

Please note: These minutes are yet to be confirmed as a true record of proceedings

CITY OF BUSSELTON

MINUTES FOR THE COUNCIL MEETING HELD ON 9 NOVEMBER 2016

TABLE OF CONTENTS

ITEM NO.	SUBJECT	PAGE NO.
1.	DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS.....	3
2.	ATTENDANCE	3
3.	PRAYER	3
4.	PUBLIC QUESTION TIME.....	4
5.	ANNOUNCEMENTS WITHOUT DISCUSSION.....	4
6.	APPLICATION FOR LEAVE OF ABSENCE.....	4
7.	PETITIONS AND PRESENTATIONS	4
8.	DISCLOSURE OF INTERESTS	4
9.	CONFIRMATION AND RECEIPT OF MINUTES	4
	Previous Council Meetings	4
	9.1 Minutes of the Council Meeting held 26 October 2016.....	4
	Committee Meetings.....	5
	9.2 Minutes of the Airport Advisory Committee Meeting held 19 October 2016	5
	9.3 Minutes of the Policy and Legislation Committee Meeting held 20 October 2016	5
	9.4 Minutes of the Audit Committee Meeting held 26 October 2016	5
10.	REPORTS OF COMMITTEE	8
	10.1 Airport Advisory Committee - 19/10/2016 - BUSSELTON MARGARET RIVER AIRPORT - AIRPORT UPDATE	8
	10.2 Policy and Legislation Committee - 20/10/2016 - NON-EXCLUSIVE COMMERCIAL USE OF CITY LAND.....	14
	10.3 Audit Committee - 26/10/2016 - CITY OF BUSSELTON 2015/2016 ANNUAL FINANCIAL REPORT, AUDITORS REPORT AND MANAGEMENT LETTER.....	33
	10.4 Audit Committee - 26/10/2016 - LOCAL GOVERNMENT AUDIT REGULATION 17 - REVIEW OF RISK MANAGEMENT	37
	10.5 Audit Committee - 26/10/2016 - REVIEW OF ORGANISATIONAL SYSTEMS AND PROCEDURES - INTERNAL CONTROL	45
	10.6 Audit Committee - 26/10/2016 - LOCAL GOVERNMENT (AUDIT) REGULATION 17 - AUDIT OF LEGISLATIVE COMPLIANCE.....	56
11.	PLANNING AND DEVELOPMENT SERVICES REPORT	62
	11.1 ADOPTION OF THE REVISED ENVIRONMENT STRATEGY	62
12.	ENGINEERING AND WORKS SERVICES REPORT.....	84
	12.1 TENDER AWARD - RFT19/16 - THE DESIGN & CONSTRUCTION OF THE BUSSELTON FORESHORE COASTAL DEFENCES CENTRAL CORE AREA	84

13.	COMMUNITY AND COMMERCIAL SERVICES REPORT	76
13.1	CITY OF BUSSELTON ECONOMIC DEVELOPMENT STRATEGY (2016-2026)	76
14.	FINANCE AND CORPORATE SERVICES REPORT	66
15.	CHIEF EXECUTIVE OFFICER'S REPORT	66
15.1	COUNCIL ENDORSEMENT OF THE 2015- 2016 CITY OF BUSSELTON ANNUAL REPORT	70
15.2	COUNCIL MEETING SCHEDULE FOR 2017	66
15.3	COUNCILLORS' INFORMATION BULLETIN	73
16.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	89
17.	CONFIDENTIAL REPORTS	89
18.	QUESTIONS FROM MEMBERS	89
19.	PUBLIC QUESTION TIME.....	89
20.	NEXT MEETING DATE	89
21.	CLOSURE	89

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 9 NOVEMBER 2016 AT 5.30PM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 5.31pm.

2. ATTENDANCE

Presiding Member:

Cr Grant Henley Mayor

Members:

Cr Coralie Tarbotton
Cr Ross Paine
Cr John McCallum
Cr Rob Bennett
Cr Paul Carter
Cr Robert Reekie

Officers:

Mr Mike Archer, Chief Executive Officer
Mr Oliver Darby, Director, Engineering and Works Services
Mr Paul Needham, Director, Planning and Development Services
Mrs Naomi Searle, Director, Community and Commercial Services
Mr Cliff Frewing, Director, Finance and Corporate Services
Mr Kim Dolzadelli, Manager Financial Services
Miss Hayley Barge, Administration Officer, Governance

Apologies

Nil

Approved Leave of Absence

Cr Terry Best
Cr Gordon Bleechmore

Media:

1

Public:

Nil

3. PRAYER

The prayer was delivered by Revrend Brenton Prigge of Busselton Uniting Church.

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

Nil

Public Question Time

Nil

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

The Mayor acknowledged the success of the Sugito Exchange Tour, reaffirming the relationship between the Sister Cities and being able to formally sign on to the Mayors for Peace Program. The City of Busselton is looking forward to reciprocating the exchange visit. The work of staff who assisted in organising the visit is appreciated.

Announcements by other Members at the invitation of the Presiding Member

Nil

6. APPLICATION FOR LEAVE OF ABSENCE

Nil

7. PETITIONS AND PRESENTATIONS

Nil

8. DISCLOSURE OF INTERESTS

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

- CEO Mike Archer in relation to Agenda Item 15.3 - Councillors' Information Bulletin.

The Mayor advised that in accordance with the Local Government (Rules of Conduct) Regulations 2007 this declaration would be read out immediately before Item 15.3 was discussed.

9. CONFIRMATION AND RECEIPT OF MINUTES**Previous Council Meetings****9.1 Minutes of the Council Meeting held 26 October 2016****Council Decision**

C1611/117

Moved Councillor P Carter, seconded Councillor C Tarbotton

That the Minutes of the Council Meeting held 26 October 2016 be confirmed as a true and correct record.

CARRIED 7/0

Committee Meetings9.2 Minutes of the Airport Advisory Committee Meeting held 19 October 2016**Council Decision****C1611/118** Moved Councillor J McCallum, seconded Councillor P Carter

- 1) That the minutes of the Airport Advisory Committee meeting 19 October 2016 be received.
- 2) That the Council note the outcomes from the Airport Advisory Committee meeting 19 October 2016 being:
 - a) The Busselton Margaret River Airport - Airport Update item is presented for Council consideration at item 10.1 of this agenda.
 - b) The general discussion is noted.

CARRIED 7/09.3 Minutes of the Policy and Legislation Committee Meeting held 20 October 2016**Council Decision****C1611/119** Moved Councillor C Tarbotton, seconded Councillor R Reekie

- 1) That the minutes of the Policy and Legislation Committee meeting 20 October 2016 be received.
- 2) That the Council note the outcomes from the Policy and Legislation Committee meeting 20 October 2016 being:
 - a) The Non-Exclusive Commercial Use of City Land item is presented for Council consideration at item 10.2 of this agenda.
 - b) The general discussion item on Operational Use of Corporate Credit Cards item is noted.

CARRIED 7/09.4 Minutes of the Audit Committee Meeting held 26 October 2016**Council Decision****C1611/120** Moved Councillor P Carter, seconded Councillor R Reekie

- 1) That the minutes of the Audit Committee meeting 26 October 2016 be received.
- 2) That the Council note the outcomes from the Audit Committee meeting 26 October 2016 being:
 - a) The City of Busselton 2015/2016 Annual Financial Report, Auditors Report and Management Letter item is presented for Council consideration at item 10.3 of this agenda.

- b) The Local Government Audit Regulation 17 - Review of Risk Management item is presented for Council consideration at item 10.4 of this agenda.
- c) The Review of Organisational Systems and Procedures - Internal Control item is presented for Council consideration at item 10.5 of this agenda.
- d) Local Government (Audit) Regulation 17 - Audit of Legislative Compliance item is presented for Council consideration at item 10.6 of this agenda.

CARRIED 7/0

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

C1611/121 Moved Councillor J McCallum, seconded Councillor P Carter

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

- 10.1 Airport Advisory Committee - 19/10/2016 - BUSSELTON MARGARET RIVER AIRPORT - AIRPORT UPDATE
- 10.2 Policy and Legislation Committee - 20/10/2016 - NON-EXCLUSIVE COMMERCIAL USE OF CITY LAND
- 10.3 Audit Committee - 26/10/2016 - CITY OF BUSSELTON 2015/2016 ANNUAL FINANCIAL REPORT, AUDITORS REPORT AND MANAGEMENT LETTER
- 10.4 Audit Committee - 26/10/2016 - LOCAL GOVERNMENT AUDIT REGULATION 17 - REVIEW OF RISK MANAGEMENT
- 10.5 Audit Committee - 26/10/2016 - REVIEW OF ORGANISATIONAL SYSTEMS AND PROCEDURES - INTERNAL CONTROL
- 10.6 Audit Committee - 26/10/2016 - LOCAL GOVERNMENT (AUDIT) REGULATION 17 - AUDIT OF LEGISLATIVE COMPLIANCE
- 11.1 ADOPTION OF THE REVISED ENVIRONMENT STRATEGY
- 15.2 COUNCIL MEETING SCHEDULE FOR 2017

CARRIED 7/0

EN BLOC

10. REPORTS OF COMMITTEE

10.1 Airport Advisory Committee - 19/10/2016 - BUSSELTON MARGARET RIVER AIRPORT - AIRPORT UPDATE

SUBJECT INDEX:	Busselton-Margaret River Airport
STRATEGIC OBJECTIVE:	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT:	Commercial Services
ACTIVITY UNIT:	Commercial Services
REPORTING OFFICER:	Airport Operations Coordinator - David Russell
AUTHORISING OFFICER:	Manager, Commercial Services - Jennifer May
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

This item was considered by the Airport Advisory Committee at its meeting on 19 October 2016, the recommendations from which have been included in this report.

PRÉCIS

This report provides an overview on the Busselton-Margaret River Airport (BMRA) operations and activities for the reporting period 1 July 2016 to 30 September 2016.

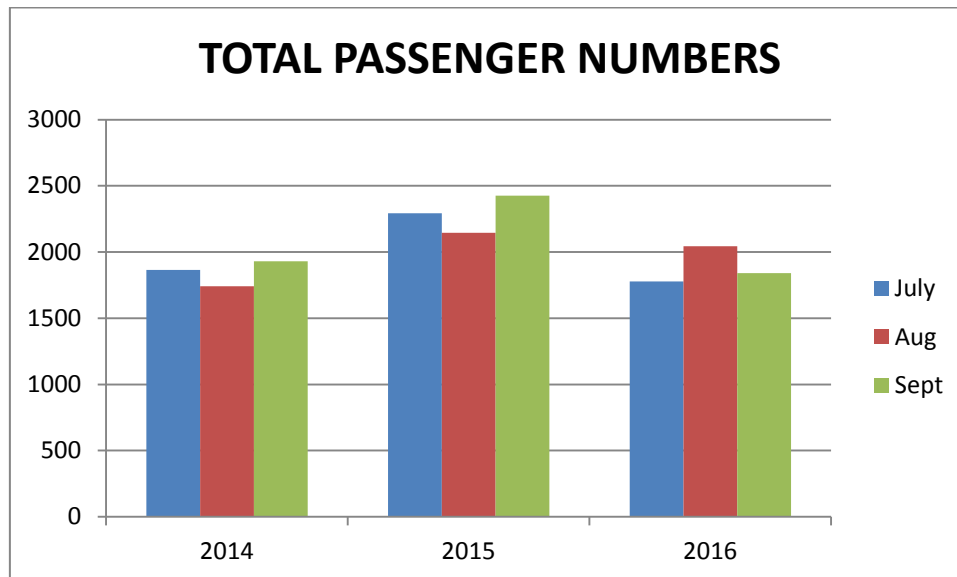
BACKGROUND

Quarterly Update

The BMRA has seen a decline in the overall FIFO passenger numbers compared to the same period for 2014 and 2015 which can be attributed to the withdrawal of the Maroomba / Ad Astral services to the Karara mine site in December 2015. However, FIFO passenger numbers relating to the Virgin Australia Regional Airlines (VARA) services remain in line with previous years numbers.

Below is a table indicating the number of FIFO/ Charter passengers travelling through BMRA for the reporting period 1 July 2016 to 30 September 2016:

	Departing FIFO/Charter Passengers			Arriving FIFO/Charter Passengers		
	2014	2015	2016	2014	2015	2016
July	1036	1277	995	830	1016	784
August	1069	1189	1153	673	956	890
September	1077	1280	1065	854	1145	775
TOTAL	3182	3746	3213	2357	3117	2449



The total number of departing FIFO services from BMRA is currently 10 flights per week.

A total of 771 aircraft landings were recorded for the period July-September 2016, a decrease from the numbers reported for the same period in 2014 (939) and 2015 (1142), this decrease is potentially due to a wet winter with higher than average cross winds experienced.

Potential Business Opportunity

City Officers received an application from an individual (Mr Blakers) trading as South West Aircraft Maintenance to operate an Aircraft Maintenance Facility from the BMRA in late 2015 which has recently been progressed by the applicant.

The proposal to operate a maintenance facility is based on the following;

- All the aircraft serviced will be under 5700kgs, including but not limited to Cessna, Piper and Beechcraft aircraft, and smaller recreational registered aircraft (RAA);
- Aircraft will be single engine, piston aircraft and carry from 2 to 8 people;
- Estimated annual aircraft numbers are;
 - 1st year - 10 aircraft
 - 2nd year - 20 - 30 aircraft
 - 3rd year -50 aircraft.

The type of maintenance will be mainly scheduled maintenance consisting of oil changes, filters and airframe inspections including some airframe repairs consisting of riveting and a minimal amount of aircraft painting.

Proposed trading hours are as follows;

- Monday to Saturday 7.00 am to 5.00pm;
- Sunday and Public Holidays – as needed within the hours of 7.00am to 5.00pm.
- All aircraft movements will operate within the conditions of the BMRA Noise Management Plan (NMP).

Mr Blakers has been made aware of the requirements of the NMP and also of any environmental requirements relating to the operations of a maintenance facility which would form part of any potential City approval.

Mr Blakers requires approval from the City to operate a maintenance facility from any one of the BMRA hangars prior to applying to CASA for a Certificate of Approval (to operate a maintenance facility) which requires a business address and approval from the Aerodrome operator. Officers understand that Mr Blakers has not finalised any arrangements with existing hangar owners (either sub-leasing or purchase) and will wait until he has secured his CASA Certificate of Approval before doing so.

However, in accordance with the existing hangar leases, the terms and conditions stipulate the following;

Section 7; Use of Hangar Area which details the permitted use of the hangar space;

The lessee shall not:

- a) Use of permit to be used the Hangar Area or any part thereof for any purpose other than for aircraft hangarage and work associated with the construction, repair and maintenance of aircraft for personal use which is of a minor nature only such as to be incidental to the hangarage of aircraft;*
- b) Carry on a business at or from the Hangar Area without the written approval of the Shire of Busselton;*

As such the hangar owner group will need to request approval from the City to vary the existing lease to allow the aircraft maintenance facility to operate from the hangar at the BMRA. Once a written request has been received from the hangar owner group, Officers can progress the required City approval under the CEO's delegated authority

STATUTORY ENVIRONMENT

The BMRA operates in accordance with the following: Aviation Transport Security Act 2004, Aviation Transport Security Regulations 2005, CASA MOS 139, Council's Transport Security Plan and City policies and procedures.

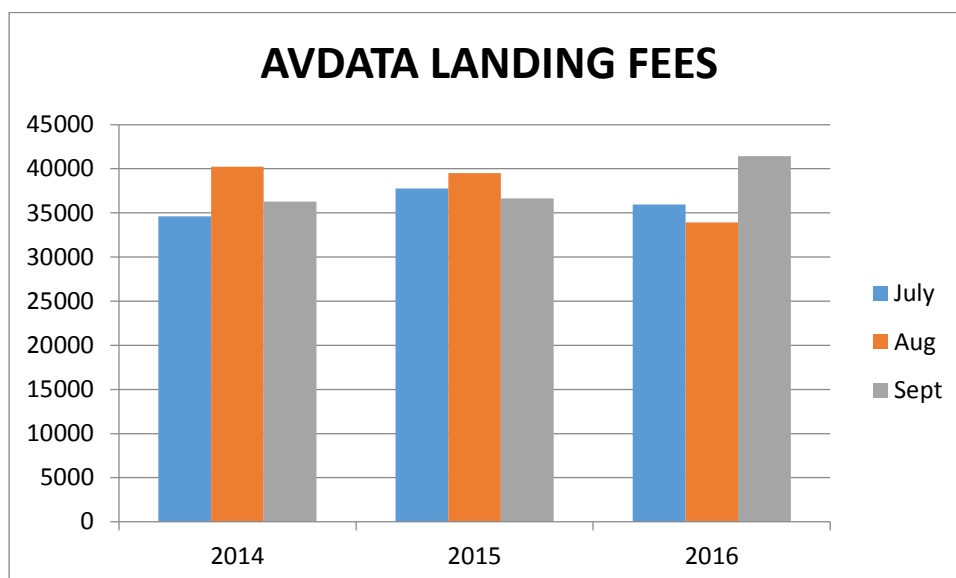
RELEVANT PLANS AND POLICIES

There are no policy implications with this report.

FINANCIAL IMPLICATIONS

Airport revenue for the 2016/2017 financial year to 30 September is \$164,019 compared to a projected year to date (YTD) budget of \$259,680. The main reasons for revenue being less than expected is due to the City having not received payment of VARA's August passenger fees estimated at \$23,000, and outstanding Avdata landing fee collection estimated at \$72,000. Car parking revenue is slightly less than expected with an income of \$59,566 compared to the projected YTD budget of \$66,249 which has been partly been impacted by increased carpooling by patrons.

The graph below shows the landing fees collected by Avdata for the reporting period July- September 2016 in comparison to the same period for 2014 and 2015, noting that that the City has not received the landing fees for August and September 2016.



Airport expenditure for 1 July 2016 to 30 September 2016 is \$180,312 compared to a projected YTD Budget amount of \$208,949. Expenditure is less than expected due to some of maintenance tasks being deferred until the drier summer months.

There are no financial implications as a result of this report.

Long-term Financial Plan Implications

There are no financial implications as a result of this report.

STRATEGIC COMMUNITY OBJECTIVES

The BMRA is consistent with following the City of Busselton's strategic Objectives:

Well Planned, Vibrant and Active Places:

- Infrastructure Assets that are well maintained and responsibly managed to provide for future generations;
- Connected City of Busselton Transport options that provide greater links within our district and increase capacity for community participation.

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 sought to identify 'downside' risks only rather than 'upside' risks and where the risk, following implementation of controls, has been identified as medium or greater. No such risks were identified.

CONSULTATION

Consultation with Department of Transport, South West Development Commission, Aviation Projects, Government agencies, Airport stakeholders, Office of Transport Security (OTS), Civil Aviation Safety Authority (CASA), Virgin Australia Regional Airline, the Busselton Aero Club, Service Agencies, Albany, Esperance, Geraldton Airports and Australian Airports Association has been occurring on a regular basis concerning many topics and issues relating to the Airport.

OFFICER COMMENT

FIFO/ Charter passenger numbers through the BMRA have decreased slightly compared to the same period last year and officers expect passenger numbers to remain in line with budgeted forecasts for the remainder of the financial year.

The July- September period has seen operational improvements, maintenance and scheduled inspections taking place including the installation of a new main electrical distribution board and a new electrical board in the terminal office.

Officers are also assessing new drone rules introduced by CASA in early October and any potential impact to the City.

Officers have attended industry meetings with CASA regarding aviation safety hosted by the Busselton Aero Club, the Australian Airports Association W.A. division meeting held in early August and the W.A. Police South West Joint Investigation Group incorporating protective security and critical Infrastructure in the region.

The City has received a request for approval for a GA/RAA maintenance facility to operate from the BMRA. However, approval is required from the City to vary the lease to allow a commercial business to operate from the hangars. Approval is also required from CASA for a certificate of approval to operate a maintenance facility and a letter of support is required by CASA from the aerodrome operator.

At the Council meeting of 8 July 2015, the Council endorsed that the Chief Executive Officer be delegated authority to approve any further variations to the leases between the City of Busselton and Busselton Hangar Owners Pty Ltd, the Geographe Hangar Owners Group Inc. and the Busselton Flyers Pty Ltd for the purposes of operating aviation related commercial businesses to operate from the hangars at the Busselton Regional Airport (C1507/190). As such a CEO approval will be sought once a written request has been received from the relevant hangar owner group (and South West Aircraft Maintenance) for approval to operate from the BMRA hangars.

CONCLUSION

The wet weather has delayed some maintenance over the winter period however the airport operations team is looking forward to an exciting and busy time during the drier months with the commencement of airside construction for the BMRA expansion.

As always officers will be providing a high level of customer service and ensuring the airport is operating safely during this year and into the airport expansion project.

Currently a number of small aviation businesses operate from the BMRA and contribute to the recreational and general aviation community based at the Airport. The addition of a GA and RAA maintenance facility has the potential to grow the GA community and increase visitation to the BMRA by pilots and CEO approval will be sought by Officers following a written request from the hangar owner group and operator.

OPTIONS

The Airport Advisory Committee chooses not to accept the Officers report.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not Applicable

Council Decision / Committee Recommendation and Officer Recommendation

C1611/122 Moved Councillor J McCallum, seconded Councillor P Carter

That the Airport Advisory Committee;

1. Receive and note the Airport operations report.

**CARRIED 7/0
EN BLOC**

10.2 Policy and Legislation Committee - 20/10/2016 - NON-EXCLUSIVE COMMERCIAL USE OF CITY LAND

SUBJECT INDEX:	Trading in Public Places
STRATEGIC OBJECTIVE:	A City where the community has access to quality cultural, recreation, leisure facilities and services.
BUSINESS UNIT:	Health Services
ACTIVITY UNIT:	Environmental Health
REPORTING OFFICER:	Manager Health Services - Tanya Gillett
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Draft Policy ⇒

This item was considered by the Policy and Legislation Committee at its meeting on 20 October 2016, the recommendations from which have been included in this report.

PRÉCIS

The Council is asked to consider adopting a policy, presented in draft form, which sets out an overall framework for the management of the 'Non-Exclusive Commercial Use of City Land'. Note that the policy does not deal with: leasehold, commercial use of City land; with the use of City land for events or markets; or with the short-term hiring of City property for functions or similar; the approaches to management of which are guided by other policies or frameworks. The policy does, however, relate to the following kinds of activities on City land—

- Mobile food/drink traders;
- Itinerant food/drink traders;
- *Al fresco* dining (other than where this is facilitated via a lease);
- Recreational activities of some kinds (i.e. 'exercise permits'), but not general sporting use of ovals or similar;
- Tours or similar;
- Traders engaged in the short-term hiring of recreational equipment; and
- Some trading that operates from more or less temporary premises and/or from fixed premises, but on the basis of relatively short-term arrangements, such as trading from a converted/adapted sea container, or from some other relocatable and/or low cost structure.

