

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

## CITY OF BUSSELTON

### MINUTES OF THE COUNCIL MEETING HELD ON 10 NOVEMBER 2021

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## MINUTES

**MINUTES OF A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 10 NOVEMBER 2021 AT 5.30PM.**

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

The Presiding Member opened the meeting at 5.30pm.

The Presiding Member noted this meeting is held on the lands of the Wadandi people and acknowledged them as Traditional Owners, paying respect to their Elders, past and present, and Aboriginal Elders of other communities who may be present.

**2. ATTENDANCE**

Presiding Member:

Cr Grant Henley Mayor

Members:

Cr Paul Carter Deputy Mayor  
Cr Sue Riccelli  
Cr Ross Paine  
Cr Kate Cox  
Cr Anne Ryan  
Cr Jodie Richards  
Cr Mikayla Love

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  
Ms Sarah Pierson, A/Director, Finance and Corporate Services  
Mrs Emma Heys, Governance Coordinator

Apologies:

Nil

Approved Leave of Absence:

Cr Phill Cronin was an approved leave of absence as approved by Council at the Ordinary Council Meeting on 27 October 2021 (C2110/065).

Media:

"Busselton-Dunsborough Times"

Public:

**3. PRAYER**

The prayer was delivered by Pastor Lee Sykes of the Cornerstone Church.

The Mayor delivered the Ode of Remembrance in recognition of Remembrance Day, 11 November.

**4. APPLICATION FOR LEAVE OF ABSENCE**

Nil

**5. DISCLOSURE OF INTERESTS**

Nil

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

The Mayor acknowledged the work of City staff, the Aero Club and all involved in the Open Day held at Busselton Airport on Sunday.

The Mayor acknowledged the 150<sup>th</sup> anniversary of the Busselton Brass to be celebrated on Saturday 13 November.

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

The following questions were taken on notice by the Council at the 27 October 2021 Ordinary Council meeting:

**7.1 Mr Gordon Bleechmore****Question**

There is blu-tack holding up notices in the main foyer of the Community Resource Centre (CRC). Who would be responsible for that? And is that the best practice for managing the outcome of the walls of the CRC?

**Response**

(provided by Mr Tony Nottle, Director, Finance and Corporate Services)

There are a range of staff that manage the tenants within the CRC including property staff from a leasing perspective and facilities/maintenance staff. These staff fall within the Finance and Corporate Services and the Engineering Works and Services Directorates. Both tenants and City staff have used blu-tack to display important information and displays, where there are no alternate options. Tenants are responsible for any damage to the caused by them, if there is actually any damage.

Upon recent inspection (Thursday 28 October 2021), City officers have not noticed any damage and are constantly looking for ways on improving service delivery. If we are able to find a suitable alternative means to display information such as this, we will.

## 7.2 Mr Gordon Bleechmore

### **Question**

We saw in the paper last week that Jamie Bishop was fined in the Court for an offence he breached on his extraction licence. Could you explain what he had done wrong in terms of his breach that instigated the Court case and subsequent fine?

### **Response**

(provided by Mr Tony Nottle, Director Finance and Corporate Services)

In March 2019, the City began receiving complaints about excavation works being carried out outside of the approved area. Subsequent investigations and inspections by City compliance officers indicated that extractive works were being carried out outside of the approved areas.

As a result of the unauthorised works the City proceeded to serve a formal direction on Mr Bishop on 10 October 2019 under section 214(2) of the *Planning and Development Act 2005*. The formal direction required Mr Bishop to cease unauthorised extractive industry works. The works continued after 10 October 2019 up until at least 18 November 2019, despite the formal direction being given to the accused to stop those works.

Mr Bishop was charged that between 10 October 2019 and 18 November 2019 (both dates inclusive) at the Kaloorup property he failed to comply with a direction given to him under section 214(2) of the *Planning and Development Act 2005* within the time specified in the direction, contrary to section 214(7) of the *Planning and Development Act 2005*.

On 13 October 2021, in the Busselton Magistrates Court Mr Bishop pleaded guilty to the charge.

## 7.3 Mr Gordon Bleechmore

### **Question**

Why will the City not purchase limestone from Mr John Forrest? Where does the City source its limestone from?

### **Response**

(provided by Mr Oliver Darby, Director Engineering and Works Services)

Under the *Local Government (Functions and General) Regulations 1996*, a local government may establish a panel of pre-qualified suppliers to supply particular goods or services where a continuing need for the particular goods or services is.

The City has a continuing need for quarry products (including sand, limestone, gravel, sealing aggregate and rock armour) and therefore in 2018 established a panel of pre-qualified suppliers. The invitation to suppliers to join this panel was advertised locally and Statewide in April 2018 and the panel was established in September 2018. The term of the panel expires in September 2022.

The following suppliers applied to join the panel and were subsequently accepted as pre-qualified suppliers on the panel:

- Carbone Bros Pty Ltd
- Busselton Civil Pty Ltd
- MGM Bulk Pty Ltd
- Leeuwin Civil Pty Ltd

- The Wild Fig Company Pty Ltd
- Holcim (Australia) Pty Ltd
- B&J Catalano Pty Ltd

According to the City's records Beachborough obtained approval for limestone extraction in June 2018. For reasons unknown to the City, Mr Forrest and Beachborough Pty Ltd did not apply to become a pre-qualified supplier.

Since the establishment of this panel, the City has procured limestone as follows:

PERIOD	SUPPLIER	APPROXIMATE VALUE
2018/19 FY	Carbone	\$50,000
2019/20 FY	Carbone	\$26,000
	Beachborough	\$47,000
2020/21 FY	Beachborough	\$14,000
	BCP Contractors	\$11,000
2021/22 FY	No purchases yet	NIL

The City would normally not purchase quarry products from suppliers that are not pre-qualified panel suppliers, unless, for logistical reasons, buying from another supplier would be more advantageous.

The City will in all likelihood establish a new panel of pre-qualified for the supply of quarry products when the term of the current panel expires in 2022. In accordance with the Regulations, the City will publicly invite applications from suppliers to join the panel. Mr Forrest/Beachborough may wish to apply at that stage to become a pre-qualified supplier.

#### 7.4 Mrs Jill Walsh

##### **Question**

Given that there are a number of agencies involved, is it possible to have another public forum that is just dedicated to the Lower Vasse River? We would like to be informed about what the Lower Vasse River Advisory Group (LVRMAG) has achieved and what is being considered in the future.

##### **Response**

(provided by Mr Paul Needham, Director Planning and Development Services)

The City has provided community updates on waterways issues in the past, although they have generally not been focused solely on the Lower Vasse River. The City is, however, happy to provide a community update focused on the Lower Vasse River. This matter was briefly discussed with the City's Lower Vasse River Management Advisory Group (LVRMAG) meeting on 2 November 2021, and it was identified that it may be appropriate to do so in the early part of 2022. The City, with the assistance and input of the LVRMAG, is working to improve communications with the community on matters related to the River, and a community update session of the kind suggested would be consistent with that.

**Question Time for Public**

7.5 Mr Keith Sims

**Question**

Have my suggestions [previously emailed] regarding Community Access Sessions being minuted been discussed with Council and, if so, what is the outcome?

**Response**

(Mayor)

The suggestions have not been discussed with Council. I note however that there are other forums for participation between community and Council. Community Access Sessions are not live streamed or minuted.

**Question**

Can they be minuted so there is a record of it?

**Response**

(Mr Mike Archer, Chief Executive Officer)

A solution may be to record it, but not live stream and then we can make the recording available on the website.

**Response**

(Mayor)

That option to record could be offered to the presenter. I think we can look at your suggestions and look at potential ways to record Community Access Sessions where it is appropriate.

**Question**

Regarding the BPACC funding, did the advice from the Minister for Arts regarding potentially obtaining a grant have any influence on the previous resolution to go ahead with the BPACC project in its full form?

**Response**

(Mayor)

The Council were encouraged by the Minister for Culture and Arts, the Honourable David Templeman, to apply for funding, however there was no funding available through his department and he recommended that we apply through regional development, which we did. We had our business case peer reviewed by the South West Development Commission as required and then requested advice from the Minister for Regional Development on whether there could be any funding. I cannot speak on what influenced the decision-making process of Councillors, but we always look to receive external funding for every project we undertake.

**Question**

Do councils have the opportunity to make a submission in response to the proposed *Local Government Act 1995* reforms?

**Response**

(Mayor)

Councils have three months to provide a submission and also through our membership of the South West Country Zone of the Local Government Association.

**Question**

Is Council prepared to advise [the community] as to what they see are the strengths and weaknesses of the proposed reforms and release your submission publicly to the community?

**Response**

(Mayor)

Noting the proposed reforms were only released today, the Council has not yet formulated a position. However, I am sure we would be willing to release our submission publicly at the appropriate time.

**Question**

Are the tenders [for the Busselton Performing Arts and Convention Centre] finalised yet?

**Response**

(Mayor)

The tenders are being finalised and a report will be brought to Council on the next agenda, which will be released on Friday afternoon.

7.6

Mr Tony Sharp

**Question**

Could the City extend the advertising period for the development application for the proposed Dugulup Centre on Dunn Bay Road, Dunsborough, for an additional 30 days?

