'Recreation' Reserve portion of Part Lot 9507 to align with the land use boundaries identified in the subdivision application for the subject land presented in Attachment B;
 - e. Reclassifying a smaller part of Pt Lot 9507 adjacent to Navigation Way from 'Residential' use to a 'Recreation' Reserve; and,
 - f. Amending all relevant Planning Scheme maps accordingly
2. Advise the Western Australian Planning Commission that the proposed Amendment is considered as a 'Standard' amendment under the provisions of the *Planning and Development (Local Planning Scheme) Regulations 2015*;
3. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to endorse the Schedule of Submissions at Attachment E prepared in response to the public consultation undertaken in relation to Amendment No. 23.
4. Upon preparation of the necessary documentation, refers the adopted Amendment 23 to the

Western Australian Planning Commission for consideration according to the *Planning and Development Act 2005*.

5. Pursuant to r.56 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should directions be given that modifications to draft Amendment No. 18 are required, these modifications are to be undertaken accordingly, on behalf of the Council, unless they are considered by Officers likely to significantly affect the purpose and intent of the draft Amendment, in which case the matter shall be formally referred back to the Council for assessment and determination.

CARRIED 9/0

BY ABSOLUTE MAJORITY

12.1 ASPHALT AND SPRAY SEALING SERVICES - AWARD OF TENDER RFT 23/16

SUBJECT INDEX:	RFT23/16 - Asphalt and Spray Sealing Services
STRATEGIC OBJECTIVE:	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT:	Operation and Works Services
ACTIVITY UNIT:	Maintenance and Construction
REPORTING OFFICER:	Maintenance and Construction Coordinator - Matthew Twyman
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Confidential Tender Evaluation and Recommendation Report - RFT23/16 Asphalt & Spray Sealing Services

Council Decision and Officer Recommendation

C1612/173 Moved Councillor P Carter, seconded Councillor R Reekie

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Endorses the outcomes of the evaluation panel's assessment in relation to Tender RFT23/16 Asphalt and Spray Sealing Services which has resulted in the tender submitted by Malatesta Road Paving & Hot Mix Pty Ltd being ranked as the best value for money.
2. Delegate authority to the CEO to award the contract resulting from RFT23/16 – Asphalt and Spray Sealing Services to Malatesta Road Paving & Hot Mix Pty Ltd subject to negotiations, in accordance with the terms and conditions contained within the tender for a period of three (3) years from the date of award, with two (2) optional one (1) year extensions to be exercised at the Principal's discretion.

CARRIED 9/0

BY ABSOLUTE MAJORITY

14.1 AMENDMENT TO DELEGATION (INVITING TENDERS AND CHOICE OF TENDER)

SUBJECT INDEX:	Delegation
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Contract & Tendering Officer - Lisa McDonald
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

Council Decision and Officer Recommendation

C1612/174 Moved Councillor C Tarbotton, seconded Councillor J McCallum

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council resolves to amend Delegation 3J by replacing it with the following:

INSTRUMENT OF DELEGATION

Ref No	LG Act Ref	Delegate	Delegation Subject
3J	3.57 F and G Regs 14 and 18	Chief Executive Officer	Inviting Tenders and Choice of Tender

Delegator

Council.

Power/Duty

To exercise the powers and discharge the duties of the local government under Regulations 14 and 18 of the *Local Government (Functions and General) Regulations 1996* subject to the undermentioned conditions:

Conditions

This delegation is subject to:

- a) Utilising the standard selection criteria as per Policy 031;
- b) Following the City's operational practice utilising tender evaluation processes and documentation developed by WALGA;
- c) Compliance with the requirements of the City's Purchasing Policy as it relates to tendering; 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 Regulation 14 and Regulation 18 of the *Local Government (Functions and General) Regulations 1996* subject to the above conditions.

Local Government Act Section 3.57.**Tenders for providing goods or services**

- (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 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.**Choice of Tender**

- (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 it thinks would be most advantageous to the local government to accept.*
- (4a) *To assist the local government in deciding which tender would be 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.*

Verification

Council Resolution
C1606/140

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1103/079

Review Requirements

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

Review Dates

08 June, 2016

10 June, 2015

10 June, 2014

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2012

9 March, 2011 (implementation).

Related Documents

Tender Register.

Notes of Alterations

08/06/2016 – Increase of value to \$500,000

10/06/2015 – Increase of value to \$350,000

26/06/2013 – Increase of value to \$300,000 and other minor alterations.

**CARRIED 9/0
BY ABSOLUTE MAJORITY**

14.2 PROPOSED CITY OF BUSSELTON WASTE LOCAL LAW

SUBJECT INDEX:	Local Laws
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal
REPORTING OFFICER:	Legal Services Coordinator - Cobus Botha
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Proposed City of Busselton Waste Local Law 2016

Council Decision and Officer Recommendation

C1612/175 Moved Councillor G Bleechmore, seconded Councillor R Reekie

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Resolves to make the *City of Busselton Waste Local Law 2016* in accordance with section 3.12(4) of the *Local Government Act 1995*.
2. Authorises the Chief Executive Officer to carry out the processes required to make the *City of Busselton Waste Local Law 2016* in accordance with section 3.12(5) and section 3.12(6) of the *Local Government Act 1995*.

CARRIED 9/0

BY ABSOLUTE MAJORITY

18. QUESTIONS FROM MEMBERS

Nil

19. PUBLIC QUESTION TIME

Nil

20. NEXT MEETING DATE

Wednesday, 8 February 2017

21. CLOSURE

The meeting closed at 7.24pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 155 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 8 FEBRUARY 2017.

DATE: _____

PRESIDING MEMBER: _____