The development of the draft policy reflects the increasing potential for commercial use of public land, and the need to develop a coherent, fair and workable approach to managing that activity. Particular attention has been paid to developing a policy: that applies consistent principles to different kinds of activities and situations; is administratively simple and comprehensible; and which achieves the best outcomes for the community as a whole. In some instances, the policy represents a significant departure from current practice, and in other cases it does not.

Development of the draft policy also follows earlier Council adoption of a draft policy relating to 'Trading in Public Places', which has subsequently been subject of public consultation. It is envisaged that the draft policy now proposed, if adopted by the Council, will be quickly followed by more detailed policies outlining, in more detail, the approach to be applied to various subsets of the activities that would be covered by the overall 'umbrella' policy relating to most kinds of 'Non-exclusive commercial use of City land'.

BACKGROUND

As is the case in many other local government areas, there is a range of commercial activity that occurs on local government owned and/or managed land in the City of Busselton. That includes commercial activity undertaken on land leased from the City (which has been subject of recent policy development/review). An example of this kind of situation is the *Equinox*, a business that Councillors would be very familiar with. Where commercial activity of this kind occurs –

- The cost of the lease reflects the market value of the land (i.e. the market value either as negotiated giving consideration to advice from a licensed valuer, and/or as determined by an open, competitive process of some kind, in accordance with the requirements of the local government legislation); and
- Other costs associated with developing and operating a ‘permanent, fixed business’ on private land also generally apply (e.g. payment of local government rates, payment of other infrastructure rates and charges, meeting the costs of employing staff to operate a business on a year round basis, and meeting the costs associated with developing and maintaining the building/s that house/s the business/es).

The frameworks associated with facilitating and regulating commercial activity of this kind are well established and reasonably well understood, and there is generally understood to be a ‘level playing field’ for this kind of activity, relative to similar activity on private land. With this kind of activity there is also a financial return to the City (and therefore the community as a whole) reflective of the value of the land (and, by extension, the value of the infrastructure developed and maintained by the City that enhances the value of the land – e.g. the very significant infrastructure investments made by the City, largely utilising ratepayer and taxpayer funds, on behalf of the community, at the Busselton Foreshore).

There are, however, other kinds of commercial activity that also take place on City land, or which may in future take place on City land, and the frameworks associated with some of those other kinds of commercial activity are sometimes not as well established or as well understood. Those kinds of activities include various kinds of mobile, short-term or ephemeral ways of conducting business, such as markets or mobile food vans. There are also particular concerns in some quarters about whether activity of this kind may –

- Benefit from an ‘uneven playing field’ relative to permanent, fixed businesses, in particular those offering equivalent goods and/or services;
- Undermine the viability of equivalent permanent, fixed businesses; and/or
- In an overall sense, generate less social and/or economic benefit than equivalent permanent, fixed businesses.

Those concerns may or may not be justified (and those kinds of concerns are outlined and discussed in more detail later in this report), but it is also often true that those other kinds of commercial activity may in some instances –

- Provide a relatively low-cost and low-risk basis for new business development;
- Provide a service in a location where services would not otherwise be provided;
- Assist in activating and increasing the vibrancy of public spaces, and in some cases improve the broader commercial/trading environment in the area;
- Deliver additional financial return to the City (and therefore the community as a whole) related to the value of City land, and the value of infrastructure developed and maintained by the City;

- May provide a service (service in the broad sense, 'experience' might be a better word than 'service' in this context) that is genuinely different to that which can be provided by seemingly equivalent permanent, fixed businesses; and
- May complement and support a more conventional, fixed, permanent business, providing additional income for the business, making more effective use of fixed assets (such as commercial kitchens), and building both the business and the brand (i.e. where the business consists of both a fixed, permanent premises and mobile or ephemeral elements).

Examples of these other kinds of commercial activity on City land include –

- Events, and the trading activity associated with events;
- Markets;
- Buskers/street entertainers;
- Mobile traders (i.e. traders, usually food/drink traders, that operate from particular locations for certain periods of time, e.g. the various food vendors that operate from time to time from a location like the King Street Car Park);
- Itinerant traders (i.e. traders, again usually food/drink traders, that offer goods and services by travelling around the District, stopping only for as long as it takes to serve customers in a particular location, e.g. a 'Mr Whippy Van');
- *Al fresco* dining on footpaths or other City land adjacent or close to a permanent, fixed business;
- Recreational activities of various kinds (including sporting events, fitness classes or similar, and things like mobile climbing walls or water playgrounds);
- The running of tours or similar, which wholly or partly take place on City land and/or using City infrastructure (e.g. the jet boat tours which alight from the Busselton Jetty, and at times stop off in Meelup Regional Park);
- Businesses involved in the short-term hiring of recreational equipment, such as bikes, kayaks or jet skis;
- Activities associated with the short-term hiring of City property (e.g. hiring a City building for a function – which may or may not be a 'commercial' activity, but even where it is not a commercial activity, there may be alternative, privately owned locations for the function); or
- Trading that operates from more or less temporary premises and/or from fixed premises, but on the basis of relatively short-term arrangements, such as trading from a converted/adapted sea container, or from some other relocatable and/or relatively low cost structure (although note that once there is a significant degree of 'permanence' associated with a business and/or structure in this kind of example, it becomes indistinguishable from a more conventional leasehold situation, described in the opening paragraphs of this section of the report).

As is also the case in many other local government areas and, in fact, in many other places in the world, the scale and scope of ephemeral commercial activity, and the activity occurring in public spaces and places of all kinds, has grown substantially in recent years. Because of the high variability and seasonality of demand (which may have reduced over recent years, but is still high relative to many other places), the tourist/visitor economy generally, the number and scale of events in the District and the attractiveness of the District from a lifestyle point of view, the City is at or near the forefront of this trend, in comparison with other locations in Western Australia. There is also considerable pressure and opportunity to allow the trend to continue.

The level of activity and the desire in some quarters to further increase the level of activity is, if nothing else, making the current governance arrangements unworkable. At present, there are approvals in place for the following (in addition to an extensive range of activity which falls outside the scope of the proposed policy) -

- 37 mobile food vendors (consisting of 15 ice cream, 10 coffee, eggs, Indian, Mexican, Mediterranean, health food, seafood, fresh fruit and vegetables, 2 burgers and fish & chips);
- 11 itinerant food vendors (9 ice cream and 2 coffee);
- 3 recreational vendors (2 stand-up paddle boards and Jet Adventures);
- 10 'commercial hire sites' (including kayaks, 'Climbtastic', 'Aquatastic', surfing school, and surf cats); and
- 16 outdoor exercise operators.

These traders are currently operating at 30 locations across the District. The City continues to receive approximately eight requests per week for new sites/businesses. This includes a mixture of all of the types of traders listed above.

There is some suggestion that the increased pressure to accommodate these kinds of activities locally is due to the 'mining downturn', with those no longer able to find secure or attractive employment in the mining or related sectors seeking other opportunities. Whilst that may well be true to some degree, it needs to be recognised that this trend is not confined to Western Australia or even to Australia, and is in fact a trend that is present in much of the world, including in many places that are not experiencing the effects of a mining downturn. Instead, these pressures appear to be part of broader socio-economic shifts, characterised by –

- A search for lower-cost and/or more flexible business models, with lower fixed costs and lower barriers to entry (mobile food vans, for instance, are in some respects an example of this);
- Related to the above, increasing regulatory and compliance burdens being applied to most 'conventional' business activity have also increased barriers to entry and business costs generally, and, as one would expect, there has been increased interest in business models where those regulatory and compliance burdens may be lower – this is a form of what could be called 'regulatory arbitrage' (Note that these burdens have almost entirely been in the form of State or Commonwealth imposed requirements for environmental protection, consumer standards, workplace regulation and social protections – e.g. universal access requirements – which have undoubted benefits, but also have costs.);
- Using or re-using existing assets in new and/or more intensive ways (*Uber* is an example of this, with a substantial part of the attractiveness of the business model, at least initially, being the use of what would otherwise be private cars, only actually in productive use for a very small proportion of the time. Providing space for ephemeral food retailers in high amenity areas like the Busselton Foreshore, which would otherwise be less intensively used, is also an example of this.);
- The development of internet based 'platforms', which can aggregate demand and in some cases allow a series of small businesses to compete more effectively with larger business (*Uber* is also an example of this, as is *AirBnB*, although they are themselves now quite large businesses – the latter has disrupted the tourism accommodation business in many parts of the world, although not to a significant extent in Busselton, which has a long tradition of holiday homes and other flexible, small-scale and sometimes relatively

low-cost approaches to providing holiday accommodation. An application called *Healthy Spot* is also an attempt to develop a platform to aggregate demand and to allow small health and fitness businesses to compete more effectively, and there are numerous other examples.);

- Effective use of the internet by small, new or unconventional businesses for marketing purposes more generally, for instance by allowing a business to build awareness online instead of through conventional advertising, or even online advertising, or paying for a high profile business location (this could be as simple as a mobile food van posting information about their location at a particular time on *Facebook*);
- In the face of the increasing corporatisation and globalisation of business, the search for a greater sense of connection with local people and local businesses, and the search for what are perceived to be more 'authentic' products or experiences; and
- The increasingly blurred boundaries between shopping and recreation, and between the social and the economic, in many contexts.

There are no doubt other shifts underway, other ways of describing these shifts, and significant scope for discussion and debate about the desirability and/or direction of some or all of these shifts. It is, though, clear that we are going through a period of significant change and uncertainty, and that the City is at or near the forefront of at least some of these changes in the Western Australian context. That represents a significant opportunity for the City and its residents, but also creates a range of challenges. Aspects of all these shifts also have an effect on the use of, or the desire to use, public land for commercial purposes. Not allowing use of public land in these new and/or more flexible ways may simply result in the activity taking place on private land instead (an example of where this kind of activity is already occurring on private land is 'The Shed' market in Abbey, near Monaghan's Corner). That may address some of the concerns related to the new activities, but not necessarily all, and may well result in an overall outcome that is not as desirable as what might be achieved otherwise.

It is in this broader context that the City has sought to develop an overall framework to guide the 'commercial' use of City land, and a draft policy relating to the 'Non-exclusive commercial use of City land' has been developed for the Council's consideration (see **Attachment A**). The draft policy is not intended to be a complete policy framework to guide decision-making at the detailed level, but is intended to provide the overarching policy direction. The policy would then be supplemented by more detailed Council policies and/or practices, procedures and guidelines; those would be developed once the overarching policy direction has been determined by the Council.

Note in particular that the draft policy does not relate to the use or development of City land through a leasehold mechanism because, as has already been described, the framework for regulating that kind of activity is already well established and reasonably well understood. The draft policy also does not relate to the regulation and management of events and/or markets, or to the short-term hiring of City property for functions or similar, as those kinds of activities are subject of separate policies and a range of other considerations often not directly relevant to the matters that are subject of the draft policy. The frameworks and issues related to leasehold use of City land, events and markets, the short-term hiring of City property for functions or similar, as well as the frameworks governing similar activities on private land have, however, all been considered in developing the draft policy.

The development of the draft policy has also been prompted by issues that have been raised and related discussion regarding the review and development of a number of more specific policies, including those relating to 'commercial hire sites', 'trading in public places' and 'outdoor eating facilities'. The Council, at its meeting of 14 October 2015, had, in fact, adopted a draft 'Trading in Public Places Policy' for consultation purposes (a copy of which can be provided to Councillors if required). The outcomes of the consultation process are outlined in the 'Consultation' section of this

report. There have also been a number of informal briefing sessions with Councillors on these and related issues.

Further consideration and discussion by officers, though, has identified a significant concern that the City may not be progressing towards development of an integrated or coherent policy approach that would be in the best, long-term interests of the City, its residents and ratepayers. It was considered that some more fundamental re-thinking and reassessment was required before officers would be in a position to recommend that the Council adopt the then draft policy in final form (also noting there were a number of potential modifications that had already been discussed with Councillors following the consultation period). That re-thinking and re-assessment is described in the 'Officer Comment' section of this report.

STATUTORY ENVIRONMENT

- *Land Administration Act 1997* and associated regulations
- *Local Government Act 1995* and associated regulations
- *Planning and Development Act 2005* and associated regulations
- *Building Act 2012* and associated regulations
- *Health Act 1911* and associated regulations
- *Public Health Act 2016*
- *Food Act 2008* and associated regulations
- *Local Planning Scheme 21* and associated structure plans and policies
- *Activities in Thoroughfares and Public Places and Trading Local Law*
- *Property Local Law*
- *Jetties Local Law*
- *Airport Local Law*

RELEVANT PLANS AND POLICIES

- *Busselton Foreshore Master Plan*
- *Busselton City Centre Conceptual Plan*
- *Dunsborough Town Centre Conceptual Plan*
- *Commercial Hire Site Policy* – Reference No. 008*
- *Trading in Public Places Policy* – Reference No. 020*
- *Mobile Vendors on the Busselton Jetty Policy* – Reference No. 006*
- *Community Facilities Bookings Policy* – Reference No. 027
- *Markets Policy* – Reference No. 074
- *Events Policy* – Reference No. 231
- *Leases of City Land and Buildings Policy* – Reference No. 248

The policies above marked with an asterisk are envisaged for revocation and replacement by the draft policy and/or the subsequent more detailed Council policies and/or practices, procedures and guidelines that will follow, and a report setting that in more detail would follow Council's consideration of this report.

FINANCIAL IMPLICATIONS

The City's 2016/17 schedule of fees and charges contains a range of fees relevant to the scope of the proposed policy, as follows –

DESCRIPTION	ADOPTED FEE 2015/16 (Exc GST)	ADOPTED FEE 2016/17 (Exc GST)	ADOPTED FEE 2016/17 (Inc GST)
<u>PLANNING & DEVELOPMENT SERVICES</u>			
<u>HEALTH RELATED FEES</u>			
<u>Food Premises Fees</u>			
Application for Registration/ Notification of Food Premises	60.00	62.00	62.00
Review of Registration/Notification of Food Premises	58.00	60.00	60.00
Transfer of Registration Fee	60.00	62.00	62.00
Inspection fee - Low Risk	89.00	92.00	92.00
Inspection fee - Medium Risk	190.00	196.50	196.50
Inspection fee - High Risk	190.00	196.50	196.50
Inspection of premises on request	167.00	173.00	173.00
Copy of Food Sampling Results Certificate	26.00	27.00	27.00
Temporary Food Business assessment fee (per occasion)	33.00	40.00	40.00
Temporary Food Business assessment fee (annual)	New	180.00	180.00
<u>Stallholders</u>			
Application for Stallholders Permit Fee/Renewal of Stallholder's Permit Fee/ Transfer of Stallholders Permit			
per occasion	30.00	31.00	31.00
Up to 3 months	40.00	41.50	41.50
6 months	60.00	62.00	62.00
12 months	120.00	125.00	125.00
Application for Transfer of Stallholder's Permit	30.00	31.00	31.00
<u>Traders</u>			
Application for Trader's Permit	60.00	150.00	150.00
Application for Transfer of Trader's Permit	New	150.00	150.00
Itinerant Trader Permit Fee	800.00	2,500.00	2,500.00
Trader's Permit – Bond Fees	1,086.00	1,125.00	1,125.00
Trader's Permit Fee – Zone 1			
Prime sites (e.g. established coastal and foreshore nodes) as depicted within Trading in Public Places Policy			
3 months	200.00	750.00	750.00
6 months	400.00	1,500.00	1,500.00
12 months	800.00	3,000.00	3,000.00
Trader's Permit Fee – Zone 2			
Other sites as depicted within Trading in Public Places Policy			
3 months	200.00	500.00	500.00
6 months	400.00	1,000.00	1,000.00
12 months	800.00	2,000.00	2,000.00
<u>Outdoor Eating Facility</u>			
Application for Outdoor Eating Facility Permit	100.00	105.00	105.00
Outdoor Eating Facility Permit Fee/Renewal of Outdoor Eating Facility Permit Fee			
Minimum Outdoor Eating Facility Fee/ year - <10m2	50.00	52.00	52.00
Outdoor Eating Facility Fee/ year/ non liquor-licenced area - < 30m2	100.00	105.00	105.00

DESCRIPTION	ADOPTED FEE 2015/16 (Exc GST)	ADOPTED FEE 2016/17 (Exc GST)	ADOPTED FEE 2016/17 (Inc GST)
Outdoor Eating Facility Fee/ year/ non liquor-licenced area - > 30m2	250.00	260.00	260.00
Outdoor Eating Facility Fee/ year/ Liquor-licenced area - < 30m2	300.00	310.00	310.00
Outdoor Eating Facility Fee/ year/ Liquor-licenced area - > 30m2	500.00	518.00	518.00
Application for Transfer of Outdoor Eating Facility Permit	100.00	105.00	105.00
<u>Street Entertainers</u>			
Application for Street Entertainer Permit Fee/Renewal of Street Entertainer Permit Fee	0.00	0.00	0.00
<u>COMMUNITY & COMMERCIAL SERVICES</u>			
<u>EVENTS & CASUAL GROUND HIRE</u>			
<u>Commercial Use of Reserves (Sports Grounds)</u>			
Per day - plus power for use of site	377.27	390.45	429.50
Per half day - plus power for use of site	190.91	197.73	217.50
<u>Commercial Use of Reserves (Other Reserves)</u>			
Per day - plus power	195.45	202.27	222.50
Per half day - plus power	100.00	103.64	114.00
<u>Ground Hire Bonds (to be applied to Community Events)</u>			
Mandatory Bond against rent default, damage etc.:			
Ground Hire Bond (Other Reserves)	Fee	500.00	500.00
Premium Ground Hire Bond (Sporting Grounds, Foreshore)	Fee	1,000.00	1,000.00
<u>Wedding Ceremonies</u>			
Application Administration Fee - Applied to a Council Venue not	70.00	72.27	79.50
<u>Traders</u>			
Application for Trader's Permit	60.00	150.00	150.00
Application for Transfer of Trader's Permit	New	150.00	150.00
Itinerant Trader Permit Fee	800.00	2,500.00	2,500.00
Trader's Permit – Bond Fees	1,086.00	1,125.00	1,125.00
Trader's Permit Fee – Zone 1			
Prime sites (e.g. established coastal and foreshore nodes) as depicted within Trading in Public Places Policy			
3 months	200.00	750.00	750.00
6 months	400.00	1,500.00	1,500.00
12 months	800.00	3,000.00	3,000.00
Trader's Permit Fee – Zone 2			
Other sites as depicted within Trading in Public Places Policy			
3 months	200.00	500.00	500.00
6 months	400.00	1,000.00	1,000.00
12 months	800.00	2,000.00	2,000.00
<u>MISCELLANEOUS</u>			
<u>Commercial Use of Marine Berthing Platforms - Whale Watching / Tour Vessels</u>			
Monthly Fees (Maximum duration of use permitted) -			
Registered Length of Vessel: 0m to less than 10m	New	500.00	500.00

DESCRIPTION	ADOPTED FEE 2015/16 (Exc GST)	ADOPTED FEE 2016/17 (Exc GST)	ADOPTED FEE 2016/17 (Inc GST)
Registered Length of Vessel: 10m to less than 15m	New	550.00	550.00
Registered Length of Vessel: 15m to less than 25m	New	600.00	600.00
Registered Length of Vessel: over 25m	New	700.00	700.00
Annual Fees (Maximum duration of use permitted) -			
Registered Length of Vessel: 0m to less than 10m	New	3,500.00	3,500.00
Registered Length of Vessel: 10m to less than 15m	New	4,000.00	4,000.00
Registered Length of Vessel: 15m to less than 25m	New	4,500.00	4,500.00
Registered Length of Vessel: over 25m	New	5,000.00	5,000.00
Refundable Bonds -			
Registered Length of Vessel: 0m to less than 10m	New	2,500.00	2,500.00
Registered Length of Vessel: 10m to less than 15m	New	3,500.00	3,500.00
Registered Length of Vessel: 15m to less than 25m	New	4,500.00	4,500.00
Registered Length of Vessel: over 25m	New	6,000.00	6,000.00
<u>NATURALISTE COMMUNITY CENTRE</u>			
<u>NCC Grounds Hire</u>			
Commercial half day	New	109.09	120.00

The fees and charges set out above are established under the *Local Government Act*, and reflect the administrative cost associated with assessing and managing applications – they do not represent a return on the value of the land or infrastructure that the business uses and/or benefits from. The City does, however, have an ability to require a licence (or similar) to conduct activity on City land and can, through that process, effectively charge for the use of the land and infrastructure. This is discussed further in the ‘Officer Comment’ section of this report.

It should also be noted that some of the fees and charges set out above were increased, in some cases significantly, relative to the equivalent fee last financial year. In many instances, the new fees have not been implemented, in part because they assumed the completion of policy review that is not actually complete and/or because existing approvals have not yet lapsed. The more fundamental re-thinking and reassessment of policy direction that this report sets out has, however, also potentially identified a need to further review and reconsider the fees and charges – and it is envisaged that would occur as part of the preparation of the City’s 2017/18 budget.

Whilst it is considered that most of the fees and charges set out above are appropriate, there are concerns that some of them may be excessive when applied to certain classes or types of activity, and would render such activity unviable. The main area of concern is the application of the new Trader’s Permit fees to fitness classes or similar, where an annual fee of \$3,000 for a ‘Prime Site’ could conceivably represent 25-50% of total revenue for some existing operators (for that particular part of their operations).

Long-term Financial Plan Implications

There are no significant Long Term Financial Plan implications of the recommendations of this report. It is envisaged, though, that the recommendations of the report would have a positive, but relatively small and difficult to quantify, increase in the net financial return to the City, its residents and ratepayers, arising from the non-exclusive commercial use of City land. That increase would likely arise both from an increase in revenue and, once the new policy framework has been successfully

implemented, a reduction in costs (mostly associated with a reduction in what has now become a very significant allocation of officer time to management of these activities).

STRATEGIC COMMUNITY OBJECTIVES

This proposal aligns with the *City of Busselton Strategic Community Plan 2013 (revised 2015)* as follows:

- Key Goal Area 1 – Caring and Inclusive Community - A welcoming, inclusive, healthy and capable community that provides accessible services for all residents.
- Key Goal Area 2 – Well Planned, Vibrant and Active Places – An attractive City offering great places and facilities promoting an enjoyable and enriched lifestyle.
- Key Goal Area 3 – Robust Local Economy – A strong local economy that sustains and attracts existing and new business, industry and employment opportunities.

RISK ASSESSMENT

An assessment of the potential implication of implementing the officer recommendation has been undertaken using the City's risk assessment framework.

The assessment highlighted sought to identify 'downside' risks only rather than 'upside' risks and where the risk, following implementation of controls identified, is medium or greater.