**Response**

(Mayor)

There is a statutory advertising period with a minimum of 14 days to a maximum of 28 days that we are required to advertise for.

**Response**

(Mr Paul Needham, Director Planning and Development Services)

We cannot extend the period without the consent of the applicant and we understand the applicant is not supportive of an extension. However, the reporting timeline and the shutdown period over Christmas and New Year may allow for a small amount of grace for that date. We will also ask the applicant and JDAP for an extension.

**Question**

Is the proposed 41 apartment development on Dunn Bay Road and the pending 5 or 6 storey apartment building on Seymour Boulevard both approved and is there anything the Council or City can do to prevent them becoming Air BnB hotels or short stay holiday accommodation?

**Response**

(Mr Needham)

The development applications are currently being reviewed and my understanding is that they have not sought approval for short stay purposes. A separate process would be required for a change of use to go to short stay and an application would be assessed against the planning framework at the time.

**Question**

In terms of change of use, once the development is up and running, would that be up to each individual owner [to apply] or would that still be part of the strata and can JDAP require certain restrictions with a strata title?

**Response**

(Mr Needham)

It is possible that JDAP may impose restrictions on a strata title, with a planning purpose for doing so. The City's holiday home policy has a position of needing to evidence support from a body corporate for short stay within a complex.

**8. CONFIRMATION AND RECEIPT OF MINUTES****Previous Council Meetings****8.1 Minutes of the Special Council Meeting held 18 October 2021****COUNCIL DECISION****C2111/077**

Moved Councillor A Ryan, seconded Councillor K Cox

**That the Minutes of the Special Council Meeting held on 18 October 2021 be confirmed as a true and correct record.**

**CARRIED 8/0****8.2 Minutes of the Council Meeting held 27 October 2021****COUNCIL DECISION****C2111/078**

Moved Councillor A Ryan, seconded Councillor P Carter

**That the Minutes of the Council Meeting held 27 October 2021 be confirmed as a true and correct record.**

**CARRIED 8/0**

**Committee Meetings**8.3 Minutes of the Airport Advisory Committee Meeting held 20 October 2021**COUNCIL DECISION****C2111/079**

Moved Councillor P Carter, seconded Councillor A Ryan

**That the Minutes of the Airport Advisory Committee Meeting held 20 October 2021 be noted.****CARRIED 8/0**8.4 Minutes of the Policy and Legislation Committee Meeting held 27 October 2021**COUNCIL DECISION****C2111/080**

Moved Councillor K Cox, seconded Councillor R Paine

**That the Minutes of the Policy and Legislation Committee Meeting held 27 October 2021 be noted.****CARRIED 8/0****9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS****Petitions**

Nil

**Presentations**

Nil

**Deputations**

Nil

**10. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN (WITHOUT DISCUSSION)**

Nil



**11. ITEMS BROUGHT FORWARD****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, the remaining reports, including the Committee and Officer Recommendations, will be adopted en bloc, i.e. all together.

**COUNCIL DECISION****C2111/081**

Moved Councillor P Carter, seconded Councillor A Ryan

**That the Committee Recommendations for items 12.1, 12.2 and 12.3 and the Officer Recommendations for items 13.1 and 17.1 be carried en bloc:**

**12.1 Airport Advisory Committee - 20/10/2021 - BUSSELTON MARGARET RIVER AIRPORT OPERATIONS UPDATE**

**12.2 Airport Advisory Committee - 20/10/2021 - BUSSELTON MARGARET RIVER AIRPORT - REVIEW PROCESS FOR THE NOISE MANAGEMENT PLAN**

**12.3 Airport Advisory Committee - 20/10/2021 - BUSSELTON MARGARET RIVER AIRPORT - BUSINESS DEVELOPMENT UPDATE**

**13.1 WALGA ENERGY SUSTAINABILITY AND RENEWABLES PROJECT**

**17.1 COUNCILLORS' INFORMATION BULLETIN**

**CARRIED 8/0****EN BLOC**

12.1 Airport Advisory Committee - 20/10/2021 - BUSSELTON MARGARET RIVER AIRPORT OPERATIONS UPDATE

<b>STRATEGIC THEME</b>	OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy.
<b>STRATEGIC PRIORITY</b>	3.4 Develop aviation opportunities at the Busselton Margaret River Airport.
<b>SUBJECT INDEX</b>	Airport Operations
<b>BUSINESS UNIT</b>	Commercial Services
<b>REPORTING OFFICER</b>	Airport Operations Coordinator - David Russell
<b>AUTHORISING OFFICER</b>	Director, Community and Commercial Services - Naomi Searle
<b>NATURE OF DECISION</b>	Noting: The item is simply for information purposes and noting
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Nil

**This item was considered by the Airport Advisory Committee at its meeting on 20/10/2021, the recommendations from which have been included in this report.**

The committee recommendation was moved and carried.

**COUNCIL DECISION**

**C2111/082**

Moved Councillor P Carter, seconded Councillor A Ryan

**That the Council receives and notes the Airport Operations Report and requests that the Chief Executive Officer investigates the potential for recreational helicopter flights to operate from the Busselton Jetty.**

**CARRIED 8/0**

**EN BLOC**

Reasons: Committee recommended that the Chief Executive Officer investigate the potential for recreational helicopter flights to operate from the Busselton Jetty.

**OFFICER RECOMENDATION**

**That the Council receives and notes the Airport Operations Report.**

**EXECUTIVE SUMMARY**

This report provides an overview of the operations and activities of the Busselton Margaret River Airport (BMRA) for the reporting period 1 July 2021 - 30 September 2021. This includes an update on passenger numbers, aircraft landings, and actions relating to COVID-19 and general airport operations.

**BACKGROUND**

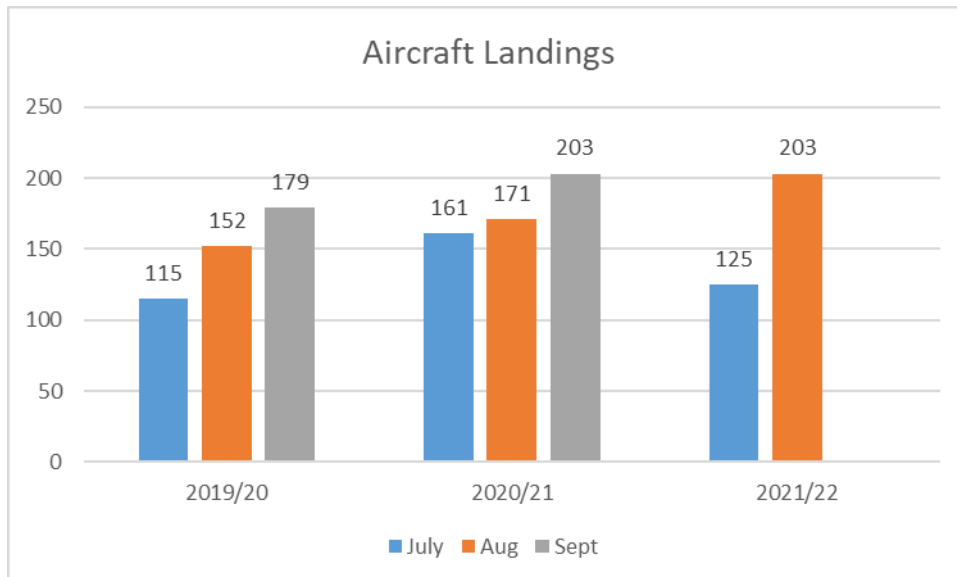
The July – September quarter 2021 focused on operational aspects such as apron management, passengers flow through the terminal and car parking as a result of increased FIFO services, preparation for the bi-annual emergency exercise held on 16 October 2021 and the upcoming RAAF / BMRA open day.

As a result of the COVID-19 pandemic, and Federal and State Government restrictions, the launch of Jetstar's Melbourne to Busselton RPT services have been deferred with a revised commencement date of mid-February 2022, dependent on COVID-19 travel and interstate border restrictions being lifted.

### Aircraft Movements

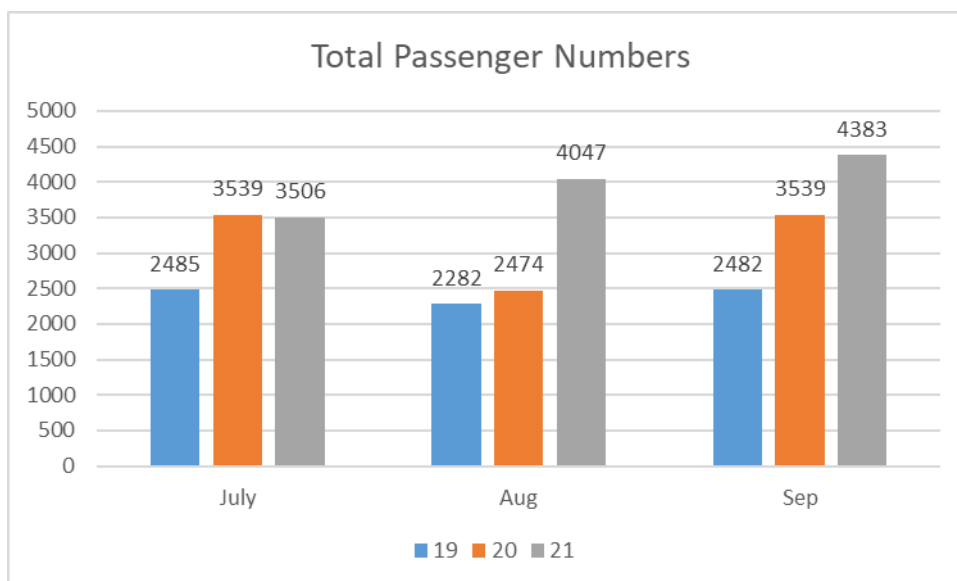
The total number of FIFO services using BMRA is currently 20 flights (40 movements) per week, up 5 flights (10 movements) from the last quarter. Currently, there are four airlines operating from the BMRA utilising the F70, F100, A320 and Dash 8 aircraft.