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Reputational risk – Comparable activities proposed on City land with multiple application processes and fee structures	Streamlined approach to activities proposed on City land with consistent application processes and fee structures across all areas	Minor	Possible	Medium

CONSULTATION

A draft 'Trading in Public Places Policy' was advertised for public comment for a period of 8 weeks from 18 November 2015 until 15 January 2016. That included two advertisements being placed in a local newspaper and a letter being sent to all current permit holders advising of the consultation period. At the completion of the consultation period, 11 submissions were received from the following –

- 1 x Dunsborough- Yallingup Chamber of Commerce and Industry;
- 1 x Busselton Chamber of Commerce and Industry;
- 4 x current Trading in Public Places permit holders;
- 2 x current Commercial Hire Site permit holders;
- 1 x submission representing 2 fixed food businesses – Busselton;
- 1 x absentee owner – Dunsborough; and
- 1 x 'regular visitor to the region', supporting a particular food van.

The key issues raised in the submissions may be described as follows –

- Fairness –traders paying similar contributions to operate on public land in prime positions as business within fixed premises;

- Impact on business – This includes the impacts of traders on fixed rate-paying business and the impacts of traders on other traders. Comments included the City approving too many traders in close proximity to fixed business and to each other, the need for traders to be permitted for longer than 4 hour intervals and traders not being required outside large scale events;
- Location – the distance between traders and fixed business controls ('300 metre rule' *et al*) resulted in support from fixed business for an arbitrary distance to be implemented;
- Amenity – Residential property owners adjacent to predetermined locations raised issues with the visual impact of traders and the noise emanating from generators;
- Parking – Traders raised the uncertainty of finding parking for their vans in already popular carparks which occurs due to traders having to move after four hours or having to commence trading at times when cars are parked within the approved but not demarcated areas for traders. This often requires traders to park outside of approved areas or in locations that are unsafe for queuing pedestrians or other vehicles; and
- Expression-of-Interest Evaluation Process – issues were raised with the number of traders permitted at the then predetermined locations, traders not utilising their allocated positions and the current rolling over of the approval process being anti-competitive as it restricts new businesses from entering into the market particularly in prime locations.

OFFICER COMMENT

As noted in the 'Background' section of this report, following and as part of the process of considering issues raised during recent consultation about a draft 'Trading in Public Places Policy', officers had identified a need to re-think and reassess the proposed direction before officers would be in a position to recommend that the Council adopt the then draft policy in final form. That process of re-thinking and reassessment commenced with the identification and discussion of four key questions –

1. What types of activities need to be identified and considered?
2. How are those activities regulated and managed currently?
3. What are the regulatory options?
4. What do we want to achieve? (Or, what should the policy objectives be?)

Each of these questions is outlined and discussed below, under relevant sub-headings, followed by a brief summary of the direction set out in the draft policy.

What types of activities need to be identified and considered?

The draft policy relates to the following kinds of non-exclusive commercial use of City land -

- Mobile traders (i.e. traders that operate from particular locations for certain periods of time, e.g. the various food vendors that operate from time to time from a location like the King Street Car Park);
- Itinerant traders (i.e. traders that offer goods and services by travelling around the District, stopping only for as long as it takes to serve customers in a particular location, e.g. a 'Mr Whippy Van');
- *Al fresco* dining on footpaths or other City land adjacent or close to a permanent, fixed business (other than where this is facilitated via a lease);

- Recreational activities of various kinds (including fitness classes or similar - i.e. 'exercise permits' - and things like mobile climbing walls or water playgrounds);
- The running of tours or similar, which wholly or partly take place on City land and/or using City infrastructure (e.g. the jet boat tours which alight from the Busselton Jetty, and at times stop off in Meelup Regional Park);
- Businesses involved in the short-term hiring of recreational equipment, such as bikes, kayaks or jet skis; and
- Trading that operates from more or less temporary premises and/or from fixed premises, but on the basis of relatively short-term arrangements, such as trading from a converted/adapted sea container, or from some other relocatable and/or relatively low cost structure (although note that once there is a significant degree of 'permanence' associated with a business and/or structure in this kind of example, it becomes indistinguishable from a more conventional leasehold situation, described earlier in this report).

The draft policy does not, however, relate to the following kinds of activities -

- Events, and the trading activity associated with events;
- Markets;
- Buskers/street entertainers;
- Activities associated with the short-term hiring of City property (e.g. hiring a City building for a function);
- General sporting use of ovals or similar; or
- Leasehold use/development of City land.

The reason that the draft policy does not relate to those kinds of activities is because they are subject of separate policies and a range of other considerations often not directly relevant to the matters that are subject of the draft policy.

How are those activities regulated and managed currently?

The following is a summary of how the activities that are subject of the draft policy are regulated and managed currently.

Mobile traders (i.e. traders that operate from particular locations for certain periods of time)

These are currently governed by the *Activities in Thoroughfares and Public Places and Trading Local Law 2015* and applying the City Policy entitled *Trading in Public Places – Standard Conditions of Approval Policy*. When space is available for a trader at a predetermined location and there is no current permit holder selling the same goods or services at that location, permits are granted for applications as they are received. It should be noted that due to almost all predetermined locations being fully occupied, a moratorium for any new mobile traders has been in place at the City for approximately 6 months. Traders are generally not permitted to trade from any one location for more than 4 hours in any given day, and there are many locations where there are multiple, often overlapping approvals, and the current approach is now quite clearly unsustainable.

Itinerant traders (i.e. that offer goods and services by travelling around the District, stopping only for as long as it takes to serve customers in a particular location)

These are currently governed by the *Activities in Thoroughfares and Public Places and Trading Local Law 2015* and applying the City Policy entitled *Trading in Public Places – Standard Conditions of*

Approval Policy. Permits are generally granted as they are received, and traders are not permitted to operate in central or high profile locations. This approach is still largely workable and appropriate.

Al fresco dining on footpaths or other City land adjacent or close to a permanent, fixed business

Alfresco dining licences were previously granted under the *City of Busselton By-law Relating to Eating areas in Streets and Other Public Places*; which was repealed concurrently with the gazettal of the *Activities in Thoroughfares and Public Places and Trading Local Law 2015*. Since this time, no permits or licences have been issued for alfresco dining, but there is a provision for this to occur within the new Local Law.

Recreational activities of various kinds (including fitness classes or similar, and things like mobile climbing walls or water playgrounds)

Exercise fitness classes are currently administered under the provisions of the *Local Government Property Local Law 2010* and applying the *Community Facilities Bookings Policy*. When there is no current exercise permit holder at that location and the trainer can provide proof that they are certified to provide the training, permits are granted for applications as they are received.

Other recreational pursuits are also administered under the *Local Government Property Local Law 2010* and applying the *Commercial Hire Sites Policy*. An Expression of Interest for available locations is advertised twice per year and businesses successful through this process enter into a license agreement with the City.

The running of tours or similar

These are currently, largely unregulated by the City of Busselton in practice, but do constitute trading activity on City land in some instances.

Businesses involved in the short-term hiring of recreational equipment

These are currently administered under the *Local Government Property Local Law 2010* and applying the *Commercial Hire Sites Policy*. An Expression of Interest for available locations is advertised twice per year and businesses successful through this process enter into a license agreement with the City.

Trading that operates from more or less temporary premises and/or from fixed premises, but on the basis of relatively short-term arrangements

These are currently administered under the *Local Government Property Local Law 2010* and applying the *Commercial Hire Sites Policy*. A business enters into a license agreement with the City while these arrangements are in place.

What are the regulatory options?

Much of the activity subject of this report consists of the sale of food and drink, requiring the registration of food premises pursuant to the *Food Act 2008*. Generally, that will require registration of the food premises with the City. That does not, however, allow them to trade as such in the City. That would require one or more of the other approvals or similar outlined and discussed below. Also note that the *Food Act* registration process does not provide a broader basis for regulating food businesses, it can only address food safety considerations.

Note that where trading involves mobile or itinerant food vans or similar, the same business may be operating in more than one local government area. In such cases, the food premises only needs to be registered with one local government pursuant to the *Food Act*, rather than all of the local government areas in which they may operate. As such, some mobile/itinerant food traders operating in the City may be registered as a food premises with another local government (note that, in such

cases, the City would require confirmation of a current registration before issuing a permit to trade as such).

Some of the kinds of activity subject of this report will involve use of land, infrastructure or buildings, use or development of which may, in some instances, require development approval (or 'planning approval' or 'planning consent' – the exact term best used has changed over time) pursuant to the *Planning and Development Act 2005* and/or a building permit pursuant to the *Building Act 2012*. In most cases, however, if such development is being undertaken by the proponent, it would require 'exclusive possession' of land, and would therefore require a lease, and as such would not be subject of the draft policy. Further, neither the *Planning Act* nor the *Building Act* provides a broader basis for regulating use of City land, but can only address development considerations. It is conceivable, however, that some activity subject of this policy will require a development approval and/or a building permit, in addition to one or more of the other approvals or similar outlined and discussed below.

The options that exist for the broader regulation of the non-exclusive commercial use of City land generally consist of –

1. Requirements for and powers to grant 'permits' pursuant to the *Activities in Thoroughfares and Public Places and Trading Local Law* and/or the *Property Local Law*;
2. Less well-described, but broader powers to enter into 'agreements' pursuant to those same local laws, which are in some respects closer to a 'licence', as described below; and
3. Powers to enter into 'licences', which can be registerable interests in land, either where the City has freehold title to land, or where the City has been granted 'power to licence' as part of a management order over Crown Land.

Most of the activities subject of the draft policy will require a 'permit', as set out in Option 1 above. Where there is identified to be a need/rationale to pay for the use of the City land and/or infrastructure over and above the value of the permit fee/charge set out in the Schedule of Fees and Charges, then there will also be a requirement for an 'agreement' or 'licence', as per Option 2 or 3 above. Option 3 will, however, only be necessary and appropriate where a significant investment is being made and/or there is a need for a registerable interest in land. Note that there is not currently a power to licence on all Crown Land that the City manages, and so if a licence is deemed necessary, it may need to be preceded by the obtaining of a power to licence.

In many cases, there will be a number of regulatory options and/or combinations of regulatory options that can be considered. The draft policy identifies as a guiding principle that, where there is more than one regulatory option, once it is clear that a particular activity or proposal is broadly supported, that the most administratively simple option, or combination of options, will be used. It is envisaged that administrative systems and procedures would be established to ensure that, other than in the most complex of cases, multiple approvals would be assessed and issued in a seamless fashion, and in many cases the applicant may not actually be aware that they have applied for and/or obtained multiple approvals. Food premises registrations, development approvals and/or building permits if required would, however, still be dealt with separately, although obviously in as coordinated a fashion as possible.

Both the *Activities in Thoroughfares and Public Places and Trading Local Law* and the *Property Local Law*, as well as establishing the requirement for a permit for certain activities and empowering the City to grant such permits, also effectively establish a right for someone intending to undertake such activities to make an application to do so. Any such application must then be assessed by the City in a fair, consistent, efficient and reasonable fashion, guided by the relevant considerations set out in the respective local laws. Where an applicant is not satisfied with a decision of the City, a right will exist for the applicant to lodge an application for review with the State Administrative Tribunal (SAT).

In the case of both local laws, policies adopted by the Council would be relevant and important considerations, particularly if they are properly made policies, consistent with the broader principles that need to be applied. If an application is submitted which is inconsistent with a policy that restricts or regulates particular kinds of activities in particular locations, the policy would generally be a reasonable basis on which to refuse the application. This is important because one of the proposed directions set out in the draft policy (and in the earlier draft policy) is a move from a largely reactive to a more pro-active approach to the granting of permits in many instances – through an expression-of-interest process - with *ad hoc* proposals not being supported in many cases. Such an approach would need to be supported by robust policy. The intended approach is discussed in a little more detail later in this report, but would need to be further defined as part of future policy/practice development and implementation.

What do we want to achieve? (Or, what should the policy objectives be?)

Officers have identified the following proposed objectives, which have guided development and form part of the draft policy –

1. Achieving fair outcomes, in both procedural and outcome terms, in relation to the treatment of different businesses, business models and activities;
2. Preserving and enhancing the vibrancy and attractiveness of City, Town and other activity centres, and other important public spaces, such as the Busselton and Dunsborough Foreshores;
3. Providing convenient and attractive services to residents and visitors;
4. Encouraging innovation, new business development, and economic and employment growth;
5. Generating financial return to ratepayers associated with use of City land and infrastructure;
6. Supporting the delivery of other City strategies and objectives; and
7. Ensuring legal robustness, simplicity and comprehensibility, and administrative efficiency and workability.

It needs to be acknowledged that these objectives will not always align with each other, and in some situations, both in terms of the development and the application of policy, the different objectives will need to be balanced and assessed against each other. There is also seen to be a need to consider what some of these objectives might really *mean*, as otherwise they could be seen as mere ‘motherhood’ statements, which everyone would agree with in an abstract sense, but which actually mean quite different things to different people. Set out below is a discussion of two of the key objectives, Objectives 1 and 2, the ‘fairness’ objective and the ‘vibrancy’ objective.

The ‘fairness’ objective

The proposed ‘fairness’ objective (Objective 1) is as follows –

Achieving fair outcomes, in both procedural and outcome terms, in relation to the treatment of different businesses, business models and activities.

The fairness objective is perhaps the most difficult to grasp. For instance, is it ‘fair’ to allow a relatively low fixed cost business (such as a mobile trader) to sell, say, fish and chips, within proximity of a permanent, fixed business also selling fish and chips? If it is not, would it be fair to allow the mobile trader to sell hamburgers instead? Would it be fair to prevent someone developing the low-cost business, who perhaps has less access to capital than the owner of the permanent, fixed business does, or who perhaps will provide a more convenient service to some customers than is provided by the permanent, fixed business? Is it fairer to have the mobile business further away from

the fixed business, thereby discouraging people from making a choice to shift their custom from the fixed to the mobile business, or is it actually fairer to locate the businesses closer to each other, providing greater opportunity for the owner of the fixed business to attract custom away from the mobile business?

There are not actually clear or objective answers to these questions, especially in an abstract or conceptual sense, and the perception of what may be fair or not, in a given situation, will often depend upon the perspective of those making the judgement. What is very clear, though, is that 'rules' requiring that mobile or low cost businesses not be located within some specified distance of an equivalent, permanent, fixed business, whilst perhaps creating an impression of greater fairness in the minds of the owners of that business (possibly, because it makes it harder to actually see or develop an awareness of the trade being generated by the mobile business which might otherwise come to their business), may well –

- Not actually deliver better business outcomes for permanent, fixed businesses (for example, they may result in activity shifting away from where the business is located);
- Undermine other City objectives, for instance to activate public space; and
- Not have a sound basis in the broader policy and administrative principles that should be applied (which essentially require that regulations be developed and applied in a manner that seeks to achieve legitimate policy objectives, but not seek to specifically regulate competition between different businesses).

What is also clear, though, is that, unless it is necessary to achieve legitimate policy objectives, the City should not make public land available for business activity in a way that involves an effective 'subsidy' of a private business, including a private business that may, to some degree, be competing with another business that does not enjoy the same subsidy. If the City was actually paying money to a business, where that payment was not associated with the purchase of a good or service, that would clearly constitute a subsidy, and could be described as an 'explicit subsidy'. An example of where this occurs is the City's support for some events, which clearly constitute subsidies; but equally clearly, there is a sound policy basis for subsidies of this kind, e.g. to encourage events that will build community and/or attract visitors to the District and deliver economic benefits. Another example is the City's Façade Refurbishment Subsidy Programme, which is intended to encourage refurbishment and improvement of building facades in key City and Town Centre locations, and therefore to improve the attractiveness of those locations, the ultimate purpose of which is to achieve better social and economic outcomes for the community as a whole.

More difficult to identify and assess, though, are what could be described as 'implicit subsidies'. An example of an implicit subsidy is the benefit that a mobile food van obtains as a result of the infrastructure developed by the City in a location like Meelup Beach, in the form of the access roads, car parking, ablutions and landscaping that allow the trader to access that location and make the location more attractive for their customers. Where commercial activity occurs on private land or on City land via leasehold arrangements, in most cases the value of the land and infrastructure being utilised will effectively be 'embedded' in the costs incurred by the business (as the value of the land or property will then be a key determining factor in the cost of a lease over the land/property and the level of local government rates to be paid). In those situations, there is no implicit subsidy (note that it is not quite that simple, for instance, a local government when leasing land may agree to reduced or rent free periods in some situations to achieve broader and/or longer term objectives, or the City may upgrade infrastructure in particular locations and the costs of doing so will not be met entirely by the principal 'beneficiaries', but rather will be met from general sources of income – mostly rates and grants).

Where commercial activity occurs on City land via other (i.e. non-leasehold) arrangements, though, the value of the land and infrastructure will not necessarily be embedded in the costs incurred by the business, including through the fees and charges that currently have to be paid to the City for the

approvals required for the business to operate. The result of this is that some commercial activity occurring on City land may, in some cases, be enjoying implicit subsidies which other businesses are not, and those subsidies may not actually assist in achieving legitimate policy objectives. Where that is occurring, it is arguable that the outcome is not 'fair', and if there is a desire to achieve 'fairness', there needs to be a focus on identifying what and where implicit subsidies may exist, determining whether those subsidies are necessary and/or appropriate to achieve other policy objectives, and then designing a framework that, to the extent reasonably possible, removes those implicit subsidies by ensuring that those using City land for commercial purposes are charged an amount equivalent to what would otherwise be an implicit subsidy to that business.

Note that there may, in fact, in some instances be regulatory barriers that prevent the City from setting fees and charges at a level that would embed the value of the land and infrastructure in the costs of the business. Furthermore, there are significant difficulties, in many instances, in actually determining what and whether an implicit subsidy exists, and the value that should be attached to the land and infrastructure being used by the business. In addition, it needs to be understood that a particular business or business model may simply be better, more efficient and/or have a lower cost base than an alternative, and the City should not intervene in a way that handicaps or constrains that business for the purpose of regulating competition.

Partly as a mechanism to reduce or remove implicit subsidies that may not achieve legitimate policy objectives (and therefore as a way of achieving 'fairer' outcomes), it is proposed that the City move further away from 'reactive' approaches to managing commercial use of City land, and move towards more 'proactive' approaches. In relation to leasehold use of City land, and in relation to events and markets, the City's approach has been generally proactive for some time, but it has been more reactive in relation to many of the other kinds of commercial activity now being undertaken or contemplated.

More specifically what is proposed is that, in most cases, rather than simply accepting and assessing applications on an *ad hoc* basis, the City invites expressions-of-interest for the use of particular parcels of City land, first identifying specific criteria for the assessment of those applications. One of those criteria may be the value of the licence (or 'agreement') payment proposed by the applicant for the use of the land/property, which would address both the fairness and financial return objectives proposed earlier in this report (and there would be other criteria that would seek to address the other objectives).

The 'market' would then, in part, determine the 'value' of the site, and reduce or remove any implied subsidy that does not address another legitimate policy objective. In a 'mature' market, where costs, benefits and processes are broadly understood, and where there is likely to be competition for all sites, it may be possible to simply invite expressions-of-interest, and allow the market on its own to set licence values. It is not, however, considered that a mature market exists at present and, as such, minimum licence values are generally recommended to be adopted before expressions-of-interest are invited.

Note that, because entering into a licence or other non-exclusive ability to use land is not a disposal as contemplated by s3.58 of the *Local Government Act 1995*, there is no statutory requirement for the City to be guided by a licensed valuation in determining the value. The City may, though, in some instances, wish to obtain valuation advice to assist with decision-making.

The 'vibrancy' objective

The proposed 'vibrancy' objective (Objective 2) is as follows –

Preserving and enhancing the vibrancy and attractiveness of City, Town and other activity centres, and other important public spaces, such as the Busselton and Dunsborough Foreshores.

Key to understanding the proposed vibrancy objective is having an understanding of the extent to which the development of new services or businesses will add to the overall level of demand (and therefore generate economic and employment growth), and the extent to which the development of new services or businesses will simply shift demand from existing business/es to new business/es. This of course also needs to be understood in the context of a population and economy that are both, broadly speaking, growing rapidly and consistently in any case, so overall across the District demand is growing (although not for every conceivable good and service at the same time, and not always in an incremental or linear way; in fact, unlike demand, supply can often increase very rapidly – for instance, if a new supermarket is developed - and then remain relatively static for a period, until demand catches up again, or effective supply can be increased in ways that are not readily observable, with the growth of online retail being an example of that).

The fact remains though that, at any point in time, there is a limit to the total amount of demand and, whilst some increases in supply may lead to an increase in effective demand, many will not (for instance, in a place like Busselton, without a full-size Discount Department Store, a new Discount Department Store will add to total local demand, as it will shift some local demand from similar stores outside the District to the new store in the District; but a new or expanded hardware store, in a location already reasonably well served by hardware stores, may simply change the distribution of demand, with demand gravitating to the business/es that consumers prefer). That does not mean that a local government can or should seek to limit or manage business investment generally; but a local government can legitimately seek to guide or direct where business activity and investment occurs to achieve legitimate policy objectives not linked to the success of one particular business or another.

One legitimate policy objective is preserving and enhancing the vibrancy and attractiveness of activity centres (such as the Busselton City Centre and Dunsborough Town Centre), and other public places (such as the Busselton Foreshore). Allowing too much activity, especially significant concentrations of activity, outside the preferred locations that the local government has identified that it wants to activate can, in fact, and in many cases will, undermine that objective. As a result, those locations may be less activated and vibrant, and may cease or fail to perform their roles as genuine hubs for our community, in an economic, social, recreational, cultural and transport sense. The alternate centres of activity that instead emerge will often either not be large enough to perform the same role and/or the centres that emerge will be ‘hollow’, serving as economic hubs only or primarily, but not meeting the other needs. Local government and government in general has a legitimate role to ensure that does not occur, and that genuine community hubs are developed and preserved, even when that may conflict with particular commercial interests. It is, however, essential that any regulation of supply, or of the location of supply, be done primarily at the strategic and policy level, and not at the level of the individual business, development or proposal.

Again, as a means of ensuring that ephemeral types of activity do assist with, rather than detract from, the vibrancy and attractiveness of activity centres and other important public places, the proposed shift towards a more proactive approach will assist, with a framework to establish limits in terms of the total number of sites where certain types of traders will be permitted, and restrictions on the total numbers of traders that may operate in particular locations also being possible.

Summary of direction set out in draft policy

The direction set out in the draft policy may be summarized as follows –

1. Establishes overarching objectives to guide future decision-making in relation to non-exclusive commercial use of City land;
2. Establish guiding principles for the administration of the policy;
3. Reduce barriers to activity where there is a strategic interest in facilitating the activity;

4. Move from a largely reactive to a more pro-active approach, utilising an expression-of-interest process, where there is competition for space/sites (including with other kinds of uses, such as general public recreation or public car parking requirements) and/or concerns that activity should be managed carefully and/or not be supported in certain locations; and
5. Still providing for some novel or *ad hoc* proposals, but only where it is clear that they are supportable, given the broader policy direction, and/or to trial a new kind of activity and/or location.

CONCLUSION

Council is presented with a policy that provides a consistent framework and methodology to facilitate, control and regulate the non-exclusive commercial use of City owned and managed land across the District – which would then be supplemented by further, more detailed work, before the new policy approach is implemented in the lead up to next financial year.

OPTIONS

Council may determine not to endorse the draft policy, require changes and/or request further information.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Implementation will require further and more detailed work by officers, and some further Council consideration/direction, with the aim being that the new policy approach would be implemented by the end of the financial year.

Council Decision / Committee Recommendation and Officer Recommendation

C1611/123 Moved Councillor J McCallum, seconded Councillor P Carter

That the Council, with respect to the non-exclusive commercial use of City land—

1. Adopt the *Policy on Non-Exclusive Commercial Use of City Land*, as provided at Attachment A;
2. Foreshadow the development of more detailed supporting policies and/or practices, procedures and guidelines, prior to the implementation of the new policy, including identification and review or necessary delegations and authorisations to enable effective implementation; and
3. Foreshadow a review of the relevant elements of the schedule of fees and charges as part of the preparation of the City's 2017/18 budget.

CARRIED 7/0

EN BLOC

10.3 Audit Committee - 26/10/2016 - CITY OF BUSSELTON 2015/2016 ANNUAL FINANCIAL REPORT, AUDITORS REPORT AND MANAGEMENT LETTER

SUBJECT INDEX:	Financial Operations
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:	Simple Majority
ATTACHMENTS:	Attachment A 2015/2016 Annual Financial Report Including Auditors Report⇒ Attachment B Management Letter⇒

This item was considered by the Audit Committee at its meeting on 26 October 2016, the recommendations from which have been included in this report.

PRÉCIS

The 2015/16 Annual Financial Statement, Auditors Report and Management Letter has been received from Council's appointed Auditor, Mr Tim Partridge from AMD Chartered Accountants, and is provided to Committee Members with the Agenda documents.

Pursuant to its Instrument of Appointment, it is relevant that the Audit Committee considers the 2015/16 Annual Financial Statement, Auditors Report and Management Letter and where appropriate, makes recommendation/s in respect of these reports.

BACKGROUND

Pursuant to Section 7.9 of the Local Government Act (the 'Act'), an Auditor is required to examine the accounts and annual financial report submitted by a local government for audit. The Auditor is also required, by 31 December following the financial year to which the accounts and report relate, to prepare a report thereon and forward a copy of that report to:

- (a) The Mayor or President
- (b) The Chief Executive Officer; and
- (c) The Minister

Furthermore, in accordance with Regulation 10 (4) of the Local Government (Audit) Regulations, where it is considered appropriate to do so, the Auditor may prepare a Management Report to accompany the Auditor's Report, which is also to be forwarded to the persons specified in Section 7.9 of the Act.

The Management Report provides an overview of the audit process and outcomes, whilst also identifying any matters that, whilst generally not material in relation to the overall audit of the financial report, are nonetheless considered relevant to the day to day operations of the City.

STATUTORY ENVIRONMENT

Matters pertaining to the financial audit of a local government authority are detailed within:

- Local Government Act 1995 Section 7.12A.
- Local Government (Financial Management) Regulations 1996.

- Local Government (Audit) Regulations 1996 – Regulation 16.

RELEVANT PLANS AND POLICIES

Not applicable.

FINANCIAL IMPLICATIONS

Not applicable.

Long-term Financial Plan Implications

Nil

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

Not applicable.

CONSULTATION

Not applicable.

OFFICER COMMENT

The Audit Committee should note the following Auditors comments that:

“Opinion

In our opinion, the financial report of the City of Busselton:

- i. Gives a true and fair view of the City of Busselton’s financial position as at 30 June 2016 and of its performance for the financial year ended 30 June 2016;*
- ii. Comp[li]es with Australian Accounting Standards; and*
- iii. Is prepared in accordance with the requirements of the Local Government Act 1995 (as amended) and the Local Government (Financial Management) Regulations 1996 (as amended).*

Statutory Compliance:

In accordance with the Local Government (Audit) Regulations 1996, we also report that:

- i. There are no matters that in our opinion indicate significant adverse trends in financial position or the financial management practices of the city.*
- ii. There are no other matters indicating non-compliance with Part 6 of the Local Government Act 1995 (as amended), the Local Government (Financial Management) Regulations 1996 (as amended) or applicable financial controls of any other written law noted during the course of our Audit.*
- iii. The asset consumption ratio and asset renewal ratio included in the annual financial report are supported by verifiable information and reasonable assumptions.*
- iv. All necessary information and explanations were obtained by us.*

v. *All audit procedures were satisfactorily completed during our audit.*”

The Auditor’s Management Report provides an overview of the approach undertaken in respect of the annual audit process, and the associated outcomes of the audit. The Management Report also identifies any findings that, whilst generally not material in relation to the overall audit of the financial report, are considered relevant to the day to day operations of the City.

As part of the 2015/16 Financial Audit, the Auditor made two findings:

- a) A finding relating to the application of fair value for furniture and equipment; and
- b) A finding relating to excessive leave balances for key personnel;

The review of the City of Busselton’s application of fair value for the furniture and equipment asset class for the year ended 30 June 2016 identified that one asset’s value was incorrectly posted and another asset was incorrectly flagged for depreciation purposes. The Implications of this is the risk of a material misstatement in respect to the value of Councils furniture and equipment assets, and also the overstatement of depreciation on the same class of asset. An audit recommendation was made that all revaluation inputs are independently reviewed to ensure that they are correct, with a reasonableness analysis undertaken to ensure any significant movements are also correct. Although we acknowledge that a discrepancy did occur a reasonableness analysis is done on a regular basis to identify any major variances prior to finalising the year end books. Based on this finding our processes have been enhanced to ensure that variances of this nature do not reoccur. Furthermore, the two items as identified above have now been amended in the City’s financial assets register.

The finding in relation to excessive leave balances of key personnel is acknowledged and while processes were put in place following similar findings over the last few years, including a process of regular reporting on outstanding leave balances, the ability to clear leave balances particularly within some teams has been somewhat limited due to circumstances beyond the City’s control. Despite these circumstances, the City has continued to adopt an approach of endeavouring to achieve an overall reduction in long outstanding leave balances while still meeting the needs of the organisation at a particularly busy time, which often involves input from key employees. It should be noted it is an issue in relation to a few key personnel only, the City does not generally have a problem with excessive leave balances. This issue will obviously be the subject of continual review prior to and at next year’s financial audit.

CONCLUSION

The City achieved an unqualified audit for the financial year ending 30 June 2016.

Whilst the Auditor has reported two audit findings in the Management Report, the Auditor has rated these as minor (i.e. not of primary concern however still warranting action being taken). Officers have addressed these minor issues as shown above.

OPTIONS

The Audit Committee may determine to make specific recommendations in relation to the audit findings and the actions identified by management in addressing these. Given the relatively minor nature of the issues that have arisen and the actions which are proposed or are underway, officers do not think specific resolutions are necessary.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not applicable.

Council Decision / Committee Recommendation and Officer Recommendation

C1611/124

Moved Councillor J McCallum, seconded Councillor P Carter

That the City of Busselton Audit Committee recommends to Council that the 2015/16 Annual Financial Report including Auditors Report be accepted.

CARRIED 7/0

EN BLOC

10.4 Audit Committee - 26/10/2016 - LOCAL GOVERNMENT AUDIT REGULATION 17 - REVIEW OF RISK MANAGEMENT

SUBJECT INDEX:	Risk Management
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Employee Services and Risk
REPORTING OFFICER:	Manager, Corporate Services - Sarah Pierson Risk and OSH Officer - Brian McCarroll
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Organisation Wide Risk Management Policy⇒ Attachment B Risk Management Committee Terms of Reference⇒ Attachment C Risk Management Framework⇒ Attachment D Risk Management Review Evaluation Collated Results⇒

This item was considered by the Audit Committee at its meeting on 26 October 2016, the recommendations from which have been included in this report.

PRÉCIS

This report is provided with the aim of advising Council on the outcome of the biennial review of the appropriateness and effectiveness of the City's risk management systems and procedures and to meet the requirements of the risk management component of Regulation 17 (3). The Audit Committee is asked to acknowledge this report.

BACKGROUND

Regulation 17 of the Local Government (Audit) Regulations states:

“17. CEO to review certain systems and procedures

- (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to –
 - (a) risk management; and
 - (b) internal control; and
 - (c) legislative compliance.
- (2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.
- (3) The CEO is to report to the audit committee the results of that review.”

The CEO last reported to the Audit Committee the results of a review undertaken in 2014. The review demonstrated that the City had effective and appropriate systems and procedures in place equivalent to a strong base level of risk maturity. The following improvements were identified aimed at achieving a more mature classification in management of risks:

- the improved identification and evaluation of risks associated with projects through more robust project planning practices;
- improved processes for the formal capture and monitoring of risks identified through Council reports;

- the undertaking of a process to identify strategic level risks, that is risks associated with Council's strategic direction as laid out in the Strategic Community Plan;
- the improved monitoring of risk evaluation processes through the setting of relevant key performance indicators for each Manager; and
- review and updating of the Organisation Wide Risk Management Policy to ensure full compliance with AS/NZS ISO31000:2009.

Progress has been made with respect to some of these improvements, noting that not all have been prioritised. This report provides an update as to the City's current risk management systems and procedures and their level of effectiveness and appropriateness.

STATUTORY ENVIRONMENT

This review is a requirement of Regulation 17 of the Local Government (Audit) Regulations (1996), as detailed above.

RELEVANT PLANS AND POLICIES

The City of Busselton Organisation Wide Risk Management Policy (attached) was adopted by Council on 10 May 2006. It was subsequently reviewed and the updates endorsed by Council on 27 July 2011. As per the recommendations of the 2014 risk report a review of the policy was completed and endorsed by Council on 12 August 2015. A further minor review of the policy to clarify roles and responsibilities was endorsed by Council on 12 October 2016.

As required by the Policy, the Risk Management Committee Terms of Reference (attached) has assisted Corporate Services in the development of the Risk Management Plan. The Plan has undertaken continual improvement and was recently re-badged as the Risk Management Framework (attached) to align with the terminology of the AS/NZS ISO 31000:2009 Risk management – Principles and guideline.

FINANCIAL IMPLICATIONS

There are no direct financial implications associated with this matter. Appropriate application of the risk management framework should however mitigate any potential financial loss associated with identified risks.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The provision of this report as well as the City's Risk Management System and Procedures contributes to Community Objective 6.3 of the City's *Strategic Community Plan 2013* – 'An organisation that is managed effectively and achieves positive outcomes for the community.'

RISK ASSESSMENT

This review of the City's risk management systems and procedures found no material risks.

CONSULTATION

No specific external consultation has been undertaken in the development of this report. The report was developed with input provided by the City of Busselton Risk Management Committee.

OFFICER COMMENT

As detailed above the City has a Risk Management Policy under which sits a Risk Management Framework. This framework outlines the City's formal risk management system and processes for the management of risks. Specifically it outlines:

- The definition of risk and risk management
- The City's risk reference tables
- The risk tolerance levels
- The risk management processes and procedures

The Risk Management Committee, made up of officers representing each directorate, is responsible for overseeing the implementation of the framework and for championing a risk management culture within the City of Busselton. Risks are most commonly identified formally at an operational level either through the annual Business Unit planning processes or as they arise during the year, for example the risks associated with a proposed officer recommendation in a report to Council. Risks may also be identified through organisational processes such as safety inspections or investigations or in the process of planning for significant projects.

A risk management workshop was held with Managers and Senior Managers in March 2014 to assist in the identification of more strategic and key operational risks. We have identified through this review the need to run another strategic risk workshop with Senior Management to review and properly categorise risks of strategic importance. This is discussed further in the recommendations outlined below.

Under the City's Risk Management Framework risks are first identified and then assessed, at which time many are given an indicative risk rating based on the identifying Officer's initial assessment. A risk rating is determined by assessing the likelihood of an event occurring resulting in a specific consequence. The consequence of the event is measured in terms of one or more of the following consequence categories:

- Public Health
- Occupational Safety and Health
- Financial
- Operational
- Reputational
- Environmental

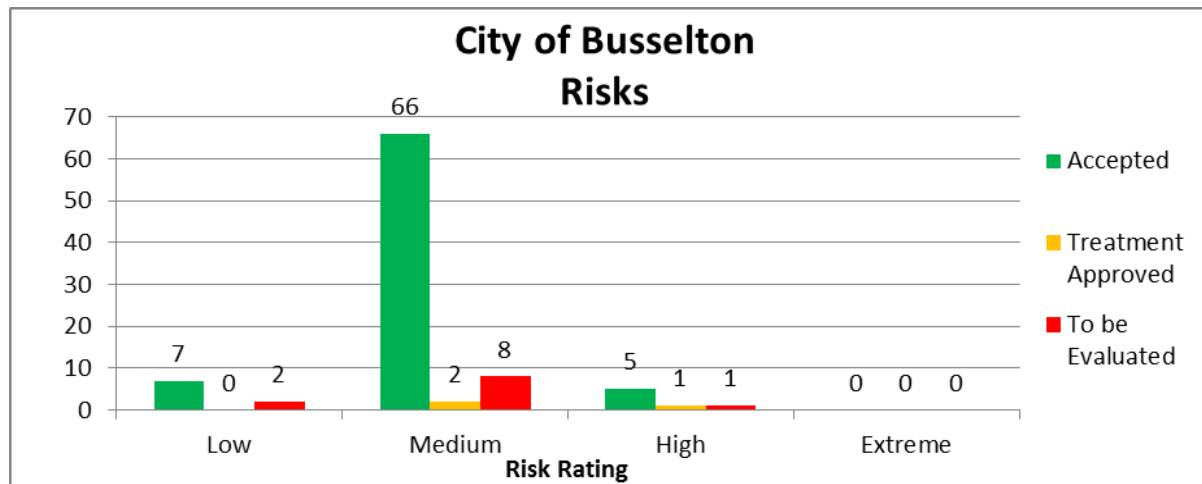
A risk rating of either low, medium, high or extreme is determined from the combined consequence and likelihood. For example, an operational risk with a moderate consequence (significant delays in service delivery with unacceptable recovery time or inconvenient delays to major deliverables) and a possible likelihood (should occur at some time in the future, at least once in five years) would be assessed with a medium level of risk.

That assessment is then further evaluated in conjunction with the risk team, with the risk being formally 'accepted' by the relevant Manager / Director as appropriate to the level of risk. By 'accepting' a risk an officer is indicating that the risk is within acceptable tolerance levels once all reasonable and practical treatment options are considered. Where a risk is not considered acceptable a treatment plan is generally approved and adopted to reduce the risk rating to within acceptable tolerance levels over a period of time. Acceptance of the risk will also be dependent on the effectiveness of the controls in place.

A risk with a rating of medium which has adequate or excellent controls will usually be accepted, whilst a risk with a rating of low will usually be accepted, irrespective of the effectiveness of the controls. High rated risks may be accepted by a Director if it has adequate or excellent controls. Alternatively a treatment plan may be put in place to reduce the level of risk, although it should be

noted that given the City's statutory responsibilities in a number of areas, there is sometimes no choice but to 'accept' high risks and manage them in the best and most practical and reasonable manner. Extreme rated risks could be accepted by the Senior Management Group where they have excellent controls. Extreme rated risks would be reported to the Audit Committee.

As at 12 October 2016 the City has 92 risks formally captured. It is pleasing to note that the City does not have any risks with an extreme risk rating, as shown in the City's current risk profile chart below.



This chart indicates that most risks, as shown by the green bars, have been assessed, evaluated and accepted and are now being monitored until they are due for a formal review. The purpose of the review being to ensure that changing environmental factors have not impacted on the level of risk and that any controls identified continue to be in place and effective. Risks may also be consolidated together as part of review processes where they are similar or removed from the risk register on the basis that they are inherently low risk, that is, low risk regardless of any controls.

The risks in the orange bars have been evaluated as outside tolerance levels and therefore unacceptable and a mitigating treatment plan has been approved in order to reduce the level of risk to an acceptable level. Risks in the red bars are either:

- Recently identified and their assessment is yet to be fully evaluated;
- Had a treatment plan approved, whose implementation date has past and therefore need to be reviewed again; or
- Previously accepted risks that are overdue for a formal review.

The City has currently identified seven high level risks

- Loss or injury at airport hangars;
- Diminishing water resources;
- GLC drowning;
- Climate change and sea level rise;
- Waste site environmental issues – Busselton & Dunsborough;
- Rock fishing anchor points; and
- Aviation accident.

In relation to the risk of loss or injury associated with the airport hangars, this is assessed as having a consequence of 'catastrophic' and a likelihood of 'unlikely' and hence is a high risk. Two of the three hangars do not currently meet the required fire rating under the Building Code of Australia (BCA) and hence in the event of a fire loss in relation to both hangars is of a high risk. To bring the hangars into compliance would be very expensive and not practicable for the lessees. Additionally the issue is likely to be addressed with the airport expansion.

Diminishing water resources is an issue facing the whole of the state. The nature of the services we provide in the maintenance of Public Open Space, results in this being a high risk operational issue for the City, with it being assessed as a major consequence that we will not have enough water to function effectively but unlikely that it will occur. In response the City has developed a Local Water Action Plan and a Water Conservation Plan and works closely with developers and other relevant stakeholders to ensure Water Sensitive Urban Design principles are utilised. These controls assist in the reasonable and practical management of the risk, which remains however high.

The City has a duty to provide a safe environment for patrons within its Leisure Centre. The operation of a pool within the centre brings with it inherent risks, most obviously of a patron drowning. This is a risk that has of course been contemplated by the industry and there are numerous standards and guidelines in place to control risk factors. There has recently been concern raised as to whether current supervision levels at the GLC are adequate for the increasing level of pool usage, with an internal review identifying the issue as a high risk. A report has recently been presented to Council on the matter and additional resources approved. A further review of the risk level is pending post the implementation of these resources.

Global climate is changing and continues to change at an accelerating rate. Climate change and related sea level rise may impact on coastal erosion, coastal inundation and inland flooding. The City has a responsibility to implement planning processes to protect the community from the impacts of climate change. The City, through its work with the Peron Naturaliste Partnership, is seeking to develop a greater understanding of the impact of rising sea levels and climate change such that it can make more informed decisions about planning and the allocation of resources to coastal management. The risk for the City however, given its geography and susceptibility to sea level rises, remains high.

As with all waste facilities the Busselton & Dunsborough waste sites have a number of environmental issues including leachate pollutants, such as liquid waste escape; landfill gases; and buried hazardous substances. These issues are controlled through ongoing environmental monitoring, standard procedures and regular inspections however the risk level remains high being assessed as a major consequence of environmental contamination but unlikely that it will occur.

Rock fishing anchor points were installed by the then state government's Department of Environment and Conservation (DEC). DEC installed a number of anchor points on land that is under the City's ownership and therefore the City has responsibility for maintaining them. The City is in the process of establishing arrangements for maintenance of this infrastructure, likely through an agreement with the Department of Parks and Wildlife for their continued assistance, and arranging for instructional signage. Once this has been finalised the risk will be reassessed.

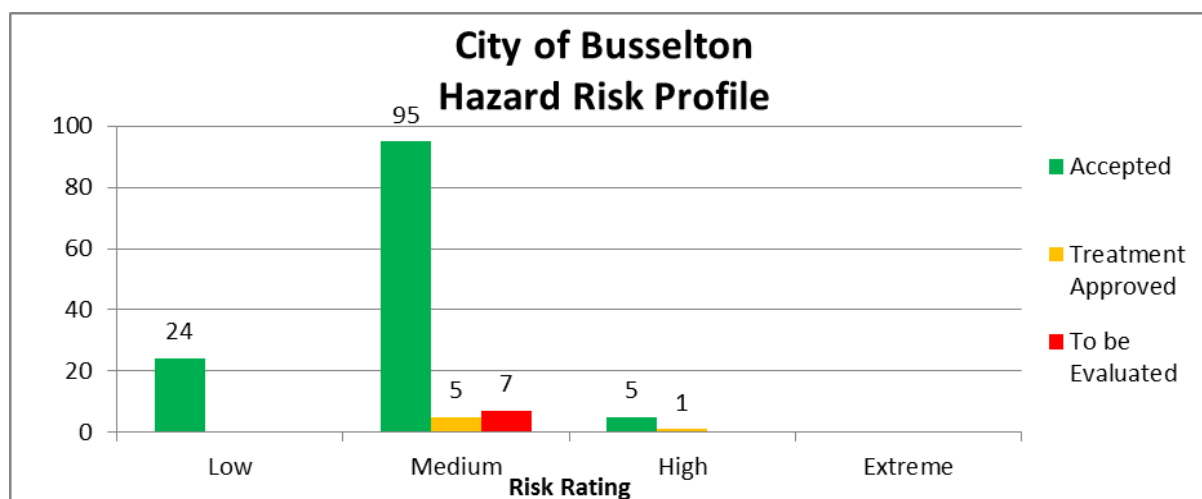
The risk of an aviation accident at the Busselton airport is a high risk as the potential consequences would be major, although it is unlikely. The most likely cause of an aviation accident at the airport is either pilot error or due to an inadequately maintained airplane, both of which are outside of our control. The risk is controlled and managed through various regulatory procedures, with the City doing all it can to ensure it is unlikely to occur.

The captured risks have been identified using the formal system and procedures for managing risks. While we continue to encourage and embed use of the City's formal risk management system and framework it is acknowledged that City Officers also identify and treat risks using other, often less formalised processes. During Business Unit planning for instance many operational risks are identified that have previously, through good management practices, had controls put in place to mitigate them to an acceptable level. Not all of these are formally assessed and translated through to the formal risk register as they are already managed as part of core business. For instance most Business Units have identified and manage risks associated with the loss of key personnel and skills.

Similarly the City has established a wide range of purchasing and budget management controls aimed at preventing improper expenditure and ensuring proper financial management. These controls are now associated with an identified formal risk of Financial Deception, but were implemented outside of the formal risk management process as part of good financial governance. Separate reports will be presented to the Audit Committee on the appropriateness and effectiveness of the City's systems and procedures in relation to internal controls and legislative compliance with in effect many of the matters referred to in these reports being risk management or mitigation measures.

A number of systems have also been designed to specifically mitigate risks, including the Customer Request Management System and the Occupational Safety and Health (OSH) Management System. These systems provide the City with proactive management of hazards impacting on employees and contractors in day to day operations and on the community.

The OSH Management System in particular is used to assess the risk level of identified hazards, with hazards being defined as "Anything that may result in injury to a person, or harm to the health of a person." The risk assessment and management of hazards is a significant part of the City's risk management procedures with the City having the following hazard risk profile.



The City has currently identified five hazards with high level risks

- Spiders and insects;
- Uneven ground;
- Manual handling;
- Chainsaws involved in bridge maintenance; and
- Services to the workplace.

It should be noted that most of these hazards are rated as high risk as they have a high likelihood, almost certain in most cases, of having what is a relatively minor level consequence, that is injury / disease causing medical treatment.