The total number of aircraft landings declined in July (125) compared to July 2020 (161) and increased in August (203) compared to August 2020 (171). September figures are estimated to be 250 landings compared to 203 for the same period last year.



### Passenger Numbers

The July – September 2021 quarter has seen an increase of passenger numbers of 11,936 compared to the same period last year of 9,001. This can be attributed to an increase in the overall number of fly-in-fly-out (FIFO) passengers.



### Carpark

There are currently 1,025 car park patrons using the FIFO swipe card system, with an average of 361 vehicles utilising the public car park per day in September 2021, with the highest number of vehicles parked on one day at 378 vehicles recorded on 22 September out of an available 422 bays. With RPT services commencing in early 2022, these car parking numbers show the need to expand public car parking at the BMRA. Officers have commissioned a car park design and costings to be considered by Council.

### Operations

The focus for the reporting period has been on:

- The continued operational readiness for Jetstar's Melbourne to Busselton RPT service for commencement in the new year.
- Preparation for the RAAF/BMRA open day to be held on 7 November 2021.
- Bi-annual emergency field exercise held on 16 October 2021.
- EOI for hangar leases in the general aviation precinct.
- Noise Management Plan review.
- Preparation of capital works for the central apron expansion and relocation of the RFDS/St John patient transfer station.
- Car park operations due to increased passengers.

### BMRA – Helicopter operations

In September 2021, City officers were approached by Ballina Corporation P/L trading as KAS Helicopters with a proposal to operate helicopter scenic flights from the Airport.

KAS Helicopters, founded in 2007, has grown from one helicopter used primarily for helifishing, to today's multi-base, multi-aircraft operation with their head office and hangar facilities in Derby and a secondary base established in Broome in 2012. They currently operate a fleet of modern, well-maintained piston and turbine aircraft and are approved contractors for organisations including DFES, Telstra, Mt Gibson Iron, RFDS, Kimberley Land Council and many others. They are now seeking approval to expand their operations to Busselton and the South West to cater for the growing tourism market and for domestic helicopter charters.

The KAS Helicopters proposal is to operate a Robinson R44 aircraft that can carry up to 3 passengers and pilot at any one time, with the option to operate a Bell Long Ranger carrying 6 passengers and pilot should demand required.

Their proposal is requesting approval for the following:

- Operations for Monday – Sunday, 8am- 6pm.
- Access to the grassed General Aviation parking area, located in front of the central apron hangers.
- Operations to commence from 1 December 2021.

The proposal includes each flight estimated to be at no less than 20 minutes, and takes into account fly neighbourly obligations, noise abatement procedures, BMRA Conditions of Use and the Noise Management Plan (NMP). The proponents are confident that they can operate in accordance with the conditions set out within these documents.

In principle, officers support the concept of increasing tourism opportunities and activities at the BMRA which not only benefits the Airport with revenue raised from landing fees but also has the potential to increase tourism offerings in the region.

Currently, BMRA sees a number helicopter operations from emergency services, businesses and private operators that are not based at BMRA, managed successfully through the NMP, Airport Local Law 2012 and Property Local Law 2010. In November 2018, officers completed an EOI for Helicopter operations at the BMRA with the following recommendation being endorsed by the Airport Advisory Committee (AIR1811/050):

*That the Airport Advisory Committee:*

- 1. Notes the outcome of the 'Busselton Margaret River Airport - Tourist Helicopter Operations Commercial Opportunity' Expression of Interest process.*
- 2. Notes the ongoing management of the Busselton Margaret River Airport in accordance with the Noise Management Plan, Airport Local Law 2012 and Property Local Law 2010.*

Acknowledging the previous resolution, City officers are recommending that the CEO determine the terms and conditions and issue a permit approving the KAS Helicopter operations based from BMRA in accordance with the NMP, *Airport Local Law 2012* and *Property Local Law 2010*, where permit conditions could include:

- Maximum number of flights per day.
- Start and finish times of flights.
- Minimum duration of flights.
- No scenic flights allowed on certain public holidays.
- Flight paths to be used agreed with the City of Busselton.
- Monthly reports to be provided to the City of Busselton on all scenic flights conducted including times of operation and duration of flights.
- Request minimum flight heights over residential areas.

City officers will work with KAS Helicopters to progress this application for a permit to operate from BMRA.

#### Domestic Airports Security Costs Support Program (DASCS)

City officers reported at the last Airport Advisory Committee meeting that the City of Busselton was invited to apply and was accepted for the DASCS grant funding program earlier in the year.

The DASCS Program will reimburse grantees for eligible costs associated with passenger and baggage security screening operations required under the Regulations, with a maximum grant amount for the BMRA totalling \$100,000.

The City of Busselton is now ineligible for this funding as the first RPT service has been delayed until after the extended cut-off date of 31 December 2021.

### Alternate International Airport

As reported at the last Airport Advisory Committee meeting, Aviation Projects has been engaged to further assess the opportunity of BMRA being designated an alternate international airport with selected international airlines. While feedback from airlines to date has been positive, the current environment as a result of the COVID-19 pandemic is proving difficult to proceed with detailed discussions on the opportunity. Staffing numbers across all airlines have reduced and personnel are often changing roles meaning previous dialogue undertaken is continuously being undertaken with newly appointed personnel. In addition to this, it is uncertain when international borders will reopen. Based on this it is recommended that discussions are placed on hold for 6-12 months until the industry has more certainty on its future and more meaningful discussions can be held.

### Regular Passenger Transport (RPT) services

Officers have been liaising with an aviation consulting firm engaged by the City of Kalgoorlie-Boulder to assess the opportunity for RPT services between Kalgoorlie and Busselton. The City is supporting the assessment through the provision of information and dissemination of passenger surveys.

### **OFFICER COMMENT**

FIFO passenger numbers through the BMRA have continued to increase significantly in comparison to the same period last year, and officers expect passenger numbers to continue to increase as FIFO employment recruiting from the South West continues. The 40 aircraft movements (20 flights) per week equate to 28 movements for RioTinto (Virgin Australia), 4 for FMG (Qantas Group), 4 for BHP (Alliance Airlines) and 4 for Northern Star Resources (Maroomba Airlines).

The additional resource sector companies commencing services from BMRA, together with Busselton–Melbourne RPT services once commenced, will see passenger numbers continue to increase this financial year to potentially 60,000-70,000 passengers.

Officers continue to liaise regularly with Jetstar executives and operations teams for the commencement of the Busselton-Melbourne flights now expected in February 2022. BMRA is operationally ready to commence RPT services with the exception of the security screening contractor's team who need to be redeployed and complete final training.

Officers are continuing to liaise with the RAAF regarding the RAAF centenary which occurred on 31 March 2021. Officers are planning to host a BMRA Open Day on 7 November 2021 for the community to come and view the upgraded Airport facilities, and have taken the opportunity to invite the RAAF to celebrate their centenary at the same time. Officers will also invite the Busselton Aero Club to participate in the open day by hosting a general aviation 'fly in' and ground display of recreation and general aviation aircraft.

### **Statutory Environment**

The BMRA operates in accordance with the following:

- *Aviation Transport Security Act 2004*
- *Aviation Transport Security Regulations 2005*
- CASA Manual of Standards 139 (Aerodromes)
- City of Busselton Transport Security Plan
- Ministerial Statement 1088
- City policies and procedures

**Relevant Plans and Policies**

The BMRA operates under the Busselton Margaret River Airport Noise Management Plan 2019.

**Financial Implications**

Airport revenue up to the end of September 2021 was \$461,351 compared to the amended year to date budget of \$552,808. The reason for revenue being less than expected is due to outstanding Virgin Australia Regional Airline's (VARA) passenger fees estimated at \$90,000 for August and September, with landing fees and car park revenue higher than expected due to additional FIFO flights.

Expenses (excluding screening services, depreciation and airline attraction) to September 2021 is \$160,771 compared to the amended budget of \$210,642. Lower expenses are attributed to delays in consultancy expenses.

**Stakeholder Consultation**

Consultation has been occurring on a regular basis with Department of Transport, Government agencies, airport stakeholders, Department of Home Affairs, Aviation Marine Security (AMS), Civil Aviation Safety Authority (CASA), Air Services Australia, Virgin Australia Regional Airline, Qantas Group, the Busselton Aero Club, Albany, Esperance, Geraldton Airports and Australian Airports Association, concerning many topics and issues relating to the Airport.

**Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place.

**Options**

As an alternative to the proposed recommendation, Council may choose not to receive and note the Airport Operations Report.





**CONCLUSION**

Officers will continue to provide a high level of customer service and ensure the airport is compliant, safe and security is maintained throughout.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Not applicable.

12.2 Airport Advisory Committee - 20/10/2021 - BUSSELTON MARGARET RIVER AIRPORT - REVIEW PROCESS FOR THE NOISE MANAGEMENT PLAN

<b>STRATEGIC THEME</b>	OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy.
<b>STRATEGIC PRIORITY</b>	3.4 Develop aviation opportunities at the Busselton Margaret River Airport.
<b>SUBJECT INDEX</b>	Airport Operations
<b>BUSINESS UNIT</b>	Commercial Services
<b>REPORTING OFFICER</b>	Manager Economic and Business Development Services - Jennifer May
<b>AUTHORISING OFFICER</b>	Director, Community and Commercial Services - Naomi Searle
<b>NATURE OF DECISION</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A BMRA Noise Management Plan 2019   Attachment B Ministerial Statement 1088  

This item was considered by the Airport Advisory Committee at its meeting on 20/10/2021, the recommendations from which have been included in this report.

The committee recommendation was moved and carried.

**COUNCIL DECISION**

**C2111/083**

Moved Councillor P Carter, seconded Councillor A Ryan

**That the Council notes:**

1. The process to review the Busselton Margaret River Airport Noise Management Plan as required by Ministerial Statement 1088 as outlined in this report incorporating assessment of the following:
  - (a) Noise monitoring results;
  - (b) Noise amelioration assessments and/or implementation;
  - (c) Number of complaints received and actions taken to resolve complaints;
  - (d) Published flight paths to minimize impacts; and
  - (e) The findings of the review to determine the effectiveness of the Busselton Margaret River Airport Noise Management Plan, and whether amendments to the Plan are required.
2. Where amendments to the Noise Management Plan are required, a draft Noise Management Plan will be brought back to Council prior to undertaking public consultation and seeking public comment.

**CARRIED 8/0**

**EN BLOC**



**OFFICER RECOMMENDATION**

That the Council notes:

1. The process to review the Busselton Margaret River Airport Noise Management Plan as required by Ministerial Statement 1088 as outlined in this report incorporating assessment of the following:
  - (a) Noise monitoring results;
  - (b) Noise amelioration assessments and/or implementation;
  - (c) Number of complaints received and actions taken to resolve complaints;
  - (d) Published flight paths to minimize impacts; and
  - (e) The findings of the review to determine the effectiveness of the Busselton Margaret River Airport Noise Management Plan, and whether amendments to the Plan are required.
2. Where amendments to the Noise Management Plan are required, a draft Noise Management Plan will be brought back to Council prior to undertaking public consultation and seeking public comment.

**EXECUTIVE SUMMARY**

This report provides an overview of the review process for the Busselton Margaret River Airport Noise Management Plan, of which the results are to be submitted to the CEO of the Office for the Environmental Protection Authority by 7 April 2022.

**BACKGROUND**

The concept of a Noise Management Plan (NMP) for the Busselton Margaret River Airport (BMRA) was first initiated in 2009 when environmental consulting firm Strategen was engaged to prepare a draft NMP. This was in response to the first fly in-fly out (FIFO) services commencing at the then Busselton Regional Airport and the need to address the restrictive hours of operations and conditions specified in Ministerial Statement 399 as approved by the Minister for the Environment (October 1995). The key elements of Statement 399 that the then Shire of Busselton was looking to revise and seek approval from the Office of the Environmental Protection Authority (OEPA) and Minister for the Environment were:

- 4.1 *The proponent shall ensure that noise emissions from the aerodrome, including emissions from aircraft using the aerodrome, are effectively managed.*
- 4.2 *To achieve the objectives of condition 4.1, at all times during the operation of the aerodrome, the proponent shall ensure that noise emissions from the aerodrome activities, including emissions from aircraft using the aerodrome, do not cause noise levels at any residential premises in occupation to exceed an average of 55 dB(A)Ldn or a maximum of 65 dB LA slow, unless a specific variation to the maximum noise level is agreed to by the Minister for the Environment on advice of the Department of Environment and Conservation and following consultation with relevant agencies.*
- 4.3 *Where a variation has been granted by the Minister for the Environment, as referred to in condition 4.2, the variation may only apply for operation between 0700 hours and 2200 hours, and the proponent shall ensure that the maximum noise level does not exceed 80 dB La slow and that the number of flights is limited.*

A variation, described in condition 4.3, had been granted by the Minister for the Environment to allow two (2) flights per day between the hours of 0700 and 2200 with aircraft noise to be limited to 80 dB(A) to enable the first Skywest Airlines Fokker100 FIFO operations to commence.

The draft NMP was further developed by the Airport Advisory Group (AAG) and in July 2010 was presented to the Council for consideration. Furthermore, at this time the AAG was transitioned to an official committee of the Council, the Airport Advisory Committee (AAC), with four nominated Councillors. In October 2010, the newly formed AAC requested City staff to review and update the draft NMP (developed by the AAG) and present a final draft to the Council for endorsement prior to being submitted to the OEPA for consideration. A final draft version of the NMP was presented to the Council for endorsement on 15 December 2010, followed by submission to the OEPA on 1 February 2011.

A lengthy consultation period occurred with the OEPA, including a public consultation period, prior to a final NMP being submitted to the OEPA Board for consideration and referral to the Minister of the Environment; Water for approval. The City of Busselton's Noise Management Plan (June 2012) was approved as part of Ministerial Statement 901 on 22 June 2012.

In accordance with Condition 4 of Statement 901, the City of Busselton had the opportunity to review and submit proposed amendments or updates to the NMP. Following Council endorsement at its meeting on 28 August 2013, City Officers submitted a proposed amended NMP to the OEPA for assessment in September 2013. The OEPA assessment resulted in the proposed amendments being resubmitted by the City of Busselton in March 2014 and following further discussions with the OEPA, the City of Busselton submitted a final revised version of the NMP in December 2014, which came into effect in July 2015.

In June 2015, the State Government committed to funding the upgrade of the BRA which required environmental approvals from the Minister of the Environment; Heritage. The environmental approvals required the City to undertake a full review of the NMP (2015) resulting in the draft NMP (2016) that was then advertised for public comment in March 2016. Following Council consideration of the public submissions received and endorsement of the draft NMP (2016), the City applied to OEPA to amend the proposal description as described in Ministerial Statement 901 and submit the revised draft NMP (2016) that would allow for proposed interstate and international jet air services resulting from the State Government funded Airport Development Project. Following extensive consultation with the OEPA, the City was notified in November 2016 that the level of environmental assessment for the BMRA Development Project (the Airport Expansion Proposal) was to be a Public Environmental Review (PER).

The determination for a PER referral process for the operational components of the Development Project provided a further opportunity for the City to review the draft NMP (2016) and incorporate comments and feedback received from the community and airport stakeholders resulting in the draft NMP (2017). The 2017 version included changes to the Standard Hours of Operations, Flight Training Guidelines and Noise Amelioration Criteria which was then advertised for public comment, in addition to extensive noise modelling, flight path analysis and community consultation. Following Council endorsement of the draft NMP (2017) the City submitted a draft Environmental Review Document (ERD) including the draft NMP (2017) and public submissions to the OEPA for review and comment as part of the PER process. Following considerable engagement with the OEPA, the amended NMP was approved on 27 December 2018 (version 1 May 2018) in accordance with Ministerial Statement 1088 by the Minister for Environment; Disability Services. Subsequent to this a number of minor, non-material amendments were made to the NMP in early 2019, resulting in the current version of the NMP (version 2 January 2019).

The current version of the NMP (Attachment 1) has been in place for just under three years and has enabled the City to manage the BMRA operations effectively. In accordance with Statement 1088, the Airport team are required to monitor and report to the OEPA any operational non-compliances, which may include aircraft movements outside of the approved operating hours, any unauthorised flight training, and aircraft noise breaches. As part of this process, the City is required to submit annual compliance reports outlining the effectiveness of the NMP to the OEPA.

In August 2021, the Department of Water and Environmental Regulation undertook a desktop compliance audit of the Airport Expansion Proposal to verify the City of Busselton's compliance with the implementation conditions of Ministerial Statement 1088. The Compliance Audit Report detailed the compliance status of each implementation condition and determined that the City of Busselton demonstrated an acceptable level of compliance with the implementation conditions of Statement 1088. Two implementation conditions relating to the review of the NMP were not reported on as they are not required to be completed until April 2022, one being the review of the NMP.