City of Busselton staff encounter spiders and insects on a regular basis. This hazard has been risk assessed as almost certain that someone will be stung or bitten and need medical treatment and hence is a high risk. We have over the past 2 years had a number of more severe insect bites / stings which has perhaps elevated the rating for this risk. More recently the number and severity of bites and stings has reduced. We will at the next review consider whether the risk can be reduced to a medium on the basis of first aid being more typical than medical treatment as a consequence.

Workers, who work outside tend to work in areas where the ground is uneven. These workers include workers from Operations Services, Rangers, Survey Services and Building Services. Based on

previous history, the risk of uneven ground has a likelihood of almost certain for an ankle to be rolled and / or sprained resulting in injury requiring medical attention. Based on more recent experiences it is expected that this likelihood will be revised down as part of a pending review and the risk will probably be reassessed as a medium level risk.

Due to the nature of the work undertaken by Operations Services workers, there are many manual handling tasks. Whilst these workers are all required to attend manual handling training on a regular basis, it has still been assessed as a high level risk as there is an almost certain likelihood of an injury requiring medical treatment.

With respect to all of the above hazards – spiders and insects, uneven ground and manual handling - initiatives such as Step Back 5 x 5 have been put in place to encourage workers to assess environmental factors and surrounds and have had some success in reducing the risk level (for example incidents of uneven ground causing injury have reduced). The City's OSH team is continuing to work with relevant areas to explore ways in which such programs can be implemented more effectively to reduce these risks at the 'shop floor' level.

When carrying out bridge maintenance work chainsaws are required to be used to carry out what is called a plunge cut. This particular cut may require the worker to operate the chainsaw whilst lying down under a bridge and is considered to be a high risk activity. Workers do need to be trained, very experienced and authorised to conduct a plunge cut but regardless of this the risk has been assessed as high, with potential for a major health consequence but an unlikely likelihood of it occurring.

The City is responsible for many buildings and public open spaces where they have installed and are continuing to install underground services. While systems and processes for the gathering of as constructed drawings showing service locations have improved significantly there remain some historical projects where as constructed drawings have not been documented. Controls such as pot holing and hand digging are in place to identify service locations however the risk of a service being impacted on and the potential consequences of this has been assessed as high, being of a major consequence but unlikely to occur.

Review

A review of the appropriateness and effectiveness of the City's formal risk management systems and procedures has been conducted by the Risk Management Committee, using the evaluation questionnaire attached. The collated results are included in the attached with some commentary as to aspects that are only considered to be partially met.

In summary, the City continues to use risk management processes to compliment traditional business management practices with its systems and procedures overall deemed to be effective and appropriate, taking into account the City's size, complexity, and level of resources. Risk status reports are provided to the Senior Management Group each quarter detailing the City's risk profile, the high level risks, and risks that are overdue for review or have treatment plans in place. Included also are the following Key Performance Indicators:

- All extreme and high risks are assessed within 30 days; and
- All medium and low risks are assessed within 90 days.

The Key Performance indicators, reported on by Business Unit, are generally met, noting that we have had instances of medium and low risks not being assessed within 90 days.

There remains scope for the City to further integrate and mature its risk management system, with the ultimate success of this being dependent on the level of resources (particularly management

resources) able to be dedicated to formal risk management processes. Officers across the City are working hard to meet the demands of a growing population with increasing needs for infrastructure and services. Cognisant of this, it is important that actions aimed at further enhancing the City's risk management systems do not result in the system becoming overly complicated or prescriptive and that a level of flexibility is maintained.

It is considered that the current system, while there are areas that can be improved, allows for this flexibility and overall provides for the effective management of risk. Recommended improvement actions are as follows:

- the review of the City's Risk Management Framework and in particular the City's risk matrix. Recent advice from Local Government Insurance Services indicates that our risk matrix is relatively risk adverse when compared to their recommended matrix for a public authority. That is, a greater number of consequence and likelihood combinations are rated as high. Cognisant of this a review of the Framework and matrix is recommended to ensure it is appropriate for the City;
- the defining of strategic and operational risk categories and the grouping of risks into the two categories;
- the running of a strategic risk workshop with the City's Senior Management Group, to be undertaken as part of the current review of the City's Strategic Community Plan;
- the review of the City's risk management IT system to improve accessibility and useability for individual risk managers;
- the improved identification and evaluation of risks associated with projects.

CONCLUSION

The Risk Management Committee are responsible for implementing a risk management culture within the City of Busselton and are progressively achieving this through the risk management policy and framework. The organisation is utilising the framework to identify, assess and either accept risks or determine a treatment action plan to reduce risks to an acceptable level.

The City has conducted a review of its systems and procedures and found them to be both appropriate and effective overall. Notwithstanding this there are improvements that can be made and this report identifies a number of recommendations to further improve the maturity of its systems and procedures and in turn further reduce and / or mitigate its risk exposure.

OPTIONS

The Committee could consider not endorsing the recommendations of this report because it believes our processes are not adequate and / or could seek further information.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

There is no timeline associated with implementation of the recommendation.

Council Decision / Committee Recommendation and Officer Recommendation

C1611/125

Moved Councillor J McCallum, seconded Councillor P Carter

That the Audit Committee note the contents of this report in relation to Risk Management as required by Regulation 17 of the Local Government (Audit) Regulations (1996).

CARRIED 7/0

EN BLOC

10.5 Audit Committee - 26/10/2016 - REVIEW OF ORGANISATIONAL SYSTEMS AND PROCEDURES - INTERNAL CONTROL

SUBJECT INDEX:	Financial Compliance and Advice
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:	Financial Accountant - Ehab Gowegati
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Key Control and Monitoring Activities Worksheet⇒ Attachment B City of Busselton Digital Penetration Test Results⇒ Attachment C SAMEngCertificate⇒

This item was considered by the Audit Committee at its meeting on 26 October 2016, the recommendations from which have been included in this report.

PRÉCIS

Regulation 17 of the Local Government (Audit) Regulations requires the Chief Executive Officer (CEO) to review the appropriateness and effectiveness of a local governments systems and procedures in relation to several matters, including internal control. The results of the review are to be reported to the Audit Committee for review and deliberation, prior to formal presentation to the Council.

This report presents the Audit Committee with the results of a review of the appropriateness and effectiveness of the City's systems and procedures in respect of internal control.

BACKGROUND

In February 2013, several amendments to the Local Government (Audit) Regulations (the Regulations) were mandated. At this time, a new Regulation (number 17) was effected, requiring the CEO to review the appropriateness and effectiveness of a local government's systems and procedures in relation risk management, internal control and legislative compliance; the results of which are required to be reported to the Audit Committee. The new Regulation is detailed as follows:

17. CEO to review certain systems and procedures

- (1) *The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to –
 - (a) risk management; and
 - (b) internal control; and
 - (c) legislative compliance.*
- (2) *The review may relate to any or all of the matters referred to in sub-regulation (1) (a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.*
- (3) *The CEO is to report to the audit committee the results of that review.*

In addition to the regulation, a further sub-regulation was also introduced as part of existing Regulation 16, further clarifying the Audit Committee's actions upon receipt of the aforementioned report from the CEO. This addition is detailed as follows:

16. Audit committee, function of

- (c) to review a report given to it by the CEO under regulation 17(3) (**the CEO's report**) and is to –
- (i) Report to the council the results of that review; and
 - (ii) Give a copy of the CEO's report to the council

In order to be compliant with the new review and reporting requirements, the reviews on risk management, internal control and legislative compliance are all required to be presented to the Audit Committee on or before 31 December 2016 (i.e. within 2 calendar years from the last review date).

To provide guidance to local governments in the completion of the review requirements, in September 2013, the Department of Local Government and Communities (the Department) released an updated version of Local Government Operational Guideline 9 – 'Audit in Local Government'. This guideline includes a section specifically relating to the review, and exemplifies the types of activities that could potentially be undertaken as part of the review process.

Whilst the review of internal control has been informed by the aforementioned guideline, the guideline also makes reference to the Local Government Accounting Manual; a document also developed by the Department. As the Manual provides a more comprehensive framework relating to internal control, this review has been more specifically guided by that document, with particular focus on a list of internal control related activities as detailed in the Manual. This list forms the basis of the attachment to this report.

STATUTORY ENVIRONMENT

- Section 7.1A of the Local Government Act requires a local government to establish an Audit Committee.
- Regulation 16 of the Local Government (Audit) Regulations details the functions of an Audit Committee.
- Regulation 17 of the Local Government (Audit) Regulations requires the CEO to review the appropriateness and effectiveness of a local government's systems and controls in relation to risk management, internal control and legislative compliance, and report the results of the review to the Audit Committee.
- Regulation 16 (c) of the Local Government (Audit) Regulations states that the Audit Committee is to review the report on the appropriateness and effectiveness of the local government's systems and controls, and report the results of that review to the Council.
- The Local Government (Financial Management) Regulations incorporate a number of regulations specifically relating to a range of internal control functions.

RELEVANT PLANS AND POLICIES

A number of Council Policies guide activities which have been incorporated within the review. These include, but are not limited to, the Investment Policy, the Purchasing Policy and the Salary Packaging Policy.

FINANCIAL IMPLICATIONS

There are no direct financial implications associated with the recommendations as detailed within this report. However, should the Audit Committee or the Council determine that future reviews are

to be undertaken externally, appropriate budget allocations will be required to be raised in relevant financial years.

Long-term Financial Plan Implications

Nil

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

The Local Government Operational Guideline – ‘Audit in Local Government’, suggests that strategies to maintain sound internal controls are based on risk analysis of the internal operations of a local government. Risk assessments have previously been completed on overarching internal control matters including, but not limited to, statutory and legislative compliance, financial deception, and the incorrect use of business software. As the associated risks have been accepted with existing treatments, it is not considered necessary to assess the risk of individual activities against current processes and procedures. Experienced and skilled staff at the City are aware of where the most significant individual risks lie, and internal processes and procedures, coupled with adequate segregation of duties, have been established to mitigate the associated risks to the organisation.

CONSULTATION

Not applicable.

OFFICER COMMENT

The Local Government Operational Guideline – ‘Audit in Local Government’, states that internal control systems involve policies and procedures that safeguard assets, ensure accurate and reliable financial reporting, promote compliance with legislation and achieve effective and efficient operations. The guideline further suggests that aspects of an effective internal control framework will ideally include the following:

- Delegation of authority;
- Documented policies and procedures;
- Trained and qualified employees;
- System controls;
- Effective policy and process review;
- Regular internal audits;
- Documentation of risk identification and assessment; and
- Regular liaison with auditor and legal advisors.

The guideline does however acknowledge that the extent to which internal controls are implemented, monitored and reviewed will be impacted by, amongst others, the size and nature of individual local governments.

Similarly, the Local Government Accounting Manual notes that an effective system of internal controls provides a level of assurance that financial information is reliable and the local government is meeting compliance with applicable regulations and internal procedures. The Manual also infers that the achievement of regulatory compliance should be viewed as the fundamental goal of an

effective internal control system with further enhancement being ongoing as part of an overall organisational risk management process.

With regards to regulatory compliance (from an internal control perspective), the Manual highlights a range of regulations that local governments are presently required to comply with. Many, if not all, of these regulations are reviewed and tested annually as part of existing statutory compliance processes, namely the financial audit and the compliance audit.

In addition to the above, local governments are also required to undertake periodic reviews of financial management systems and procedures, in accordance with Regulation 5(2)(c) of the Local Government (Financial Management) Regulations, which states:

5. (2) *The CEO is to –*

(c) Undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every four financial years) and report to the local government the results of those reviews.

This requirement, commonly referred to as the Financial Management Systems Review (FMSR), is completed every four years, by the City's appointed Auditor. Whilst there is no regulatory requirement prohibiting the review from being undertaken internally, having it performed by a qualified external party ensures thoroughness in review, independence, transparency and objectivity.

The last FMSR was conducted in June 2016. At this time, the Auditor stated that in the context of Council's overall operations and size, it is considered that operating procedures and systems in place are adequate and have operated effectively from July 2015 (with the exception of recommendations outlined within the report), to the date of the audit site visits. Furthermore, testing indicated that internal procedures and controls are appropriate, compliant with statutory requirements, with supporting reconciliations of key accounts being completed on a timely basis. Whilst 12 matters were specifically identified as part of the review wherein processes could be strengthened, of these, four were rated as having a low risk rating, with the other eight having a medium risk rating. All of the matters raised in the 2016 FMSR are in the process of being addressed.

The FMSR process closely aligns with the intent of the review requirements; particularly in respect of the internal control component. It is therefore reassuring that the most recent external review of the City's financial management systems and procedures did not identify any areas whereby current systems and processes are considered to be inadequate.

As previously mentioned, the review of the appropriateness and effectiveness of the City's systems and procedures in relation to internal control has been guided by both the relevant Local Government Operational Guideline and the Local Government Accounting Manual. Whilst more descriptive, the Operational Guideline provides an example list of the types of internal controls that could be typically reviewed. However, the Local Government Accounting Manual incorporates more specific detail in this regard, and particularly in relation to key control activities and monitoring activities.

Key control activities represent those processes and procedures that should be in place to ensure the proficiency of internal control, whilst monitoring activities represent the processes and procedures required to review and monitor the effectiveness of the primary key controls. The Manual lists a range of key control and monitoring activities which local governments should be reviewing on an ongoing basis. In the absence of any specific guideline pertaining to how the review of internal control is to be undertaken by local governments, a review the City's performance against each of the listed control and monitoring activities has been considered as a reasonable basis for carrying out this review.

Assessing the City's current internal control systems and procedures against the listed key control and monitoring activities has been invaluable in informing those areas in which current processes and procedures could be further improved. Attachment A to this report lists each activity, provides a synopsis of the City's current processes and procedures, and importantly, highlights further actions required where identified. It is believed that the range of activities reviewed fully encompasses the principal internal controls applicable to the City, and as such forms a solid platform upon which the overall effectiveness of the City's current internal control environment can be reasonably assessed.

The associated regulation requires the CEO to report the results of the review to the Audit Committee. As such, and whilst providing summary comments as appropriate, the following section of this report will more specifically discuss those activities whereby the review has identified that further actions are required. For ease of review, the results have been grouped by similar action requirements, and where possible, in line with the internal control summary areas as reflected in the Local Government Accounting Manual.

Documented Procedures – Control Documentation

The Accounting Manual states that appropriate control documentation has the effect of clarifying the control activity and creating the appropriate control environment by improving the awareness and actions of staff. At the City of Busselton, formal control documentation generally takes the form of Council Policies and to a greater extent, Operational Practices and Procedures (OPP's). Whilst Council policies ordinarily set the strategic decision making framework, OPP's detail the processes, procedures, compliance requirements and authority levels in relation to operational matters.

The above control documents generally relate to matters of relevance to the organisation as a whole. As such, it would not be expected that OPP's would need to be developed, authorised and published in respect of specific work instructions. However, from an internal control perspective, it is important to recognise those work instructions which ideally should be documented, and those which, due to their nature or organisation wide ramifications, may be worthy of formally documenting as an OPP.

The key control and monitoring activities review identified numerous instances whereby current internal controls could be augmented by the development of associated control documentation. These activities are discussed as follows:

1.(i)	Employees responsible for financial report preparation are competent and adequately trained.
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As part of the 2016 performance review process a plan was initiated to train and develop staff in key financial functions and encourage and promote information sharing to ensure efficiencies are attained in continuation of services and succession planning. This will include the full documentation of key finance roles with a focus on process and knowledge sharing to ensure all key financial roles has the coverage required to ensure service continuity.

1.(ii)	All journal entries require supporting documentation. Any non-routine entries require documented approval prior to being posted.
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Whilst associated processes are complied with, it is considered prudent to formally list all journals posted on a monthly basis and for management to peruse/ authorise this list. This will ensure that efficiencies remain with regard to the timely processing of all required journals, whilst also adding assurances that the journals are being reviewed and are in accordance with expected practices and consistent with set budget constraints.

3.(i)	Rates/debtors officers are competent for their assigned tasks, adequately trained and supervised.
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As part of the 2016 performance review process a plan was initiated to train and develop staff in key rating/ Debtors functions to ensure efficiencies are attained in continuation of services and succession planning. This will include the full documentation of key rates/ debtors roles with a focus on process and knowledge sharing to ensure all roles have the coverage required to ensure service continuity.

4.(vii)	All receipts, cash and cheques, deposited on a regular and timely basis.
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The City's processes and procedures in relation to the receipting and banking of deposits (including electronic payments) are considered to be adequate. Additionally, banking of deposits, particularly in relation to operational revenues (administration and outstation based), is timely, which promotes efficiency in the associated bank reconciliation processes.

Having said that however it is possible that due to the volume of transactions or other valid reasons, that monies collected at outstations may not be banked immediately. To this end it is expected that having documented procedures relating to the administration and security of the funds whilst being held, along with associated approval for the subject processes. It is considered important that the above-mentioned matters are documented and appropriately authorised, preferably as part of an Accounting Procedures Manual to be developed by each function/ outstation directly dealing with financial transactions.

4. (viii)	Reconciliation of daily deposit total to receivable posting and cash sales is prepared and reviewed.
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The review did not identify any specific areas whereby current processes and procedures are considered to be lacking. However in most instances, associated processes, procedures, and review/ reconciliation practices are not formally documented. For instance, whilst deposits made to the bank are reconciled against deposit listings, there is no documented evidence that independent checks are being made against cash till listings (primarily for outstations). Analogous with the previous finding, it is considered essential that all functions and outstations dealing with cash deposits develop formal Accounting Procedures Manuals, which not only document relevant processes and procedures, but also address internal control and monitoring activities.

5.(i)	Personnel responsible for the purchasing, shipping, receiving and payable functions are competent, adequately trained and supervised.
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As part of the 2016 performance review process a plan was initiated to train and develop staff in key purchasing functions to ensure efficiencies are attained in continuation of services and succession planning. This will include the full documentation of purchasing roles with a focus on process and knowledge sharing to ensure all key roles has the coverage required to ensure service continuity.

Additionally, staff will compile a new operational practice to identify/ enforce requirements associated with the addition of a new creditor and subsequent amendments made to an existing creditor. One of the key checks will be verify the validity of the creditor and the associated bank account details to minimise the risk of fraud.

5. (vi)	Spending limits are set by budget or individual levels of authority. These limits are monitored by the system or manually.
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The City's internal controls in relation to 'purchasing authorisation limits' (spending limits) are considered adequate. The ability to raise purchase requisitions in the system, and the associated value of the same, is controlled by system parameters. Any request to establish or amend a purchasing authority limit must be in writing, and authorised by a staff member authorised to do so. With regards to expenditures raised outside of the purchase order system, any payment must be authorised by an officer with the necessary purchasing authorisation limit (in dollar value). Verification of this authority is undertaken by Finance staff (at multiple levels) prior to the associated payment being processed.

Whilst the current processes are working well, there is currently no overarching control documentation detailing the required processes to be undertaken, including the purchasing authorisation limit approval process. As part of this review, it has been identified that an OPP should be established for this purpose, due to its 'whole of organisation' implications.

5. (xxiii)	The accounting policy for when goods should be capitalised is documented and clearly understood by accounting personnel.
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Accounting personnel dealing with the capitalisation of assets are fully aware of the applicable standards and associated thresholds (as per significant accounting policies). However, there is currently no endorsed control documentation available for the wider organisation, other than that issued as part of the draft budget compilation process. This can be problematic for staff when developing annual budgets, insofar as budget allocations may be unintentionally misallocated between capital and operational accounts.

A comprehensive (draft) OPP in relation to asset capitalisation has been under development for some time now. Consultation is presently occurring with the Engineering and Works Services Directorate in respect of the OPP, as this area will be most significantly impacted. Consequent to this input, the draft OPP will be finalised and submitted to the CEO for consideration and approval.

19. (i)	All journals are independently reviewed (including checks to ensure correct account allocation) and contain sufficient support information.
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This activity is similar in its intent to activity 1. (ii); particularly in respect of the supporting documentation requirement. As previously mentioned it is considered prudent to formally compile a monthly report listing of all journals posted on a periodic basis for management's perusal/authorisation. This will ensure that efficiencies remain with regard to the timely processing of all required journals, whilst also adding assurances that the journals are being reviewed and are in accordance with expected practices and consistent with set budget constraints. This matter is further discussed in the following 'Segregation of Duties' internal control summary area.

20. (i)	Regular IT audits performed focusing on data accuracy, retention, recovery and security. Results of these IT Audits reviewed by management and action plan promptly implemented.
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This activity is discussed in more detail in the following Information Technology Controls (General and Application) summary area. Whilst robust internal controls are existent at the City, in some instances these are not formally documented. From an internal control perspective, it is important that all material controls are recorded and regularly reviewed/ updated; to ensure consistency in approach.

Summary – Documented Procedures

The internal control review has identified several instances whereby the formal documentation/ development planning of associated processes and procedures needs to occur. As previously mentioned, appropriate control documentation has the effect of clarifying the control activity and creating the appropriate control environment by improving the awareness and actions of staff. Based on the above key control and monitoring activity anomalies identified, the following provides a summary of identified actions to be undertaken:

- (a) The establishment of documentation/ training and information sharing to ensure uninterrupted business continuity,
- (b) The establishment of work instructions and new reporting requirements pertaining to the processing and approval of journal entries,
- (c) The establishment/ formalisation of 'Accounting' Procedures Manuals for all City outstations that are involved with the processing of financial transactions (to include the administration and security of bond and deposit funds being held for extended periods)
- (d) The establishment of an Operational Practice and Procedure (OPP) detailing the processes, procedures and approval requirements in relation to the establishment/ amendment of staff purchasing authority limits
- (e) The formalisation and approval of an OPP in respect of asset capitalisation thresholds
- (f) The ongoing review/ establishment/ formalisation of processes and procedures in relation to Information Technology internal controls (also refer Summary – Information Technology Controls)

Segregation of Duties

The Accounting Manual states that a fundamental application of internal control is the segregation of duties, which relies on the premise that the risk of two or more officers making the same error or colluding to defraud the local government is less likely than an individual act. Due to its size, the City of Busselton has the capacity to implement segregation of duties as a key component of its overall internal control provisions.

As part of its 2014/15 financial audit Management Letter, the Council's Auditor has acknowledged the sound internal control environment present at the City of Busselton, which is in part attributable to the "appropriate levels of segregation of financial duties and independence checks which are in place". It is anticipated that the same finding will be made within the 2015/16 financial audit. Whilst this comment supports the City's view that adequate segregation of duties are in existence, the internal control review has identified one area in which existing controls could potentially be further supplemented. This is discussed as follows:

19. (i)	All journals are independently reviewed (including check to ensure correct account allocation) and contain sufficient support information.
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This activity was discussed as part of the aforementioned 'Documented Procedures' area. Whilst current procedures, particularly in relation to support information, are considered adequate, the need to formally list and report all journal transactions on a periodic basis has been identified.

Finance personnel have varying levels of authority to process and post journals; which form part of their 'day to day' functions. However, as a consequence of the internal control review, it is felt that an independent review of all journals should ideally occur. New processes will be established to ensure that all journal entries require dual approval via an end of month authorisation process whereby the manager of finance will endorse the validity of all journals posted. This will not impact on efficiency but will ensure that journals are being reviewed and are in accordance with expected practices and consistent with set budget constraints.

Summary – Segregation of Duties

The internal control review has identified one instance whereby current processes and procedures could be further augmented by the introduction of a higher level of segregation of duties. Based on the above key control and monitoring activity anomalies identified, the following provides a summary of identified actions to be undertaken:

- (a) The proposed implementation of a new process to compile a monthly journal listing report,
- (b) The proposed implementation of a dual approval via an end of month authorisation process whereby the manager of finance will endorse the validity of all journals posted.

Information Technology Controls (General and Application)

The Accounting Manual identifies two controls within the Information Technology (IT) environment; general controls and application controls. General controls relate to a local government's wider IT environment and include items such as virus protection, backups, and system password and access controls. Application controls are more specific and relate to items such as application password and access controls, data field validations, processing restrictions and reporting restrictions. The Manual does highlight that a lack of control in either of the above areas can undermine the effectiveness of established controls in the other. Consequently, the implementation and review of IT related internal controls need to be considered at multiple levels.

The key control and monitoring activities as reviewed include a range of activities that have a relationship with associated IT controls, albeit to differing extents. Whilst the above summary area (Segregation of Duties) includes recommendations directly relating to IT controls, for the purposes of this review, the review of IT controls is based on the following monitoring activity:

20. (i)	Regular IT audits performed focusing on data accuracy, retention, recovery and security. Results of these IT Audits reviewed by management and action plan promptly implemented.
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The traditional approach to IT administration sees a system administration function performed by a person or groups of persons who have access and control over both the general and application controls within the IT environment. However at the City of Busselton this is not the case. The IT controls have been allocated to two separate teams, namely the Business Systems team and the ICT Operations team. The Business Systems team have administrative access to the application controls but do not have administrative access to the general controls. These are the domain of the ICT Operations team, who in turn do not have access to the application controls.

This intentional separation of duties ensures City officers have to work together in the administration of the IT systems, which leads to automatic auditing of access between the teams. That said the IT audits required for each type of control is different and therefore will be addressed separately.

General Controls

These controls currently reside in the domain of the City's ICT Operations team; with some lower level components delegated to the City's ICT Helpdesk team. The City's current approach to the review of the various IT infrastructure and security components is tied into the asset management cycle of each component. As part of the asset replacement cycle each component being replaced is assessed in the IT scheme and appropriate control requirements are raised for the replacement equipment. Generally the replacement program also includes an external party review and report on the effectiveness of the equipment.

Additionally the City's ICT Coordinator commissions an external security review in the form of penetration testing every 24 months. This task is aimed at highlighting the City's security exposures

and risks. Attached (***Attachment B – City of Busselton Digital Penetration Test Results***) please find the results of this review undertaken by DELL Pty Ltd, which indicate the City has a high level of external digital security and only one minor item was recommended for action. During the 2015/16 financial year the City has also been audited by Microsoft to assess the City's level of licencing compliance as it relates to the core IT operating environment, attached please find the compliance certificate (***Attachment C – SAMEngCertificate***). These results were assessed by the Manager Information Services on behalf of City management.

Application Controls

The City utilises a variety of corporate software packages to support the myriad of service deliverables required. Within the domestic software market there is no singular product that can support all of the services that the City requires. Consequently, application controls have to be applied at a higher level than each individual software package. In order to accommodate this all application control originates within the City's Active Directory and is then further refined within each of the software packages, administered by a variety of administrative staff that may or may not be part of the ICT team. It is the task of the City's Business Systems team to audit the access and controls being applied by non-IT administrators to ensure appropriate system access, data controls and data backups are in place.

Within the Business Systems unit itself the team members are expected to review each other's access and data controls. That said the most critical application access would be the products in control of the financial and document management components of the City. These controls also formed part of the City's financial management system review undertaken June 2016, by external auditors. In addition to the internal controls the City employ external consulting services on a regular basis to perform health checks on components of the core software products (i.e. rates, human resources, payroll, etc.). For example in May 2016 the City engaged the services of LG Connect Pty Ltd to perform a rates data integrity health check, which resulted in a number of system and process improvements implemented by the City's rates team.

Summary – Information Technology Controls

As discussed above, there are a variety of controls in place within the general and application IT environments, which include a number of officers reviewing each other's controls and external resources performing reviews over a longer period of time. That said, over the past two years the City has experienced a growth in the number of mobile applications and cloud hosted business applications. As part of the review it was noted the City does not have any specific rules relating to the use and security requirements of these external systems. The City's ICT Coordinator has been assigned the task of reviewing and consolidating the City's IT related Operational Practices and Procedures during the 2016/17 financial year, which will represent an ideal opportunity to also address the mobile application and cloud hosted business application usage and security requirements.

CONCLUSION

From a financial perspective, the City's internal controls have historically been reviewed every four years in line with the requirements of Regulation 5(2)(c) of the Local Government (Financial Management) Regulations. The last such review was undertaken in 2016 by the City's appointed auditor. At this time, the Auditor stated that in the context of Council's overall operations, it is considered that operating procedures and systems are adequate. Furthermore, testing indicated that internal procedures and controls are appropriate, compliant with statutory requirements, with supporting reconciliations of key accounts being completed on a timely basis.

Whilst certainly not to the same extent, the annual financial audit process does include a review of principal internal controls; primarily to satisfy the Auditor that the annual financial report is free from material misstatement. With regards to the 2014/15 financial audit, the Auditor has stated that the sound financial control environment present at the City of Busselton has been adequately maintained throughout the 2014/15 financial year. Although yet to be finalised, it would also appear at the time of compiling this report that there are no matters of any significance will be noted within the 2015/16 audit.

Notwithstanding the above, and as this review of internal control is now required to be undertaken biennially, the review has identified a number of areas in which existing internal control processes can be further improved. Whilst the identified anomalies in current processes and procedures are all considered minor in nature, it is felt that their rectification will further strengthen the City's overall internal control processes.

In closing, whilst limited guidance has been provided to local governments as to how the review of internal control is to be undertaken, it is felt that the methodology utilised in compiling this review is sound.

OPTIONS

This report does not propose to make any specific recommendations to the Audit Committee, other than to receive the report and note the results of the review. The identified actions as comprised within the report are operational in nature and will be addressed accordingly. Notwithstanding, the Audit Committee may determine to:

- Seek a formal update report on the progression of identified actions as comprised within this report;
- Identify any additional actions it wishes to have specifically reviewed from an internal control perspective;

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

All identified actions will be investigated, and implemented where possible, prior to the next biennial review of internal control; due by 31 December 2018.

Council Decision / Committee Recommendation and Officer Recommendation

C1611/126 Moved Councillor J McCallum, seconded Councillor P Carter

That the Audit Committee note the contents of this report in relation to the review of organizational systems and procedures and internal control as required by Regulation 17 of the Local Government (Audit) Regulations (1996).

CARRIED 7/0

EN BLOC

10.6 Audit Committee - 26/10/2016 - LOCAL GOVERNMENT (AUDIT) REGULATION 17 - AUDIT OF LEGISLATIVE COMPLIANCE

SUBJECT INDEX:	Reporting and Compliance
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Governance Support
REPORTING OFFICER:	Director, Finance and Corporate Services - Matthew Smith
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Legislative Compliance Report - Local Government Act 1995 and Associated Regulations⇒

This item was considered by the Audit Committee at its meeting on 26 October 2016, the recommendations from which have been included in this report.

PRÉCIS

Regulation 17 of the *Local Government (Audit) Regulations* (the “Audit Regulations”) requires the Chief Executive Officer to review the appropriateness and effectiveness of a local government’s systems and procedures in relation to several matters, including legislative compliance. The results of the review are to be reported to the Audit Committee for review and deliberation, prior to formal presentation to the Council.

The first review of the City’s legislative compliance was submitted to the Audit Committee in December 2014 and was ultimately considered at the Council meeting of 28 January 2015. However Regulation 17 requires that the City’s legislative compliance systems, along with risk management and internal compliance systems, be reviewed at least once every two years. Thus a second review has recently been undertaken by officers.

This report presents the Audit Committee with the results of the second review of the appropriateness and effectiveness of the City’s systems and procedures in respect to legislative compliance.

BACKGROUND

In February 2013, several amendments to the Audit Regulations were made. At this time, a new Regulation number 17 was effected, requiring the CEO to review the appropriateness and effectiveness of a local government’s systems and procedures in relation to risk management, internal control and legislative compliance; with the results of the review to be reported to the Audit Committee.

In order to be compliant with the new review and reporting requirements, the initial review of the City’s legislative compliance was presented to the Audit Committee on 11 December 2014 and then to the Council on 28 January 2015. This report is now presented to the Audit Committee and the Council in order to meet the requirements of Regulation 17 of the Audit Regulations that systems in relation to legislative compliance be reviewed once at least every two calendar years.

The same approach has been taken to this second review as was taken upon the initial review of the City’s legislative compliance. That is, officers have primarily relied on the outcome of the Annual Statutory Compliance Audit Return for the most recent calendar year, which was conducted in March 2016. This return and the external Auditor’s report and review of the Statutory Compliance Audit was presented to Council at the meeting held on 23 March 2016 (item 10.7) and approved. In addition to

this, officers have undertaken a broader review of compliance with the *Local Government Act* and associated regulations utilising the format of the older version of the Statutory Compliance Audit Return (Attachment A) which used to include questions in relation to a much larger number of provisions of the *Local Government Act* and regulations. Similarly to last time, the Officer Comment section of this report also makes reference to a number of management systems and approaches which the City utilises to endeavour to ensure understanding of and compliance with the vast range of other legislation which regulates and impacts on the City's operations.

STATUTORY ENVIRONMENT

The *Local Government (Audit) Regulations* now require local governments to present formal reports from the CEO to its Audit Committee. The regulations provide:

17. CEO to review certain systems and procedures

- (1) *The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to –*
 - (a) *Risk management; and*
 - (a) *Internal control; and*
 - (b) *Legislative compliance.*
- (2) *The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.*
- (3) *The CEO is to report to the audit committee the results of that review.*

In addition to the new regulation, a further subregulation was also introduced as part of existing Regulation 16, further clarifying the Audit Committee's actions upon receipt of the aforementioned report from the CEO. This addition is detailed as follows:

16. Audit committee, function of

- (c) *is to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to –*
 - (i) *Report to the council the results of that review; and*
 - (ii) *Give a copy of the CEO's report to the Council.*

This report provides an overview of the organisation's compliance with a range of requirements in the *Local Government Act 1995* and its associated regulations, including *Elections Regulations, Administration Regulations, Financial Management Regulations and Functions and General Regulations*.

RELEVANT PLANS AND POLICIES

A number of Council Policies guide activities which have assisted the organisation to remain compliant with a range of provisions of the Act and Regulations. These include, but are not limited to, the Fees, Allowances and Expenses for Elected Members Policy, Purchasing Policy, Regional Price Preference Policy, Meetings, Information Sessions and Decision-making Processes Policy, Complaints Handling Policy and the Code of Conduct.

FINANCIAL IMPLICATIONS

There are no direct financial implications associated with the recommendations as detailed within this report.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

Ensuring understanding of and compliance with the legislation impacting on the operations of the City is consistent with key goal area 6 of the City's Strategic Community Plan 2013 (Reviewed 2015) and in particular Community Objective 6.2 "Governance systems that deliver responsible, ethical and accountable decision-making".

RISK ASSESSMENT

There are no risks of a medium or higher level identified as part of this review, noting that a separate report will be put to the Audit Committee and Council in respect of the second review of the systems and procedures relating to risk management, which discusses the City's procedures for identifying and dealing with risks associated with the City's operations.

CONSULTATION

Not applicable as this report relates to a review of internal operational statutory compliance.

OFFICER COMMENT

A similar approach has been taken in respect of the second review of the appropriateness and effectiveness of the City's systems and procedures in relation to legislative compliance, as was taken at the initial review in 2014. The primary focus of the review has been on the Statutory Compliance Audit Return which the City has most recently completed, in this case being the return completed in March 2016 and the report from the external auditor accompanying that return. In addition, officers have completed the broader format of the Compliance Audit Return that used to be required by the Department of Local Government until 2011. This broader format contains many additional questions dealing with many aspects of the City's operations and their compliance with legislative requirements. The broader Compliance Audit Return is shown at Annexure A, noting that the format in this Annexure only contains questions which are additional to the current Compliance Audit Return and generally officers have not doubled up and answered the same question in both forms.

In his report, Lindsay Delahaunty, the external consultant appointed by the City to review the most recent (2015 Statutory Compliance Return), noted that "overall the City has continued to attain a high level of compliance in the areas under review and all supporting documentation has been maintained to a high standard". In his report Mr Delahaunty noted a range of statutory processes in respect of which he had reviewed all relevant documentation and come to the view that the City was fully compliant, including a number of property disposals under the *Local Government Act*, the tender register and a number of specific tender and expression of interest processes and an extensive review of the Council and Committee meetings minutes and agendas. The very good outcome and extremely high level of statutory compliance noted in this review should give the Council a high level of confidence in the internal systems and procedures of the City which are aimed to ensure legislative compliance.

A similar result has been achieved in the broader review of statutory and regulatory compliance contained at Annexure A. While it is noted that at the time of completing the broader review, some of the questions related to matters which were not currently relevant to the City's operations and other requirements were still in the process of being complied with, generally the outcome of the review demonstrates the City's high level of statutory compliance with only relatively minor issues of concern being noted.

While the City is formed as a statutory body under the *Local Government Act* and the Act and Regulations contain many of its key statutory functions, there is a broad range of other State and Federal laws that the City carries out statutory processes under or which otherwise impact on the City's operations.

A small snapshot of some of the other Acts that the City implements or adheres to is provided below:

- Bush Fires Act 1954
- Caravan Parks and Camping Grounds Act 1995
- Cat Act 2011
- Cemeteries Act 1986
- Dog Act 1976
- Emergency Management Act 2005
- Environmental Protection Act 1986
- Health Act 1911
- Land Administration Act 1997
- Liquor Control Act 1988
- Litter Act 1979
- Local Government (Miscellaneous Provisions) Act 1960
- Occupational Safety and Health Act 1984
- Planning and Development Act 2005
- Public Interest Disclosure Act 2003
- Rail Safety Act 2010
- State Records Act 2000
- Strata Titles Act 1985

There are a variety of processes and procedures that the City has in place in respect of these pieces of legislation and a variety of ways in which the City ensures that it complies with them. For example, many of the City's development consent and scheme amendment processes are carried out in accordance with the *Planning and Development Act 2005* and the City of Busselton Local Planning Scheme No. 21 which is delegated legislation made under that Act. Those statutory processes are reflected in a number of the City's business systems which are automated through the City's information technology systems, including document retention and retrieval process and online applications. Further, the City relies on employing qualified staff who are trained in and are aware of these statutory requirements and the requirement for this knowledge is reflected in the position descriptions for those staff, as is their authority to act in accordance with these laws.

A similar approach is taken in respect of Environmental Health Officers under the *Health Act 1911*, who are required to be sufficiently qualified to carry out processes under that Act and who in many instances require written authorisation reflecting this, which is held by the City. The statutory processes relevant to the City's Busselton and Dunsborough cemeteries under the *Cemeteries Act 1986* are reflected in written procedures and to some degree enshrined in IT business systems. The City has many occupational safety and health policy documents and guidelines which reflect the requirements of the *Occupational Safety and Health Act 1984* and again the City employs an OSH and Risk Officer who must be qualified and have sufficient knowledge in respect of the legislative requirements of that Act as they relate to the City's operations.

As well as making use of appropriately qualified officers who have appropriate knowledge, skills and training, and designed information technology software systems or documented internal processes, the City sometimes also utilises systems and guidelines designed by relevant State or Federal regulatory bodies to ensure statutory compliance with the legislation they regulate. Thus, for example, in order to ensure compliance with *Public Interest Disclosure Act 2003*, the City has a designated Public Interest Disclosure Officer who has received the appropriate training from the regulatory body and utilises guidelines and manuals published by the regulatory body in conjunction with the City's own information and guidelines which are on the City's intranet and external website. Similarly, many of the City's dealings in property involve carrying out processes under the *Land Administration Act 1997* and other legislation relevant to dealings involving State land and the City, as well as utilising the skills of officers knowledgeable in these areas, retains an up to date copy of the Land Titles Registration Practice Manual produced by Landgate which identifies the forms and processes required in relation to dealings in land.

These are examples of some of the ways in which the City ensures compliance with the requirements and processes of the various legislation which it is involved in the implementation of or has to comply with in carrying out City processes. Ultimately the City relies on a combination of properly structured and configured IT business systems, documented processes and procedures and appropriately qualified, knowledgeable and authorised staff (whose position descriptions reflect the necessary qualifications and skills for their role) to ensure it complies with the many and varied laws impacting on its operations.

CONCLUSION

The Statutory Compliance Returns, both the most recent Annual Return for the 2015 calendar year and the more detailed review carried out for the purpose of this report, demonstrate the generally very high level of statutory compliance which the City achieves in relation to a range of key legislative functions. The high standard of statutory compliance in the City's operations was also noted by the external auditor appointed by the City to review the 2015 Annual Compliance Return.

In addition to this, the Officer Comment section of this report details the approach the City takes to ensuring compliance with a range of different types of legislation which the City implements or has to comply with in carrying out its operations. Achieving compliance in relation to these laws primarily relies on the knowledge and skills of the appropriately qualified officers the City employs and the systems and processes they help design and oversee.

Officers believe that the information provided in this report, together with the Compliance Returns and independent report, sufficiently demonstrates that the City has appropriate and effective systems and procedures in place to ensure legislative compliance in respect of its operations.

OPTIONS

The recommendation is for the report to be received and noted and then provided to the Council. The Audit Committee may determine that more information is required prior to presenting the report to Council.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The recommendation is effective upon receipt of the report by the Audit Committee and the Council.

Council Decision / Committee Recommendation and Officer Recommendation

C1611/127

Moved Councillor J McCallum, seconded Councillor P Carter

That the Audit Committee note the contents of this report in relation to the review of legislative compliance as required by Regulation 17 of the Local Government (Audit) Regulations (1996).

CARRIED 7/0

EN BLOC

11. PLANNING AND DEVELOPMENT SERVICES REPORT

11.1 ADOPTION OF THE REVISED ENVIRONMENT STRATEGY

SUBJECT INDEX:	Environmental projects and programmes
STRATEGIC OBJECTIVE:	Growth is managed sustainably and our environment is protected and enhanced as we develop.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Environmental Planning
REPORTING OFFICER:	Senior Natural Resource Management / Environment Officer - Will Oldfield
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Environment Strategy 2016⇒ Attachment B Schedule of Submissions⇒

PRÉCIS

This report presents the outcomes from the submissions period on the Draft Environment Strategy 2016 and recommends the document for final adoption by Council with some minor changes.

The Environment Strategy will provide direction on how the City will meet the environmental aspirations of the community, as set out in the Strategic Community Plan and guide the City's future activities in environmental management and sustainability.

BACKGROUND

The City of Busselton Environment Strategy was originally adopted by Council in March 2014 and over the past twelve years it has guided the City's role in the management of local environmental issues. The Strategy has assisted with incorporating sound environmental management as an organisational value and core business activity, while creating a positive organisational culture. The Strategy has also enhanced working relationships with the community in general, particularly with environmental community groups.

To ensure that Environment Strategy remains current, relevant and a key guiding document on environmental matters, a review was undertaken and a revised Environment Strategy (the Strategy) presented to the 27 July 2016 Ordinary Council meeting. At that meeting Council resolved (resolution C1607/173) to endorse the advertising of the revised Strategy for community consultation purposes.

The Strategy was advertised for a period of 45 days inviting comments and submissions from the public. The public advertising period closed on 12 October 2016, and the submissions received have been reviewed and where appropriate incorporated into the Strategy for Councils final adoption.

STATUTORY ENVIRONMENT

As part of its many functions and operations, the City must have regard to the following environmental legislation:

- Environmental Protection Act 1986
- Contaminated Sites Act 2003
- Wildlife Conservation Act 1950
- Rights in Water and Irrigation Act 1914
- Waste Avoidance and Resource Recovery Act 2007
- Environmental Protection and Biodiversity Conservation Act 1999 (Commonwealth)

- National Greenhouse and Energy Reporting Act 2007 (Commonwealth)

A number of changes have been made to environmental legislation since Council's endorsement of the Environment Strategy in 2004. This review ensures the Strategy remains consistent with environmental legislation.

The Town Planning framework and Local Environmental Planning Strategy guides development and integrates environmental conservation, preservation and protection of key natural assets through the planning and development process and is a significant component of the City's implementation of environmental management at a strategic level.

RELEVANT PLANS AND POLICIES

Environment Policy 030, guides the City's commitment to continuous improvement in environmental management towards creating a sustainable balance between environmental, social and economic values throughout the District. The Strategy is a key document to provide direction on how the City will work towards the principles of Environment Policy 030.

The following other key environmental related plans have also been endorsed by Council:

- Local Environmental Planning Strategy
- Biodiversity Incentives Strategy
- Corporate Energy Action Plan
- Local Water Action Plan
- Waste Management Strategy (draft)

FINANCIAL IMPLICATIONS

There are no financial implications associated with the officer recommendation seeking Council adoption of the Strategy.

Long-term Financial Plan Implications

The Strategy guides the approach towards ensuring the City's natural environment is cared for and enhanced for the enjoyment of the community and visitors through the development and implementation of management plans, programmes and associated on-ground works, much of which will be accomplished utilising available resources and within the City's current ten-year financial plan.

While the Strategy is expected to have a ten year life, the strategic actions within the document will be reviewed every three years. Council may wish to implement a range of initiatives in environmental management and sustainability during the life of the Strategy and any actions requiring additional resources will be evaluated and if considered appropriate by the Council, incorporated into the City's ten-year financial plan and annual budget development process. As implementation of environmental projects occurs, and improvements are made to natural area management, there may be a need to amend Long Term Financial Plan allocations in future reviews of the Plan.

STRATEGIC COMMUNITY OBJECTIVES

The review of the Environment Strategy is 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” And Objective 5.2 “Growth is managed sustainably and our environment is protected and enhanced as we develop.”

RISK ASSESSMENT

An assessment of the potential implications 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 as medium or greater.

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Environmental/ Reputational risk arising from inadequate management of natural environs.	Environment Strategy developed in consultation with the community and implementation of actions to manage use, access and protection of environmental and heritage values.	Minor	Possible	Medium

CONSULTATION

The review of the Strategy involved an initial consultation with community and agency stakeholders resulting in the revised Strategy that was presented to the 27 July 2016 Ordinary Council meeting, followed by broader community and agency consultation in August 2016, the submission from which are included with this report as Schedule of submission in Attachment B.