Statement 1088 not only includes the conditions for managing noise emissions from the BMRA but also the requirements for the review of the NMP. Condition 6 Review of NMP, included in Statement 1088 outlines the following:

- 6-1 *Within three months of each three year period, from the date of issue of this Statement, the proponent shall submit a report to the CEO which reviews the effectiveness of the Busselton Margaret River Airport Noise Management Plan 2018 (version 1, May 2018) or any subsequent approved versions, in achieving the objective of condition 5-1.*
- 6-2 *The report required by condition 6-1 shall include, but not be limited to:*
  - 1) *Noise monitoring results;*
  - 2) *Noise amelioration assessments and/or implementation;*
  - 3) *Number of complaints received and actions taken to resolve complaints;*
  - 4) *Published flight paths to minimize impacts; and*
  - 5) *The findings of the review to determine the effectiveness of the Busselton Margaret River Airport Noise Management Plan 2018 (version1, May 2018) or any subsequent approved revisions, and whether amendments to the Plan are required.*

Further, 'Chapter 9.2 Review Process' of the NMP details the process which is to be undertaken every three years in conjunction with the AAC (or its equivalent replacement at any future time). The NMP states that the review will be undertaken in consultation with key stakeholders, including the community, industry, government agencies, and airport users.

The results of the review and any proposed changes to the NMP are then be advertised for public comment in the local newspapers following Council's consideration of the recommended changes. It is noted that proposed amendments to the NMP may require approval under the *Environmental Protection Act 1986* or other relevant Acts depending on the extent of the proposed changes.

This report outlines the proposed process to undertake the review.

**OFFICER COMMENT**

It is proposed the review process of the NMP will take into consideration:

- How the development opportunities for the airport have been pursued;
- Whether the flight paths and noise abatement zones need updating;
- Whether the standard hours of operation need to be adjusted;
- How well noise emissions associated with the airport have been managed, which will include consideration of noise monitoring data, complaints statistics and compliance information; and
- The review will also include a review of the Fly Neighbourly Agreement and the Flight Training Guidelines.

Under Statement 1088, the requirement to report to the CEO of the OEPA on the review of the NMP is to be submitted prior to 7 April 2022. Taking into consideration the criteria outlined in Statement 1088 and the NMP, officers propose the following activities be conducted as part of the review and form the basis for a report to be submitted to the OEPA:

**1) Noise monitoring**

The City's Environmental Health department recently completed noise monitoring in August-September 2021 at two locations in the vicinity of the BMRA; one directly to the north and one south of the runway. The noise loggers were positioned to capture aircraft arrivals and departures for both Fokker100 (F100) and A320 aircraft. At the time of the monitoring there were 16 scheduled closed charter flights per week using jet aircraft, of which only two flights per week were using A320 aircraft. Currently 20 closed charter services are in operation. As the F100 aircraft has been the most commonly used aircraft for closed charter operations over the past 10 years the City has a good sample of F100 aircraft noise data, however the A320 aircraft has been a relatively recent addition to operations and hence there is limited noise data. The recent noise monitoring only captured three A320 flights in total, hence further noise monitoring will need to be completed for the review. Officers are working with the City's Environmental Health Department and an external consultant to conduct additional noise monitoring ensuring that a good representative sample of A320 aircraft noise data is captured. This will be easier to achieve from late October there will be four A320 scheduled flights operating per week.

**2) Noise amelioration assessments and/or implementation**

Review any noise assessments and / or amelioration works that the City has undertaken in the past three years.

### 3) Non-compliances and Complaints

In accordance with the NMP and Statement 1088 the City is required to report any non-compliances within seven days of identifying the non-compliance and the resulting action taken by the City. The City also reports all non-compliances and complaints in an annual compliance report. To date, the City has reported the following:

Year	# Non-compliances reported	Summary resulting actions	OEPA further action	# complaints
17/18	4	All operators contacted and informed of non-compliance	No	8
18/19	3	All operators contacted and informed of non-compliance	No	8
19/20	2	All operators contacted and informed of non-compliance	No	3
20/21	4	All operators contacted and informed of non-compliance	No	7

### 4) Flight Paths and noise abatement zones

New flight paths were designed and implemented for the commencement of RPT services and use of the larger A320 aircraft. As RPT flights are yet to commence, the use of the new flight paths is not mandatory and is at the discretion of pilots. A review with closed charter airlines (VARA) who have been voluntarily utilising the flight paths will be undertaken with a view to determining whether the flight paths need refining. A review of the BMRA noise contours could also be undertaken at this time.

It is also proposed that a review of the residential areas surrounding the BMRA will be undertaken to inform whether the noise abatement zones need updating, particularly as there has been growth and release of residential land for development such as Via Vasse and Provence since the implementation of Statement 1088.

### 5) Hours of Operations

The standard hours of operations (below) will be reviewed in conjunction with points 1-3 above to determine whether there is justification to extend the hours of operations for either all aircraft categories or specific categories.

<u>Operator / Aircraft Type</u>	<u>Standard Hours of Operation</u>	<u>Conditions</u>
Emergency Services	<b>UNRESTRICTED</b>	Emergency situations and normal flight patterns <ul style="list-style-type: none"> <li>training flights require approval under the Flight Training Guidelines</li> </ul>
Light Aviation/ General Aviation	<b>RESTRICTED</b> 0600hrs – 2200hrs	Maximum noise level of 85dB (A)* Flight Training approval required (only available for aircraft below 1500kg MTOW and flight training conditions apply) Aircraft above 5,700kgs MTOW – City approval required
Open, Closed Charters, RPT/Commercial Operators	<b>RESTRICTED**</b> 0600hrs – 0000 hrs  **Five flights per week approved between 0000 - 0600hrs.	Maximum noise level of 85dB (A)* City approval required
* The Aircraft Noise levels identified in this table are maximum noise levels recorded at any residential or other noise-sensitive location when determined as an LA Slow value at any point within 15m of the identified building. Noise levels regularly exceeding this may initiate noise mitigation procedures (Chapter 6.2.3)		
Any application that does not conform to the standard hours of operation or conditions set out in this table is considered a Special Event. Assessment of Special Events will be undertaken using the procedures defined in Section 3.2.4		

## **6) The Noise Management Plan document**

The NMP document is a lengthy and wordy document that was prepared at a time when history and context for the plan was necessary. The NMP has now been in place since 2012 and officers are of the view that a condensed version, incorporating the key criteria for managing noise emissions at the BMRA could be implemented. The key criteria that would continue to be included could be:

- Hours of operation
- Flight training
- Fly neighbourly agreement
- Noise complaints process
- Noise amelioration criteria and process
- NMP review

## **7) Consultation**

The NMP has been updated a number of times since its initial implementation. Each iteration of the NMP has involved significant public and community engagement and input. The NMP review process also requires consultation with the Airport Advisory Committee, the Council and the community should be included in any review.

Further discussion is detailed in the stakeholder consultation section of this report, however officers propose that the results from the review, the revised draft NMP and public consultation activities are presented to the AAC for review and input, prior to being considered for public consultation by Council. A public consultation process could include, but not be limited to, inviting submissions through the City's YourSay Website, advertising in the local media, meeting(s) of the Airport Stakeholder Reference Group, community access sessions for specific residential areas, as well as general community access sessions.

### **Statutory Environment**

The BMRA Noise Management Plan (version 2 January 2019) was approved by the then Minister for the Environment; Disability Services after review and consideration by the Environmental Protection Authority. Compliance reporting and review of the NMP is defined under Ministerial Statement 1088; Busselton Margaret River Airport Expansion (Attachment 2).

### **Relevant Plans and Policies**

The officer recommendation aligns to the following adopted plan or policy:

- Ministerial Statement 1088
- Busselton Margaret River Airport Noise Management Plan (version 2 January 2019)
- Busselton Margaret River Airport Compliance Assessment Plan (Version 2) (CAP) (23 September 2019)

### **Financial Implications**

The financial implications associated with completing a review of the NMP include engaging an external consultant to complete the analysis of noise monitoring data. A quote to complete this work has indicated an approximate cost of \$12,000 to \$15,000, which can be funded from the Airport Operations consultancy budget. Other expenses include staff time, advertising in the local media and preparation of materials and printing for public consultation, all of which can be funded from the Airport Operations budget. It is not known whether the BMRA noise contours will need to be updated and as such there is no budget allocation in the 2021/22 adopted budget for this. However, should this be required a budget amendment report will need to be considered by Council.

### **Stakeholder Consultation**

The following public consultation activities are proposed as part of the NMP review process.

<b>Who</b>	<b>Forum</b>	<b>Description</b>
BMRA airline users	Individual meetings	<ul style="list-style-type: none"> <li>• Discuss use of flight paths</li> <li>• Hours of operations</li> <li>• Flight training</li> <li>• Noise abatement zones</li> <li>• Fly neighbourly agreement</li> <li>• Draft revised NMP</li> </ul>
BMRA general aviation users	Individual meetings	<ul style="list-style-type: none"> <li>• Hours of operations</li> <li>• Flight training</li> <li>• Noise abatement zones</li> <li>• Fly neighbourly agreement</li> <li>• Draft revised NMP</li> </ul>
Community comment – Draft revised NMP	Local Media; YourSay; City and BMRA website	<ul style="list-style-type: none"> <li>• Results of review</li> <li>• Draft revised NMP</li> <li>• Flight paths</li> <li>• Noise contours</li> </ul>
Residents in vicinity of the Airport and/or near flight paths including: <ul style="list-style-type: none"> <li>• Reinscourt</li> <li>• Yalyalup</li> <li>• Kalgup</li> <li>• Yoogarillup</li> </ul>	By invitations for community access meeting	<ul style="list-style-type: none"> <li>• Results from review</li> <li>• Draft revised NMP</li> <li>• Flight paths</li> <li>• Noise contours</li> </ul>
Community information sessions (All information sessions open to all community members)	Community information session	<ul style="list-style-type: none"> <li>• Results from review</li> <li>• Draft revised NMP</li> <li>• Flight paths</li> <li>• Noise contours</li> <li>• Information on how to comment/make a submission</li> </ul>
Community (circulation approx. 14,000 residents)	Bay to Bay newsletter	<ul style="list-style-type: none"> <li>• General Information</li> <li>• Link to website/ Your Say</li> </ul>

**Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

**Options**

As an alternative to the proposed recommendation, the Council could request alternate activities be undertaken as part of the NMP review process.