The initial community and agency stakeholder consultation to review the Strategy involved:

- Workshops with key stakeholders including environment groups and agencies;
- Meetings with the City Environmental Reference Group;
- Workshop with City Staff;
- South West Aboriginal Land and Sea Council briefing; and
- Councillor briefing and workshop.

Following Council's endorsement of the Strategy in July 2016, a further and broader consultation process was undertaken which included:

- Advertising seeking submissions on the Strategy in a local paper during the 45 day consultation period
- Direct email to agency stakeholders
- Direct email to community stakeholders
- Two information sessions (Busselton and Dunsborough) promoted via direct email and notices in the Council for Community. Staff were available at these sessions to provide information answer questions and invite submissions.

OFFICER COMMENT

The City received 15 submissions on the Environment Strategy, 7 from Agencies and 7 from individuals and 1 from a community group, a summary of which is included with this report at Attachment B.

A number of changes have been made relating to matters raised in submissions however, most of the requested changes relate to formatting or further information to clarify roles of agencies or to improve the accuracy of the Strategy. One new strategic action has been added to the Strategy and two strategic actions have been modified. The proposed changes to the Strategy have been highlighted in red within the Strategy and included with this report at Attachment A.

The proposed changes to strategic actions are summarised as follows:

1. Page 10, Strategic Actions Biodiversity – add new Strategic Action No 1.3 as follows:

Work in partnership with other agencies and organisations to identify opportunities for implementation of recovery plans for protection of endangered species

Strategic Action 1.3 has been added to the Strategy to reflect City cooperation with other agencies through the formation of partnerships to implement recovery plans for the protection of endangered species.

2. Page 10, Strategic Action Biodiversity – amend Strategic Action No 1.8 as follows:

Add the words '*and voluntary conservation covenant*'

Strategic Action 1.8 relates to the City's continued to promotion the opportunities for conservation through the Biodiversity Incentive Strategy, the Leeuwin Naturaliste Ridge Statement of Planning Policy and the Busselton Wetlands Conservation Strategy.

3. Page 14, Strategic Action Water – amend Strategic Action No 2.6 as follows:

Investigate opportunities for alternative fit for purpose water use options for City land and within new land developments.

Strategic Action 2.6 ha been amended to further clarify the intent and proposed of this strategic action.

As well as supporting the changes described above, it is also recommended that the presentation of the Strategy be improved to make it more consistent with other important strategic documents, and that an introduction from the Mayor also be added – and the officer recommendation also provides for those changes to occur.

CONCLUSION

The Strategy has been prepared following extensive consultation with key stakeholders and community and it is recommended that Council adopt the revised Environment Strategy.

OPTIONS

The Council may resolve not to adopt the revised Environment Strategy or may require certain aspects within the Strategy to be amended.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The revised Environment Strategy will be published on the City Website so that it is available to the public within 30 days of the decision to adopt it. Implementation of the Strategy will commence immediately should Council support the officer recommendation.

Council Decision and Officer Recommendation

C1611/128 Moved Councillor J McCallum, seconded Councillor P Carter

That the Council adopts the revised Environment Strategy (Attachment A) to guide the City's continuous improvement in environmental management towards creating a sustainable balance between environmental, social and economic values throughout the District, subject to improvements to the presentation of the document to be consistent with other important strategic documents, and through the insertion of an introduction from the Mayor.

CARRIED 7/0

EN BLOC

14. FINANCE AND CORPORATE SERVICES REPORT

Nil

15. CHIEF EXECUTIVE OFFICER'S REPORT**15.2 COUNCIL MEETING SCHEDULE FOR 2017**

SUBJECT INDEX:	Governance Services
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Support and Inter-Council Relations
REPORTING OFFICER:	Administration Officer - Governance - Hayley Barge
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Proposed Dates 2017⇒

PRÉCIS

This report is presented to enable the Council to determine its Ordinary Meeting dates for 2017. In accordance with the *Local Government (Administration) Regulations 1996*, a meeting schedule for the next 12 months must be advertised at least once each year.

BACKGROUND

The proposed meeting schedule generally continues with the Council's adopted approach to Council meetings ie: two Council meetings per month with briefing sessions and Community Access Sessions on two other occasions (with the exception of January to have no meeting and July and December when one meeting per month is proposed).

STATUTORY ENVIRONMENT

It is up to each Council to set its own meeting cycle, dates and procedures, provided that the Council meets at least once every three months in accordance with Section 5.3 of the *Local Government Act 1995*.

Local Government (Administration) Regulation 12 requires a Council to give local public notice of the dates on which and the time and place at which the Ordinary Council meetings are to be held in the next 12 months.

RELEVANT PLANS AND POLICIES

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC COMMUNITY OBJECTIVES

This report seeks to establish a meeting cycle that provides good governance in accordance with Key Goal Area 6 of the City of Busselton's endorsed Strategic Community Plan:

Open and Collaborative Leadership

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

RISK ASSESSMENT

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Over-regular meeting cycle resulting in minimal matters for consideration and inefficient use of time.	Review of meeting cycle at regular intervals with potential for re-setting and cancellations.	Insignificant	Possible	Low
Under-regular meeting cycle resulting in unnecessary delays to matters requiring Council decision.	Review of meeting cycle at regular intervals and potential for special meetings.	Minor	Possible	Medium

CONSULTATION

Following Council's decision to adopt a meeting cycle, its meeting dates for the next 12 months must be advertised for public information. This will occur prior to the end of 2016.

OFFICER COMMENT

There is one Council meeting in the proposed schedule for July and December; there would normally be two for every other month of the year. The official meeting days are generally recommended to remain as the second and fourth Wednesday of the month between February and November, excluding July, with the first and third Wednesdays for Community Access Sessions, Councillor briefings and other Councillor planning sessions, where required. In exceptional circumstances these dates may not be appropriate, the second proposed Community Access date in February already being identified as such with Councillors having a prior commitment on Wednesday, 15 February.

A similar meeting schedule was utilised throughout 2016, with the mid-year break being in line with school holidays as is proposed again for 2017 with the exception of January being requested as a briefing only month, with the first briefing of Council and Community Access Session to be held on Wednesday, 25 January.

The dates of the 10 Western Australian public holidays for 2017 have been checked and none of the holidays coincide with a proposed meeting date. It has been the usual practice for the Councillors to have a week without meetings on any month that includes five Wednesdays. For 2017, March, May, August and November are the five Wednesday months.

Attachment A shows the proposed 2017 for Council Meetings, Community Access Sessions and also displays the WA School Holidays and Public Holidays.

CONCLUSION

The dates of the meetings for the next 12 months need to be advertised in advance. It is considered appropriate to conduct 20 Council meetings per annum, to allow for a mid-year break in July to coincide with the school holidays.

OPTIONS

In accordance with the *Local Government Act 1995*, there are a wide range of options available to the Council with regard to its meeting schedule, subject to a meeting occurring once every three months at the least.

The Council could also of course reduce its meeting cycle to three-weekly, monthly, every second month or quarterly with the requirement simply to meet every three months as a minimum.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The advertising would necessarily occur prior to the end of the year.

Council Decision and Officer Recommendation

C1611/129 Moved Councillor J McCallum, seconded Councillor P Carter

That the following dates and venues for the Council's ordinary meetings for the next 12 months (2017) be adopted and advertised in accordance with *Local Government (Administration) Regulation 12*:

DATE 2016	VENUE	TIME
Wednesday, 8 February	Community Resource Centre, 21 Cammilleri Street, Busselton	5.30pm
Wednesday, 22 February	Community Resource Centre, 21 Cammilleri Street, Busselton	5.30pm
Wednesday, 8 March	Community Resource Centre, 21 Cammilleri Street, Busselton	5.30pm
Wednesday, 22 March	Community Resource Centre, 21 Cammilleri Street, Busselton	5.30pm
Wednesday, 12 April	To be confirmed.	5.30pm
Wednesday, 26 April	To be confirmed.	5.30pm
Wednesday, 10 May	To be confirmed.	5.30pm
Wednesday, 24 May	To be confirmed.	5.30pm
Wednesday, 7 June	To be confirmed.	5.30pm
Wednesday, 21 June	To be confirmed.	5.30pm
Wednesday, 26 July	To be confirmed.	5.30pm
Wednesday, 9 August	To be confirmed.	5.30pm
Wednesday, 23 August	To be confirmed.	5.30pm
Wednesday, 13 September	To be confirmed.	5.30pm
Wednesday, 27 September	To be confirmed.	5.30pm
Wednesday, 11 October	To be confirmed.	5.30pm
Wednesday, 25 October	To be confirmed.	5.30pm

Wednesday, 8 November	To be confirmed.	5.30pm
Wednesday, 22 November	To be confirmed.	5.30pm
Wednesday, 13 December	To be confirmed.	5.30pm

CARRIED 7/0

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.

15.1 COUNCIL ENDORSEMENT OF THE 2015- 2016 CITY OF BUSSELTON ANNUAL REPORT

SUBJECT INDEX:	Corporate Reporting
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance
REPORTING OFFICER:	Public Relations Coordinator - Meredith Dixon
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Published Under Separate Cover City of Busselton Annual Report 2015-2016⇒

PRÉCIS

The *Local Government Act 1995* requires Council to accept the Annual Report for the financial year. This report seeks Council's acceptance of the printed City of Busselton Annual Report 2015-2016 and the proposed dates for the Annual General Electors' Meeting.

BACKGROUND

The City produces an Annual Report at the end of each financial year. This report is presented to Council for endorsement. The Draft Annual Report (exclusive of full financials) was provided to Council members on Wednesday 5 October 2016. Councillors were asked to provide feedback to the Public Relations Officer by Thursday 13 October 2016. Council feedback / corrections were incorporated into the final draft of the report prior to the final print run.

Fifty full colour copies of the City's Annual report have been printed. Once endorsed by Council, the report will be posted to key stakeholders and made available in electronic format on the City of Busselton website. In line with State Government direction, an electronic copy of the report (inclusive of full financials) will be forwarded to the Department of Local Government.

The report will be made available at the Annual General Electors' Meeting. The report will also be made available to Councillors and Officers of the City of Busselton for presentation and information purposes.

STATUTORY ENVIRONMENT

Section 5.54 and 5.27(2) of the *Local Government Act 1995*. It is a statutory requirement that the Annual Report be accepted by Council prior to December 31. The Annual General Electors' Meeting must be held within 56 days of that acceptance.

RELEVANT PLANS AND POLICIES

The Annual Report details Council's progress against the six key goal areas outlined in the Strategic Community Plan 2013. The Annual Report provides summary updates on the actions undertaken to meet the objectives of the Corporate Business Plan 2013/2014 – 2017/2018. The Annual Report

demonstrates the City's adherence to regulatory requirements outlined in Section 5.53 of the *Local Government Act 1995*. The Annual Report provides full financial statements for the City of Busselton.

FINANCIAL IMPLICATIONS

Associated production and printing costs are included within Council's 2016-2017 budget.

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

The Annual Report is the formal report against all of the Council's Strategic Community Objectives, and specifically contributes to governance systems that deliver responsible, ethical and accountable decision-making.

RISK ASSESSMENT

If the Annual Report is not accepted at this meeting, it must be done prior to 31 December 2016 to ensure compliance with the Local Government Act.

CONSULTATION

In preparing the Annual Report 2015-2016, consultation has been undertaken with: City of Busselton Council; the Chief Executive Officer; the Senior Management Group; and officers from the City's Corporate Planning and Governance teams.

OFFICER COMMENT

Production of the Annual Report 2015-2016 has been undertaken according to a timeline developed to enable the Annual General Electors' Meeting to be held before the end of the 2016 calendar year.

CONCLUSION

The City of Busselton Annual Report 2015-2016 requires Council endorsement prior to public distribution.

OPTIONS

Another date for the Annual General Electors' Meetings may be preferred.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

- Council Meeting for formal acceptance of the Annual Report and setting of the date for the Annual General Electors' Meeting: 9 November 2016.
- Two week statutory advertising period for the Annual General Electors' Meeting: 11 November – 25 November, 2016.
- Annual General Electors' Meeting (Busselton) Monday 28 November, 2016.

Council Decision and Officer Recommendation

C1611/130

Moved Councillor C Tarbotton, seconded Councillor J McCallum

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Accepts the 2015-2016 Annual Report as at Attachment A;
2. Endorses public notification regarding availability of the Annual Report 2015-2016; and
3. Sets Monday 28 November 2016 for the Special Meeting of Electors to be held at the Community Resource Centre (existing Council Chambers) in Busselton.

CARRIED 7/0

BY ABSOLUTE MAJORITY

15.3 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 October - 15 October⇒
	Attachment B Planning Applications Determined 1 October - 15 October⇒
	Attachment C State Administrative Appeals as at 20 October⇒
	Attachment D Meelup Regional Park Management Committee Informal Meeting Minutes - 27 September 2016⇒
	Attachment E Dunsborough Probus Club Inc - Letter of Appreciation⇒

DISCLOSURE OF INTEREST	
Date	9 November 2016
Meeting	Council
Name/Position	Mike Archer, Chief Executive Officer
Item No./Subject	15.3 - Councillors' Information Bulletin
Type of Interest	Financial Interest
Nature of Interest	As the property owner of 41 Thomas Street, West Busselton subject to the planning application WAPC16/0054 listed on page number 358 of the agenda.

5.38pm At this time the Chief Executive Officer left the meeting.

Note: In accordance with clause 5.6 (3) (d) of the Standing Orders this has been excluded from the adoption by exception resolution as it is a matter on which a member wishes to make a statement.

Councillor Ross Paine made the following statement:

The Disability Discrimination Act of 1992 makes it illegal in some circumstances to discriminate against a person on the grounds of a disability. It says that it is discrimination if you do not make, or propose not to make, reasonable adjustments and the failure to make the reasonable adjustments has, or would have, the effect that the aggrieved person is, because of the disability, treated less favourably than a person without the disability would be treated in circumstances that are not materially different.

The reason I mention this is that this agenda that is distributed online is not sufficiently well crafted to be accessible to people that are blind or have a vision impairment. This problem is not unique to this document, nor to this agenda item, but item 15.3 does provide a number of different examples of accessibility problems that are of concern.

In the Human Rights Commission's advice notes for the Disability and Discrimination Act they state: The Commission's advice, current February 2014, is therefore that PDF cannot be regarded as a sufficiently accessible format to provide a user experience for a person with a disability that is

equivalent to that available to a person without a disability, and which is also equivalent to that obtained from using the document marked up in traditional HTML.

Accordingly, organisations that publish documents only in PDF risk complaint under the DDA unless they make the content available in at least one additional accessible format that disseminates semantic meaning of the document structure, its design and content to mobile users. Additional formats should be published simultaneously with the PDF version, and at least one such format should be downloadable as a single document if the PDF version is available as a single download.

That needs to be taken in context though, they are talking about the best case scenario where all care has been taken trying to create an accessible document.

Without getting into the details of the entire PDF/UA ISO14289 standard, there's a few attachments to this item that deserve a special mention.

The tables, like the one in attachment 1, are included as rather blurry images. Images of text are to be avoided, in cases where it's a requirement, for example a scanned copy of correspondence that's been received in hard copy, the optical character recognition text must be correct.

Attachment 4, the minutes of the Meelup Regional Park Management Committee are, like the tables in the other attachments images of another document, as the City would have the original digital version of the minutes this represents a significant but avoidable degradation of accessibility.

Attachment 5, the correspondence received demonstrates a justifiable use of an image of text, however the OCR text is missing.

This all means not only can this document not be read at all by people with disabilities who require the use of screen reading technology; even people with average to poor vision who need to use a larger text size are unable to make this easier to read.

But improving accessibility isn't just about catering for people with a disability, a properly accessible document is also easier for use for anybody. Functions like searching for text or copy and paste won't work here, nor would a search engine be able to find it.

Ironically, digital accessibility is difficult to see if you have good vision, but it's essential to be truly inclusive, and it's good customer service. We shouldn't be putting barriers in our own material that would prevent people from being able to access information online about their City or Council. Content that isn't accessible, unjustifiably large file sizes, inability to access information on a mobile device - all these things combine to give an impression of a lack of transparency.

I will be moving a motion during the December meeting that the Council requests the CEO bring a report to council discussing how accessibility could be improved for documents that the City of Busselton publishes online.

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

15.3.1 Planning and Development Statistics

Attachment A is a report detailing all Planning Applications received by the City between 1 October, 2016 and 15 October 2016. 40 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 1 October, 2016 and 15 October, 2016. A total of 50 applications (including subdivision referrals) were determined by the City during this period with 48 approved / supported and 2 refused / not supported.

15.3.2 State Administrative Tribunal (SAT) Appeals

Attachment C is a list showing the current status of State Administrative Tribunal Appeals involving the City of Busselton as at 20 October, 2016.

15.3.3 Meelup Regional Park Management Committee

The minutes from the Meelup Regional Park Management Committee informal meeting for the 27 September 2016 are available to view in Attachment D.

15.3.4 Dunsborough Probus Club Inc – Letter of Appreciation

Correspondence has been received from the Dunsborough Probus Club and is available to view in Attachment E.

Council Decision and Officer Recommendation

C1611/131 Moved Councillor P Carter, seconded Councillor R Paine

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

- 15.3.1 Planning and Development Statistics
- 15.3.2 State Administrative Tribunal (SAT) Appeals
- 15.3.3 Meelup Regional Park Management Committee
- 15.3.4 Dunsborough Probus Club Inc – Letter of Appreciation

CARRIED 7/0

5.44pm At this time the Chief Executive Officer returned to the meeting.

13. COMMUNITY AND COMMERCIAL SERVICES REPORT

13.1 CITY OF BUSSELTON ECONOMIC DEVELOPMENT STRATEGY (2016-2026)

SUBJECT INDEX:	Regional Economic Development Strategies
STRATEGIC OBJECTIVE:	A strong, innovative and diversified economy that attracts people to live, work, invest and visit.
BUSINESS UNIT:	Commercial Services
ACTIVITY UNIT:	Economic and Business Development
REPORTING OFFICER:	Economic and Business Development Coordinator - Jon Berry
AUTHORISING OFFICER:	Director, Community and Commercial Services - Naomi Searle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Final Draft City of Busselton Economic Development Strategy (2016-2026)⇒ Attachment B Final Draft City of Busselton Economic Development Strategy (Initiatives to Guide Implementation)⇒

PRÉCIS

City officers have prepared a draft Economic Development Strategy ('EDS') for the Busselton district, which identifies strategies and initiatives which aim to attract inward investment; enhance business retention and expansion; support regional workforce development; identify and advocate for strategic economic infrastructure; and enhance the quality of place, particularly precincts with high tourist visitation.

This report seeks the Council to endorse the draft EDS (in Attachment A) as a guide for future planning and to establish a Reference Group (Taskforce) of key business, government and community stakeholders to support Council deliver the EDS and to identify and advocate for resources to progress specific initiatives identified in a draft Implementation Plan (in Attachment B).

BACKGROUND

The draft EDS defines local economic development by using the International Economic Development Council (IEDC) definition, which is *'a program, group of policies, or activity that seeks to improve the economic well-being and quality of life for a community, by creating and/or retaining jobs that facilitate growth and provide a stable tax base'*.

The EDS has been prepared by City officers by conducting a literature review of contemporary national and international research into the determinants and success factors for local economic development, desktop analysis of economic and demographic trends within the Busselton local government area in the context of regional, state, national and international trends and stakeholder engagement with business, government and community groups.

Strategic alignment with the South West Development Commission's *'South West Regional Investment Blueprint (2015)'* has been identified as critical in pursuing recommended initiatives which have been documented in a draft implementation plan (refer Attachment B), which will provide a reference guide for practical delivery of the EDS.

Additionally, the EDS can potentially be used as a springboard into the State Government's Regional Centres Development Plan (RCDP) which is a program designed to help nine designated regional centres realise their economic potential and create a flourishing community that is highly attractive to external investors (www.drd.wa.gov.au/projects/Economic-Development/Pages/Regional-Centres-Development-Plan.aspx).

This report and the EDS recommends the establishment of an Economic Development Taskforce (EDT) as a means for providing local leadership 'from the ground up', to facilitate collaboration amongst business, government and community leaders to deliver the EDS and potentially an RCDP 'Growth Plan', should funding for Busselton be forthcoming from the State Government.

STATUTORY ENVIRONMENT

The draft EDS is not a statutory planning document, rather it is an 'informing strategy' within the City's Integrated Planning Framework. Accordingly, there are no legal or statutory considerations associated with Council adopting the Strategy.

The proposed City of Busselton Economic Development Taskforce (EDT) will be a reference group with no formal decision-making powers or authority vested to it by Council. Minutes of meetings and associated recommendations will be conveyed to the full Council for information and consideration. Although not a formal Committee of Council (as defined in s5.8 of the Local Government Act 1995), the EDT will provide leadership and advice to Council on implementation of the Strategy.

RELEVANT PLANS AND POLICIES

The draft EDS references and aligns with other City of Busselton strategy documents that can influence regional and local economic development outcomes, including:

- City of Busselton Local Planning Strategy (2016): This document was prepared to guide the new City of Busselton Local Planning Scheme 21 and involved considerable community and stakeholder consultation;
- Busselton and Dunsborough CBD Conceptual Plans: Council has endorsed final concept plans to guide future development and management of the Busselton city centre and the Dunsborough town centre. These plans form the basis for detailed design and engineering work, targeted consultation and implementation of a range of initiatives.
- City of Busselton Social and Ageing Plan (2015): This document recognises the importance of a robust economy as a foundation in local sustainability and providing the means for a vibrant living place with a diverse range of recreational, educational and cultural activities; and,
- Directorate Plans and Policies: Internal plans and policies (e.g. asset management and land-use planning policies) can shape the sense of 'place' and impact on the City's ability to attract and retain residents, visitors and a skilled workforce.

The draft EDS also references State Government regional development plans including:

- *State Planning Strategy 2050 (2014)*: Sets out the settlement network across Western Australia. It identifies Perth as the State capital, and a hierarchy of regional centres and sub-centres.
- *South West Regional Planning and Infrastructure Framework (2014)* (Department of Planning): Identifies the need for an integrated approach between regional planning and infrastructure delivery and sets out a regional planning vision for key infrastructure projects required to support industry, residents and visitors
- *South West Regional Investment Blueprint (2015)* (South West Development Commission and Regional Development Australia SW): The State Government's principal regional development planning document for the South West. It identifies objectives and strategies aimed at helping to grow jobs, services and facilities across the Region.
- *Regional Development Strategy (2016)*: Provides a framework to prioritise and progress the opportunities with the most potential, emerging from the Regional Investment Blueprints

and other sources. It is the vehicle to develop a 'whole-of-state' approach to matters of importance across the nine regions.