**CONCLUSION**

The current version of the NMP has been in place for just under three years and has enabled the City to manage the BMRA operations effectively. In accordance with Statement 1088, the City is required to monitor and report to the OEPA any operational non-compliances which may include aircraft movements outside of the approved operating hours, any unauthorised flight training and aircraft noise breaches and submit annual compliance reports outlining the effectiveness of the NMP. The City has completed its mandatory compliance reporting over the past three years and in accordance with Statement 1088 is required to undertake a full review of the NMP and report its effectiveness to the CEO of the OEPA. Both Statement 1088 and NMP outline the criteria for consideration in completing this review. This report outlines the criteria for consideration and process to be completed, including stakeholder and community consultation and recommends Council notes the review process prior to submitting a report to the OEPA.

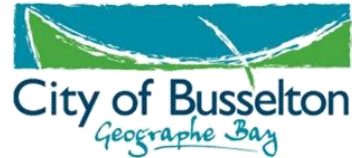
**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Officers have commenced reviewing the NMP (2019) and will commence consultation with airlines and aviation users of the BMRA throughout November and December. Additionally officers have commenced planning for further noise monitoring to be conducted which is expected to also take place during November and December. A report will be presented to the AAC in December 2021 outlining the review process, monitoring results, and a revised draft NMP for consideration. Once endorsed by Council the draft NMP will be used to undertake public consultation and seek public comment. The City is required to report to the CEO of OEPA on the findings of the review of the NMP by 7 April 2022.





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WA 6280



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# **BUSSELTON-MARGARET RIVER AIRPORT**

## **NOISE MANAGEMENT PLAN**

### **Version 2 – January 2019**

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Figure 1 - Existing and Planned Residential Development with Proximity to the Busselton-Margaret River Airport

Figure 2 - Five and Ten Nautical Mile Boundaries

Figure 3 – Noise amelioration process flow

### Definitions

**Accredited Environmental Noise Personnel** - a person authorised in accordance with Sections 87 and 88 of the *Environmental Protection Act 1986*.

**AGL (Above Ground Level)** - a height reference to distance above ground level.

**ANEC** - These are scenario contours and are used to produce 'what if' contours, for example, in the process of examining flight path options around an airport.

**ANEF** - These are the official forecasts of future noise exposure patterns around an airport and they constitute the contours on which land use planning authorities base their controls.

**Australian Noise Exposure Forecast (ANEF)** - a prediction of the cumulative exposure to aircraft noise which communities near an airport are likely to experience in a specified future time (usually 10 – 20 years) and over a specified duration (usually one year). The results are depicted in the form of contours linking areas that have the same noise exposure.

**Charter (Closed)** - Operation, with fixed schedule to and from fixed terminals, in which the purchase of tickets is not available to any member of the public but specifically to an individual or organisation.

**Charter (Open)** - Operation, with fixed schedule to and from fixed terminals, in which the purchase of tickets is available to any member of the public through either a agent or directly on-line.

**dB L<sub>A</sub> SLOW** - the A-weighting filter covers the full audio range - 20 Hz to 20 kHz and the shape is similar to the response of the human ear at the lower levels, SLOW refers to the time weighting applied.

**Flight Training** – instruction received from a flight training school or qualified flight training instructor in an aircraft or flight simulator. Training only applies to student pilots or unqualified pilots. Flight training definition does not include recurrent training or licence renewal training, ground training or a demonstration flight.

**Fly Neighbourly Agreement (FNA)** - a voluntary code of practice included in the Noise Management Plan to be actively promoted and facilitated by the City

**Licence Renewal Training** - training performed by a qualified pilot, whereby specific operations are required to be completed to maintain pilot licence as current (example; Take off/Landings, VFR operations) as defined under CAR 1988 Volume 2 – Part 5, Division 8.

**MTOW** – Maximum Take Off Weight

**Noise Abatement Zones** - areas of land with proximity to the airport with existing or planned noise sensitive land uses over which aircraft activity is to be minimised.

**Noise Contours (N-Contour or Nxx)** - the noise contours on a map indicate the number of aircraft noise events louder than the specified dB(A) level which would occur on the average day during the period covered (example - an N65 contour map would depict the number of events that would exceed 65dB(A) on the average day).

**Noise Sensitive Location** - a land-use with an identified sensitivity to noise eg: residence, hospital.

**Regular** – occurring at uniform (even / constant) intervals

**Regular Passenger Transport (RPT)** – commercial airline services operating to a regular schedule, to and from fixed terminals, where the purchase of tickets is available to any member of the public.

**Special Control Areas** - areas of land with proximity to the airport where noise sensitive land uses can be restricted.

Table 1 – Document Management Information

<b>Action</b>	<b>Date</b>	<b>Organisation</b>
NMP revision – Version 2	January 2019	City of Busselton
NMP revision – Version 1	May 2018	City of Busselton
NMP revision	March 2017	City of Busselton
NMP revision	18 February 2016	City of Busselton
NMP (January 2015) Ministerial Approval	7 July 2015	Minister for Environment; Heritage
NMP Final revision	22 December 2014	City of Busselton
NMP resubmission	10 March 2014	City of Busselton
NMP revision (First review period)	7 November 2013	City of Busselton
Final Ministerial Approval	22 June 2012	Minister for the Environment
Final proponent revision	3 February 2012	City of Busselton
EPA Board consideration	19 January 2012	EPA Board
Public Consultation	4 weeks advertising	Shire of Busselton
Submission to EPA	1 February 2011	Environmental Protection Authority
Council review and adoption	15 December 2010	Council
Busselton Airport Advisory Committee recommendations	7 December 2010	Airport Advisory Committee
Shire of Busselton review and recommendations	October-December 2010	CEO – Mike Archer
Busselton Airport Advisory Committee revisions and updates	August/September 2010	Airport Advisory Committee (previously Advisory Group)

<p>Busselton Airport Advisory Group development of draft plan</p> <p>The draft Noise Management Plan was developed by the Airport Advisory Group, consisting of:</p> <p>Cr Tom Tuffin – Shire of Busselton  Cr Jackie Emery – Shire of Busselton  Cr David Binks – Shire of Busselton  Mr Ray McMillan – Busselton Chamber of Commerce  Ms Natalie Venosi – Geopraphe Bay Tourism Association  Mr Andrew Svalbe – Community representative  Mr Peter Stark – Community Representative  Mr Ross Beatty / Mr Geoff McGlasson – Busselton Aero Club  Mr John McCallum / Mr Brian Rulyancich – Dunsborough-Yallingup Chamber of Commerce  Two representatives (with one deputy) of the Airport Residents' Group</p>	<p>August 2009 to July 2010</p>	<p>Airport Advisory Group (later Advisory Committee)</p>
<p>Draft Noise Management Report developed by Strategen</p>	<p>April 2009</p>	<p>Strategen Consultants</p>



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## 1. INTRODUCTION AND BACKGROUND

### *Introduction*

The Busselton-Margaret River Airport is a developing airport for the South West region of WA with the further potential to deliver social and economic benefits for both the City of Busselton and the region as a whole.

The City of Busselton, as the owner and operator of the Busselton-Margaret River Airport, seeks to utilise it to its capacity for the benefit of tourism and economic development of the region, while recognising that noise can and does affect members of its community.

The purpose of the Busselton-Margaret River Airport Noise Management Plan (NMP) is to provide a comprehensive plan for the effective management of noise generated by aircraft using the airport in order to protect the amenity of community members potentially affected by aircraft and airport noise. The main objectives of the NMP are to identify and implement controls and procedures for the effective management of aircraft noise and the reduction of aircraft noise impacts, to provide clear and specific guidelines for airport users as to their responsibilities and obligations with regard to noise management, and to provide the general community with clear and transparent information and guidelines as to the noise management controls and procedures to be employed in respect of aircraft noise in the vicinity of the Busselton-Margaret River Airport.

### *Noise Context*

Noise is generally considered to be sound that has become annoying, unpleasant or unwanted. The overall level of sound is expressed in decibels as a dB(A) value. Industry research in regard to what creates aircraft noise annoyance has been significant, including how to effectively measure, monitor, manage and reduce aircraft noise impact. Annoyance experienced with regard to any noise can vary greatly from individual to individual and also according to the prevailing conditions such as the time of day or night, other background noise, interruption caused by the noise, or its tone, frequency and repetition.

On this basis, methods employed in this NMP to reduce noise annoyance to residents in noise sensitive premises address these factors by restricting evening flight activity, restricting flight training activity as it has a tendency to be repetitious, setting a maximum noise generation capacity for aircraft as it applies to any residence, and developing a "noise-tolerant" society in these noise sensitive areas by the use of land use planning initiatives.

It is outside of the scope of the NMP to identify changes to flight paths and general airborne operations as these are controlled by Airservices Australia and the Civil Aviation Safety Authority. The City will however continue to work with Airservices Australia to monitor and review flight paths to facilitate Fly Neighbourly principles as key strategies to improve amenity outcomes.

#### Structure

The NMP is structured as follows:

- **Chapter 1** provides an introduction to the purpose and objectives of the NMP, information on the Busselton-Margaret River Airport's history and the conditions imposed by the Minister for the Environment.
- **Chapter 2** explains the principles on which the NMP is founded and the City of Busselton's intent with regards to the Busselton-Margaret River Airport.
- **Chapter 3** describes the initiatives to be employed under the NMP to manage and reduce potential aircraft noise impacts at and in the vicinity of the Busselton-Margaret River Airport.
- **Chapter 4** explains how land-use planning and management measures will be implemented to minimise the impact of aircraft noise on the community.
- **Chapter 5** describes initiatives to be employed to monitor and assess aircraft noise at and in the vicinity of the Busselton-Margaret River Airport.
- **Chapter 6** provides for noise reduction measures that can be implemented to protect the amenity of noise sensitive residences.
- **Chapter 7** provides for communication and community consultation initiatives.
- **Chapter 8** explains strategies and available measures to achieve compliance with the requirements and objectives of this NMP and provides information on complaints procedures.
- **Chapter 9** provides for the implementation and review of the NMP.



## Background

The Busselton-Margaret River Airport opened in 1997 with the primary objectives of improving tourism, business and medical access to the selected regions and to this end it supports the entire Capes region. The Busselton-Margaret River Airport is regarded as the most strategically located of all the regional airports in the South West region of Western Australia.

Prior to the construction of the Busselton-Margaret River Airport, the Busselton area was being serviced by a privately owned Authorised Landing Area with an 1100m North/South gravel runway. The potential to upgrade the privately owned site was severely limited by adjacent residential developments, close proximity to the Busselton town and surrounding infrastructure like major roads, power lines and a diversion drain.

Hence, it was determined that a new site that would cater for a 'regional airport' to support the existing Royal Flying Doctor Service, light aviation and charter flights as well as for future requirements was needed. As part of the process for selecting a new site, the then Shire of Busselton was required to perform both public and environmental consultation.

In accordance with the Environmental Protection Authority (EPA) requirements this involved the preparation of a Consultative Environmental Review (CER) for the proposed development of a regional aerodrome for Busselton and surrounds at Four Mile Hill, which is Busselton-Margaret River Airport's existing location. The proposal involved the EPA assessment of the proposed site and likely impacts from the aerodrome, and also submissions from the public, stakeholders and interested parties.

The CER performed by the EPA determined that the *"proposed Four Mile Hill site was considered satisfactory for the development of the Busselton Regional Aerodrome"* subject to a number of Management commitments for the Physical and Biological Environment (Proposed Busselton Regional Aerodrome Consultative Environmental Review; April 1995). The Management commitments established were detailed in Bulletin 785, Statement 399 under the Environmental Protection Act. At the time the proposal prepared and considered by the EPA and included in Bulletin 785 stated: *"The proposal by the Shire of Busselton does not include pilot training programs"*.

The Busselton-Margaret River Airport is located approximately 6.5 km from the town centre of Busselton. The airport has a single sealed 1800m long runway (No. 03/21) which is capable of handling a wide range of aircraft up to and including medium sized jet passenger aircraft and currently supports aviation services for airline operators, the private commercial sector, the Busselton Aero Club and private individuals.

When the Busselton-Margaret River Airport commenced operations in 1997, Environmental Conditions outlined in Ministerial Statement 399 were in force. These conditions required the then Shire to ensure that noise emissions did not cause levels at any residential premises in occupation to exceed an average of 55L<sub>dn</sub> or a maximum of 65dB L<sub>A SLOW</sub>, with the exception of two flights per day that were able to go up to 80dB L<sub>A SLOW</sub>. While the conditions were put in place to protect the amenity of adjacent residential properties, they also limited the number of aircraft movements and types of aircraft able to utilise the airport.

Since the implementation of Ministerial Statement (MS) 399, there have been subsequent statements, notably MS901 which introduced the NMP (2012) and conditions 3 (Compliance Reporting), 4 (Noise Management Plan) and 5 (Non-conforming activities). MS 1009 further defined conditions 4 and 5.

However, the future potential uses of the airport continued to be limited by these conditions, particularly to meet the region's future demand for interstate and international air services. The City of Busselton, as owner and operator of the Busselton-Margaret River Airport, seeks to utilise the airport on a commercially viable basis for the benefit of the whole region, while also providing amenity protection for those community members affected by noise. This NMP therefore provides the parameters within which opportunities for development of the airport and its uses can be expanded while providing appropriate protection for residents affected by its operations.

In June 2015, the State Government committed to delivering a domestic airport to service the South West region. After reviewing a rigorous Business Case submitted by the South West Development Commission in 2013, and considering the views of the Steering Committee appointed by the then Minister for Transport to oversee the development of the Business Case, the Government publically committed to allocating funding for the redevelopment of the Busselton Regional Airport (BRA). The funding will allow for the upgrade of the BMRA to a minimum Code 4C classification (A320 and B737 aircraft) that is compliant with Civil Aviation Safety Authority (CASA) and airline standards to enable domestic air services to operate to/from the airport.

The Development Project includes:

- lengthening, widening and strengthening of the runway to 2,520m x 45m to facilitate code 4C and code 4E jet aircraft operations;
- construction of four new apron parking bays to facilitate 3 x code 4C and 1x code 4E jet aircraft operations and two connecting taxi-ways;
- upgrade of the existing taxiway and apron to accommodate an additional two Code 4C aircraft;

- construction of a General Aviation Precinct comprising of:
  - two new aprons with parking for Code B aircraft;
  - a new Code B stub taxiway and Code B parallel taxiway connecting to the upgraded Code 4C apron;
  - expansion of the existing apron to accommodate Code B firefighting aircraft;
- construction of a new terminal building to facilitate a minimum of 350 domestic and international passengers concurrently;
- a new car park to accommodate an additional 400 parking bays;
- connection to essential services;
- development and implementation of a successful airline engagement and freight strategy; and
- Development and implementation of a successful Busselton Margaret River Regional Airport (BMRA) business development strategy.

The City of Busselton however, is mindful that this development must be undertaken in recognition of potential amenity impacts.

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## 2. PRINCIPLES AND STATEMENT OF INTENT

### *Objectives for Development*

The South West Region, and in particular the City of Busselton, is one of the fastest growing regions in Western Australia. Major infrastructure development is necessary to serve the region and to ensure that future growth is sustainable. The Busselton-Margaret River Airport is a valuable community asset with the potential, when developed responsibly, to benefit the whole region. It is the intention of the City to, amongst other things, further develop the Fly-in Fly-out (FIFO) potential for transporting workers to and from the region for work opportunities and to be able to attract and retain Regular Passenger Transport (RPT) services for domestic, interstate and international flights for the area into the future. The City is committed to do so in accordance with the parameters set out in the NMP, in consultation with affected landowners and residents.

The City seeks to implement a facilitative approach to aircraft utilising the airport for passenger, business (import and export), tourism and recreational related uses, and hence an acceptance of controlled noise associated with those uses due to the broader local and regional community benefit. However, a series of stringent controls on the use of the airport for flight training purposes, and hence reducing the noise impact associated with these uses, is established such that approval can only be provided for instructors based at the Busselton-Margaret River Airport and utilising light aircraft.

The City of Busselton's main objectives with the development of the Busselton-Margaret River Airport are:

- To provide the South West region of Western Australia with a safe, easily accessible and well managed airport for the social and economic benefit of the region;
- To deliver more domestic and international tourists to the region to bolster the tourism industry, including occupancy increases, event attendance and incentive to invest in further development of major tourism infrastructure;
- To allow for the expansion of fly-in fly-out capacity to mine sites in the East Pilbara to assist in underpinning the State's iron ore production industry with the use of larger aircraft. With expanded infrastructure at the BRA, the opportunity to base FIFO aircraft and crews at the airport is a future possibility; and
- To enable direct aviation access providing the stimulus for increased new visitation into the region and possible domestic and international freight opportunities resulting in economic and social growth and in turn long term regional sustainability.

- To operate and manage the airport on a commercially sound basis to ensure that it remains economically viable; and
- To protect the amenity of community members potentially affected by the impacts of aircraft noise and activities at the airport.

### *A Balanced Approach*

The City of Busselton is committed to ensuring that the community's valuable asset that is the Busselton-Margaret River Airport is developed to its potential for the social, economic and tourism benefit of the region. This development must however recognise the potential amenity and therefore lifestyle impacts that the operations at the airport will have on certain residences within its vicinity. This NMP has been developed and will be implemented in recognition of the City of Busselton's responsibility to manage noise impacts on members of the community at and in the vicinity of the airport.