FINANCIAL IMPLICATIONS

The adopted 2016/17 budget includes resources for the Economic Development Activity Unit, comprising of staff overheads, administration and annual initiatives. The Department of Regional Development has granted the City \$20k (also included in the adopted 2016/17 budget) to support capability building of key stakeholder organisations.

Delivery of the proposed initiatives identified in the EDS and associated Implementation Plan will be prioritized with advice from the proposed Economic Development Taskforce and (subject to Council approval) integrated into the City's 4-year Corporate Business Plan. Further resourcing of selected initiatives may also be available from State and Federal Government grant programs, private investment and the State Government's Regional Centres Development Program (RCDP), should Busselton be supported in Tranche 2 of the RCDP program, with a decision likely in late 2016.

Long-term Financial Plan Implications

Initiatives and projects that form part of the Economic Development Strategy will be incorporated in to future reviews of the Long Term Financial Plan as required.

STRATEGIC COMMUNITY OBJECTIVES

The City's Strategic Community Plan (SCP) identifies a desire by the community for Council to foster a strong local economy that sustains existing and attracts new business, industry and employment opportunities. The SCP states the following objectives for Council to achieve:

Key Goal Area 3:

Robust local economy: A strong local economy that sustains existing and attracts new business, industry and employment opportunities.

- A strong, innovative and diversified economy that attracts people to live, work, invest and visit;
- A City recognised for its high quality events and year round tourist offerings, and;
- A community where local business is supported

Key Goal Area 2:

Well-planned vibrant and active places: An attractive city offering great places and facilities promoting an enjoyable and enriched lifestyle.

- A City where the community has access to quality cultural, recreation, leisure facilities and Services
- A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections

RISK ASSESSMENT

The Officer recommendation does not introduce any risks identified as being high or medium.

CONSULTATION

Stakeholder consultation was conducted by undertaking preliminary workshops with selected business, industry and community leaders that helped inform strategies and proposed initiatives identified in the draft report. Further, a stakeholder consultation draft was distributed to

organisations identified on page 37 of the draft Strategy document (at Attachment A). Responses were received from the following organisations by the requested closing date of 17 October 2016.

Organisation	Comment	Officer Action
Department of Planning	Supportive. Has offered Bunbury office as support for implementation and Perth office in the provision of forecasting/land use information.	No action
Department of Agriculture and Food WA (DAFWA)	Fully supportive of the Strategy, particularly working with the City and stakeholders on development of agribusiness opportunities.	No action
Margaret River Busselton Tourism Association Inc	Supportive of the Strategy with minor amendments suggested for several implementation initiatives (2.8; 4.5; 4.9; 6.10; 6.11)	Suggested amendments captured in final draft at Attachment A
Tourism WA	Supports the Strategy intent and associated implementation plan, and particularly the references to the importance of tourism for Busselton's economic development into the future. Supports a continued focus on events, cruise shipping and investment attraction into ageing tourism accommodation. Suggests a strengthened focus on food and wine tourism and business tourism along with efforts to attract and nurture a skilled workforce in hospitality as tourism grows. Continued efforts for services to support the airport redevelopment are also highlighted including car hire, taxi services and shuttle buses. Requests removal of TWA from Tourism Directional initiative (4.13) initiative as it is Main Roads WA role.	Suggested amendments captured in final draft at Attachment A
Department of Training and Workforce Development	Supportive, particularly in the focus areas of Business Retention and Expansion, Regional Workforce Development and Industry Development. Invited City of Busselton participation on the South West Workforce Development Alliance (SWDA)	Taskforce to consider participation on SW WDA
Regional Development Australia (SW)	Supportive. Suggests greater emphasis on: <ul style="list-style-type: none"> • promoting 'business to business' Buy Local • economic risk assessment may be useful • sister cities with China to create a network across the SW • Supports a business reference group and newsletter • Mapping of trading between towns 	Suggested amendments captured in final draft at Attachment A
Ausindustry	Supportive. Willing to work with the City to identify local enterprises eligible for Federal business support programs	No action
Department of State Development	Keen to encourage private investment into agribusiness projects and to streamline supply chains for food exports to targeted markets. Suggests processing industries may benefit from economies of scale and multiuser facilities through being located in clusters on land dedicated for that purpose. With the planned expansion of the City's urban residential zoning, it may be prudent to set aside land specifically for agribusiness, or alternatively, plan for agribusiness within existing and future industrial zoning. DSD suggests more mention of heritage assets is required along with recognition of the SW Native Title Settlement as an important milestone for economic development opportunities for the Noongar people.	Suggested amendments captured in final draft at Attachment A
Small Business Development Corporation	Supportive. Suggests the Strategy will undoubtedly bring about significant change in the region. Suggests additional strategies for Investment Attraction and Marketing and Business Retention and Expansion: <ul style="list-style-type: none"> • Focus on ways to make it easier for business start-ups – information, applications, fees, concurrent approvals etc • Adopting a culture within the City that is about supporting and assisting rather than fining and strict enforcement. 	Suggested amendments captured in final draft at Attachment A

Organisation	Comment	Officer Action
	The SBDC could potentially assist/support initiatives: (1.3, 2.6, 2.8 and 3.5)	
South West Development Commission	Supportive and recommends strengthening alignment with the new WA Regional Development Strategy (2016-2025) prepared by DRD. The immediate focus is on Agriculture and Food, Tourism, Aboriginal Development, Economic Infrastructure and support for the Regional Centres Development Plan, which is acknowledged and supported in the ED Strategy. Some economic and demographic data could also be updated in the profile section.	Suggested amendments captured in final draft at Attachment A Most recently available economic and demographic data to be included at time of publication
South Region TAFE	Supportive and keen to be involved in implementation initiatives	No Action
Dunsborough Yallingup Chamber of Commerce and Industry Inc	Supportive of the key focus areas, strategies and initiatives and involvement in the establishment of the Economic Development Taskforce to encourage collaboration and local leadership.	No Action
Busselton Chamber of Commerce and Industry Inc	Supports the objectives and direction of the EDS. Recognises the importance of the strategy in providing a framework on which to build a sustainable future. Seeks to contribute further through the proposed taskforce.	No Action

The final draft EDS in Attachment A makes limited material change to the stakeholder draft that was distributed in early October 2016 and has been amended to capture the majority of comments and suggestions outlined above.

OFFICER COMMENT

The City of Busselton EDS has been prepared by consulting national and international research documenting key determinants for regional economic development; referencing broader regional and statewide strategic planning; ensuring integration with other City of Busselton planning strategies and consultation with key stakeholder groups and individuals, including preliminary community feedback received from the recent review of the City's Strategic Community Plan.

The EDS provides a brief overview of economic and demographic conditions within the Busselton district, with links to more detailed online resources (updated annually by the City) and located at <http://www.busselton.wa.gov.au/Developing-Busselton/Economic-Development>). The EDS also considers future opportunities to drive socio-economic prosperity, taking into account global mega-trends in the external environment.

The draft Strategy highlights six key focus areas to help better position the Busselton district as a relatively attractive place to live and invest. The focus areas are:

- *Investment Attraction and Marketing:* Business attraction (or recruitment) is a means of contributing to the economic vitality of a local area. It is a process of understanding the local economy and identifying gaps for local provision of goods and services by businesses and institutions. It results in a marketing plan aimed at attracting companies and/or institutions that will diversify and build the local economy to match the community's assets and development goals.
- *Business Retention and Expansion:* Business retention and expansion (BR&E) aims to support businesses that are already operating in the Busselton district, with the aim of growing the local economy from within. Its premise is that local entrepreneurs create the companies that

bring new wealth and economic growth to a region in the form of jobs, increased revenues, and a vibrant local business sector.

- *Regional Workforce Development:* The ability of a community to supply an appropriately skilled labour force can determine the success of existing businesses and influences the attractiveness of the Busselton district for new business and industry investment.
- *Industry Development:* The Busselton district has a relatively diverse industrial base of small-medium enterprises and this has buffered its regional economy somewhat from a national trend of downturns in some regional economies. Growth in small-medium enterprises is a priority for the local economy. Resilience of the regional economy also needs to be maintained through support for new industries, and derivative enterprises from established industries.
- *Strategic Infrastructure:* High quality economic infrastructure is a key enabler for industry growth, productivity and the attraction of investment. Access to appropriate infrastructure is also fundamental to ensuring the whole community can contribute to, and share in, the Region's wealth and quality of life.
- *Place Making and Activation:* Vibrant activity centres are vital for sustainable urban living and are crucial in providing a memorable experience to visitors. Exciting, activated places foster a sense of community and develop a unique, individual character, image and style; evolve and grow with their community and reflect its character, heritage, and future aspirations; nurture small business and local employment; and, facilitate and encourage walking, cycling and public transport usage.

The strategies and associated initiatives are proposed to be delivered in two ways. Firstly, through the City's Integrated Planning Framework (including long term financial, asset and workforce plans), which flow through to the Corporate Business Plan, which guides the annual budgeting cycle. Secondly, the Strategy aims to influence and guide other levels of Government and non-Government organisations that have a regional economic and business development responsibility.

The EDS also aims to provide a platform for further socio-economic planning recognized in the WA Department of Planning's 'State Planning Strategy 2050', which includes Busselton as one of nine regional centres that are the most strategically important to the State's economy. The State Government has established a Regional Centres Development Program (RCDP), which provides a suite of growth planning programs for the nine regional centres. Greater Bunbury, Broome, Kalgoorlie and Geraldton have been funded to prepare grass roots 'growth plans' through a collaborative model and have undertaken detailed consultation and business/industry cluster analysis throughout 2016. Subject to confirmation of funding by the State Government, Busselton, Albany, Mandurah, Kununurra, and Carnarvon have been provisionally nominated as Tranche 2 regional cities to be the subject of Growth Planning. A funding decision to support the development of detailed growth plans is anticipated to be announced in late 2016.

The City has been allocated \$20k from the Department of Regional Development to undertake preliminary economic sector analysis and conduct a stakeholder capability skills program in local economic development. Officers are currently organizing two forums to be held in late November or early December 2016, which will include Councillors and key stakeholder organisations and will afford a further opportunity to collaboratively discuss key business issues and opportunities arising from the draft EDS. The forums will also identify and mobilise 'motivated contributors' that can rally to help deliver local economic growth programs and potentially participate in the RCDP. Themes for the two forums being planned are a) CBD Business improvement Strategies; and, b) Understanding Local Economic Development.

This report also recommends the Council establishes a City of Busselton Economic Development Taskforce (EDT) to identify and advocate for resources to deliver specific initiatives that have been identified in the draft Economic Development Strategy Implementation Plan (in Attachment B). The

EDT will embody the principles of 'collaborative governance'. It will be responsible for providing advice to Council on the implementation and review of the EDS. A draft Charter for EDT is in Appendix 2 of the EDS and proposes membership from key industry sectors; Margaret River Busselton Tourism Association; Community leader, Mayor (or his/her delegate); City of Busselton staff members; South West Development Commission; Regional Development Australia (SW) and the two Chambers of Commerce.

CONCLUSION

This report has provided an overview of the City's draft Economic Development Strategy for the Busselton district, which identifies strategies and initiatives aimed at attracting inward investment; enhancing business retention and expansion; supporting regional workforce development; identifying and advocating for strategic economic infrastructure; and enhancing the quality of place, particularly precincts with high tourist visitation.

Officers are seeking Council endorsement of the draft EDS (in Attachment A) as a guide for future planning to help propel the positioning of the Busselton district as an attractive place to visit, live, invest and work. The report also recommends establishment of a new Reference Group (the Busselton Economic Development Taskforce) consisting of key business, government and community stakeholders to support Council to deliver the EDS and to identify and advocate for resources to deliver specific initiatives that may not necessarily be the responsibility of Local Government.

OPTIONS

Council may elect:

- Not to adopt the draft City of Busselton EDS as a guide for future planning and discontinue strategic economic development planning
- Make amendments to the draft City of Busselton EDS
- Not establish an Economic Development Taskforce and progress implementation through an alternative arrangement

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should Council adopt the Officer recommendations, Officers will administer the establishment of the proposed Economic Development Taskforce (EDT) and invite membership of stakeholders in mid-November 2016.

A series of preparatory forums to increase capability in local economic development will be delivered in late November or early December 2016 and be used as a springboard to commence detailed economic planning and cluster analysis in 2017, should the State Government fund Busselton for a growth plan partnership under its Regional Development Centres Plan (RCDP). The EDT will then provide a relevant, skilled group for the 'Growth plan Partnership' required for the RCDP.

OFFICER RECOMMENDATION

That the Council:

1. Endorses the draft City of Busselton Economic Development Strategy (2016-2020) in Attachment A as a guide for future planning;
2. Receives the draft document Economic Development Strategy 'Initiatives to Guide Implementation' in Attachment B as a working draft to guide delivery of the Strategy;

3. Establishes a City of Busselton Economic Development Taskforce in accordance with the draft Charter in Attachment A - Appendix 2 of the draft City of Busselton Economic Development Strategy and nominates the following as representatives of Council to the Taskforce:
 - a. Councillor _____ as a delegate and Chairperson
 - b. Councillor _____ as a delegate
 - c. Councillors _____ and _____ as deputy delegates.

Note: Officers proposed an Alternative Recommendation for Council consideration that would increase the number and name the elected members on the proposed Economic Development Taskforce and amend Membership section of the draft Charter.

Council Decision and Alternative Officer Recommendation

C1611/132

Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council:

1. Endorses the draft City of Busselton Economic Development Strategy (2016-2020) in Attachment A as a guide for future planning;
2. Receives the draft document Economic Development Strategy 'Initiatives to Guide Implementation' in Attachment B as a working draft to guide delivery of the Strategy;
3. Establishes a City of Busselton Economic Development Taskforce in accordance with the amended draft Charter* in Attachment A - Appendix 2 of the draft City of Busselton Economic Development Strategy and nominates the following as representatives of Council to the Taskforce:
 - a. Councillor Henley as a delegate and Chairperson
 - b. Councillor McCallum as a delegate
 - c. Councillor Carter as a delegate
 - d. Councillor Bleechmore as deputy delegate.

**Amendment to draft Charter:*

4. MEMBERSHIP

The EDT will consist of the following:

- City of Busselton Mayor, or his/her delegate (Chair);
- Two (2) City of Busselton Councillors;
- Three (3) key industry sector members (incl. agriculture, property development);
- One (1) representative of the Margaret River Busselton Tourism Association;
- One (1) Community leader appointed by Council;
- Two (2) City of Busselton staff members;
- One (1) representative of the South West Development Commission (State Government);
- One (1) representative of Regional Development Australia South West (Federal Government);
- One (1) representative of the Busselton Chamber of Commerce and Industry Inc (BCCI); and,
- One (1) representative of the Dunsborough-Yallingup Chamber of Commerce and Industry Inc (DYCCI)

CARRIED 7/0

At this time the Mayor requested Councillors indicate the acceptance of a late item for consideration. The Council indicated their acceptance with a show of hands.

12. ENGINEERING AND WORKS SERVICES REPORT

12.1 TENDER AWARD - RFT19/16 - THE DESIGN & CONSTRUCTION OF THE BUSSELTON FORESHORE COASTAL DEFENCES CENTRAL CORE AREA

SUBJECT INDEX:	Busselton Foreshore
STRATEGIC OBJECTIVE:	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT:	Engineering and Works Services
ACTIVITY UNIT:	Engineering & Works Services
REPORTING OFFICER:	Director, Engineering and Works Services - Oliver Darby
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Confidential Tender Evaluation and Recommendation Report - RFT 19/16 Design and Construction of the Busselton Foreshore Coastal Defences Central Core Area at the Busselton Foreshore

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 Councilors, the Chief Executive Officer and Directors only.

This item is presented for Council consideration for acceptance as a late Item for the 9 November 2016 Council Meeting so that the award of Tender can be awarded and construction can commence.

PRÉCIS

The City of Busselton invited RFT 19/16 Design and Construction of the Busselton Foreshore Coastal Defences Central Core Area at the Busselton Foreshore and received 5 submissions. This report summarises the tender responses and makes recommendation to award the tender.

BACKGROUND

The objectives of this Request for Tender are to appoint a suitably qualified contractor for the Design and Construction of the Busselton Foreshore Coastal Defences Central Core Area at the Busselton Foreshore for the City of Busselton.

This Request for Tender specified the requirements of the City and invited suitably qualified and experienced respondents to submit bids to enter into a Contract for the Design and Construction of the Busselton Foreshore Coastal Defences Central Core area from the Busselton jetty abutment west to Queen Street (to the existing Granite sea wall), in accordance with the preliminary design and specification sent out in the request for tender.

The requirements for the new coastal defences include:

- Detailed design of the coastal defences in accordance with design criteria and appropriate standards;
- Supply and installation of sheet piling;

- Supply and installation of exposed aggregate reinforced concrete paths, steps, ramps and other associated coastal infrastructure which will be constructed to meet specific elements of the overall foreshore landscape design;
- Supply and installation where required of a geotextile sand bag groyne elements;
- Integration to the Busselton Jetty abutment;
- Integration to existing granite sea wall to the west;
- Queen Street Look out;
- Beach access ramp;
- Handrails;
- Specific timelines for the completion of works;

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

The contract will be a design and construction contract. The City of Busselton will engage specialised consultants to assist officers with peer reviews and to ensure the works have been completed in accordance with the detailed design. This will form part of the overall budget.

The Request for Tender for the construction of the Design and Construction of the Busselton Foreshore Coastal Defences Central Core area was advertised from 17 September 2016 for a period of five weeks(5) and (5) days, closing on the 27 October 2016. The tender advertising period of (5) weeks and (5) days included an extension of two days to allow interested tenderers to complete tender submissions.

The City received forty six (46) requests for the tender documents and received five (5) tender responses. A tender evaluation panel was formed to evaluate all tender submissions and prior to the evaluation meeting, each panel member was provided with a copy of each submitted tender and a copy of the Evaluation Score sheet and Panel Guide. Each panel member then scored each tender, with the scores being averaged to determine a final score.

The Evaluation Panel met on 1 November and 4 November 2016 to discuss and evaluate each tender submission. The basis for the scoring and rationale for each score was discussed and final comments for the averaged scores agreed upon.

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

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

STATUTORY ENVIRONMENT

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

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

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

RELEVANT PLANS AND POLICIES

The City's Busselton Foreshore Master Plan includes construction of coastal defences to the West of the Busselton Jetty as part of the Busselton Foreshore Development.

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

FINANCIAL IMPLICATIONS

The total budget for the Design and Construction of the Busselton Foreshore Coastal Defences Stage 3 is \$2.5million.

To date, preliminary design costs and tender preparation costs associated with these works have been completed in house.

The tender contract value will be \$1,904,626.73 (ex GST) which is under budget.

There will, however, be additional costs for consulting engineers/peer reviews and other supervisory works, reinstatements, contingencies of works outside the current scope of works which will be required to be spent against this budget. This figure cannot be specified at this point however we recommend that this be 10% of the contract value which equates to approximately \$200,000.

The above contract figure does not include any provisional sums or variations. Due to the nature of these works there is the potential of an unforeseen element which may require a variation to be paid to the contractor.

It is expected that any variation will be paid from the \$2.5 million budget line item, but will not exceed the budget. It is expected that all works associated with the Coastal Defences Central Core Area will be completed for \$2,105,000 (ex GST). The balance of unspent funds is likely to be required for the central core area.

Long-term Financial Plan Implications

This is incorporated in the 2016/17 Budget and 2016/17 Long Term Financial Plan onwards.

STRATEGIC COMMUNITY OBJECTIVES

The Foreshore Coastal Defences Central Core Area are consistent with following the City of Busselton's strategic objectives:

- Well Planned, Vibrant and Active Places;
- Infrastructure Assets that are well maintained and responsibly managed to provide for future generations.

RISK ASSESSMENT

An assessment of the potential implications of implementing the Officers 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 as medium or greater are included below;

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
The contractor fails to complete the defences by the end of the financial year.	Weekly project meetings to monitor progress. Liquidated damages to be imposed for delays that cause loss to City.	Medium	Likely	Medium
The contractor causes delays or losses to other contractors working on the Busselton Foreshore project.	Monitor contractors' compliance with requirement to work/co-ordinate with other contractors.	Medium	Likely	Medium
The costs associated with the construction is over the Council endorsed budget due to variations to the contractors scope of work.	Tender contract terms & conditions; Weekly project meetings to monitor progress and any variations to scope.	Medium	Likely	Medium
The contractor fails to construct the defences in accordance with the design.	This is a design and construction contract, contractor to provide sign off on construction in accordance with design and specified hold points. City supervision.	High	Unlikely	Medium

CONSULTATION

Nil

OFFICER COMMENT

The tender assessment was carried out by a tender review panel consisting of Oliver Darby, Director of Engineering and Works Services, Daniell Abrahamse, Manager of Engineering and Facility Services and Lisa McDonald, Contract and Tendering Officer. Tender submissions were received from the following organisations:

- Advantearing Civil Engineers
- BCL Group Pty Ltd
- Ertech Pty Ltd
- Leeuwin Civil Pty Ltd
- BCP Contractors Pty Ltd

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

Criteria Weighting

(a)	Relevant Experience	20%
(b)	Key Personnel Skills and Experience	5%
(c)	Tenderer's Resources	5%
(d)	Demonstrated Understanding	20%

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

The panel members individually assessed the 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, Ertech Pty Ltd is the preferred tenderer for the reasons outlined in the confidential report.

CONCLUSION

The tender evaluation panel have completed their assessment in line with the City's tender process and Officers now recommend the Council award RFT 19/16 Design and Construction of the Busselton Foreshore Coastal Defences Central Core Area at the Busselton Foreshore to Ertech Pty Ltd.

OPTIONS

The Council may consider the following alternate options:

1. The Council choose not to accept the Officers Recommendation and award the Tender to an alternate tenderer. In the view of the Officers this could result in a Tender being awarded to a tenderer that has not presented the "best value" for money offer.
2. The Council may choose not to accept the Officers Recommendation and not award the tender. This would mean going back out to tender, resulting in significant delays to the contract award and potential significant delays to the Busselton Foreshore Development project

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

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

Council Decision and Officer Recommendation

C1611/133

Moved Councillor J McCallum, 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 RFT19/16 Design and Construction of the Busselton Foreshore Coastal Defences Central Core Area for which has resulted in the tender submitted by Ertech Pty Ltd being ranked as the best value for money.
2. Delegate authority to the CEO to award the contract for Tender RFT19/16 – Design and Construction of the Busselton Foreshore Coastal Defences Central Core Area at the Busselton Foreshore to Ertech Pty subject to negotiations over the final price sum.

CARRIED 7/0

BY ABSOLUTE MAJORITY

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

17. CONFIDENTIAL REPORTS

Nil

18. QUESTIONS FROM MEMBERS

Nil

19. PUBLIC QUESTION TIME

Nil

20. NEXT MEETING DATE

Wednesday, 23 November 2016

21. CLOSURE

The meeting closed at 5.46pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 89 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 23 NOVEMBER 2016.

DATE: _____ PRESIDING MEMBER: _____