The NMP provides the basis for recognising the International Civil Aviation Organisation's (ICAO) internationally accepted and employed principle of a balanced approach to aircraft management. This consists of identifying the noise problems at an airport and then analysing the various measures available to reduce noise and noise impacts through four principal elements, being:

- Reduction of noise source - aircraft built today are required to meet certain noise certification standards implemented by the Council of ICAO;
- Operating restrictions at airports - such as restricting operating hours, restricting/regulating certain activities like flight training and banning the operation of certain noisy aircraft;
- Land use planning and management - as an effective tool to ensure that activities nearby airports are compatible with aviation;
- Noise abatement operational procedures - there are several methods, including preferential runways and flight paths, and noise abatement procedures for take-off, approach and landing.

The City of Busselton confirms its commitment to a balanced approach with regards to aircraft noise management at the Busselton-Margaret River Airport. The principles on which the NMP are based that are considered to be consistent with these principal elements include:

- Effective management of aircraft noise through a cooperative approach by the City of Busselton, AirServices Australia and aircraft operators;
- Land use planning compatibility with community concerns and Government policy about aircraft noise, but also allowing for optimal long-term development of the airport;
- High level of transparency including consulting with and informing the community members in the vicinity of the airport on an ongoing basis;
- Investigation and analysis of aircraft noise complaints in such a way so that trends, patterns and issues of concern can be identified at an early stage; and



- Identification of practical and cost effective noise management initiatives within the NMP that recognise that the Busselton-Margaret River Airport is an integral part of the built and economic environment of the South West region.

The NMP provides for the implementation of a range of strategies for managing noise generated by users of the airport, with the main objective to provide a balance of airport development and amenity protection for potentially affected residents. These strategies include operational hours restrictions, regulatory measures for flight training, assessment for potential improvement of flight paths, identification of noise abatement zones, the preparation of Fly Neighbourly agreements, noise assessment and monitoring, land use planning and noise reduction techniques.

The NMP establishes a process by which the usage of the airport can be expanded to meet the needs of the community, and provides a process by which noise impacts that unreasonably exceed established standards can be mitigated. In addition, prospective land uses for and development of any land identified to be in areas sensitive to airport noise will be undertaken in a manner that recognises the location of and development needs for the airport, to minimise the future potential for mitigation action to be required.

In this regard ANEC contours and N65 and N75 contours will be further considered for land use planning purposes and the development of an Airport Buffer Zone and Special Control Areas via a Town Planning Scheme Amendment process. Noise modelling has been undertaken by the City of Busselton in 2010 and recently in December 2015 and will be updated as required as airport activity increases. The Noise Management Plan establishes noise criteria to enable fair, objective and transparent assessment of noise impacts and certainty for the parties involved.

### ***Limitations***

The City of Busselton, as an accountable and responsible owner and operator of the Busselton-Margaret River Airport, is committed to implement, apply and enforce, within its powers, all required strategies and available measures to achieve the requirements and objectives of this NMP.

For purposes of transparency it is however necessary to clarify and understand certain limitations with regards to the City of Busselton's regulatory powers in respect of aircraft noise. The Civil Aviation Safety Authority (CASA) and AirServices Australia (ASA) considers the powers to regulate and administer Australian airspace under the Airspace Act and Regulations to be exclusive to CASA. Therefore, the City of Busselton as owner and operator of the Busselton-Margaret River Airport has no power or authority to regulate activities happening in airspace.

This, however, does not prevent the City from actively facilitating compliance by aircraft operators with measures aimed at managing and reducing the impacts of activities in airspace, including aircraft noise which may have an impact on community members. There are a suite of Commonwealth and State regulatory measures regulating activities in airspace around Australian airports, including the Busselton-Margaret River Airport. The City will, where it is determined that a matter of non-compliance is not within the jurisdiction of the City to take enforcement action, report such activity to the relevant authority and take ongoing follow up action with that authority, while also recognising and supporting complainants to utilise these complaints processes directly with the relevant agencies like CASA, AirServices Australia, the Environmental Protection Authority or Department of Transport.

The Fly Neighbourly Agreement within this plan will be actively promoted with any users of the airspace over the district of the City of Busselton to ensure the impact of these activities is minimised. Where an operator also utilises the land-based facilities at the airport, the City has a range of mechanisms available to it to implement operational parameters to ensure that the activities are undertaken in a manner that recognises residential amenity concerns.

### ***Statement of Intent***

#### **Vision for the Facility**

The Council of the City of Busselton holds a vision for the Busselton-Margaret River Airport as the South West Regional Airport to deliver quality air transport outcomes for the benefit of the residents of the City of Busselton and the South West region.

#### **A Balanced Approach**

The airport will be developed in a manner that respects residential amenity, recognising community impacts associated with its operations, particularly noise, while providing economic, social and tourism benefits to the City and the South West. Over time, the airport will become a hub for passenger, business, tourism and recreational uses that deliver benefit to the broader community.

#### **Protecting Your Environment**

As with any airport facility, there will be residents affected by its operations either by proximity to the facility or flight paths associated with it. To minimise that impact as far as possible, the City of Busselton makes the following commitments:

- We will manage noise by proactively implementing the Noise Management Plan
- We will proactively promote Fly Neighbourly practices
- We will consider the amenity implications when proposing any expansion of airport facilities and airport operations
- We will update and review noise modelling data as required and respond appropriately to changes in impact revealed
- We will respond to and investigate noise complaints
- We will consider potential noise amelioration as part of development proposals



#### **Viability for the Community**

The City of Busselton is committed to turning the Busselton-Margaret River Airport into a commercially viable community facility for the benefit of ratepayers. It is a particular vision to reverse the trend of operating deficits associated with the facility and to seek to turn that into operating profit.

- We will proactively seek Government funding for the facility
- We will seek to develop airport uses delivering income streams through landing fees, head taxes, licensing fees and other charges
- We will invest in infrastructure upgrades following favourable cost/benefit analysis

#### **Economic Benefits**

The City of Busselton recognises the significant economic opportunities associated with having an airport located in the District.

- We will promote Busselton as a destination as serviced by the Busselton-Margaret River Airport for visitors, nationally and internationally
- We will investigate and pursue business (import and export) opportunities

#### **Social Benefits**

The City of Busselton seeks to deliver an accessible air transport service for the benefit of its residents and those of the broader South West.

- We will seek to facilitate the provision of efficient and accessible passenger services such as interstate and international services
- We will seek to facilitate the provision of fly-in fly-out services to provide additional employment opportunities for local community members

#### **Governance**

The Busselton-Margaret River Airport will be managed by the City of Busselton in a manner that gives the highest regard to relevant regulations and safety, is responsible and progressive.

- We will have the highest regard for CASA and Air Services safety regulations and standards
- We will report any matter not in the jurisdiction of the City to the relevant authority
- We will be a responsible and accountable airport operator on behalf of the community
- We will continuously improve and review where necessary management principles and practices

#### **Community Involvement**

The City of Busselton recognises it is managing the Busselton-Margaret River Airport on behalf of its community and will therefore involve the community in decision-making.

- We will be consultative, informative and responsive
- We will regularly report on airport activities supporting the highest levels of transparency and visibility
- We will support a committee to provide advice on relevant airport matters

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### 3. MANAGEMENT OF OPERATIONAL ACTIVITIES

The management of potential impacts arising from the operations of the Busselton-Margaret River Airport requires the implementation of a range of initiatives to protect the amenity of affected residents by ensuring that noise levels meet statutory requirements and acceptable standards.

The management plan addresses the key elements of:

- Airport operational activities  
*Operations at the airport will be controlled such that activities are undertaken in a manner that the noise impact is minimised by the use of flight paths, noise abatement zones, prescribed hours of operation, a fly neighbourly agreement and flight training restrictions.*
- Aircraft noise management  
*Aircraft utilising the airport will be required to meet the specifications set out in the NMP such that the noise generated does not exceed the statutory requirements and acceptable standards.*

#### 3.1. Airport Operational Activities

As an overarching principle for use of the Busselton-Margaret River Airport, operators will utilise the ERSA (En-route Supplement Australia) and AIP (Aeronautical Information Package) generally, and as they apply specifically to the Busselton-Margaret River Airport.

Operators are to observe the following specific requirements:

##### 3.1.1. Flight Paths

As far as practicable, in accordance with applicable regulatory requirements, guidance, procedures and limitations, operators shall:

1. maximise the use of flight paths over coastal waters and non-residential areas, rural land and State forest;
2. minimise the over flight of residential areas, including rural residences and other noise-sensitive premises, particularly at less than 1500 feet (AGL);
3. utilise descent profiles with low-power and low-noise operations.

Any future development of alternative flight paths for the Busselton-Margaret River Airport will recognise these three key components.

### 3.1.2. Noise Abatement Zones

Noise Abatement Zones identify areas that include existing and future planned residential development in close proximity to the airport. These are shown in figure 1.

As far as practicable, in accordance with air safety standards, operators shall:

- minimise the over flight at less than 1500 feet (AGL) of areas identified as noise abatement zones.

Noise abatement zones will be recognised in any future development of flight paths.

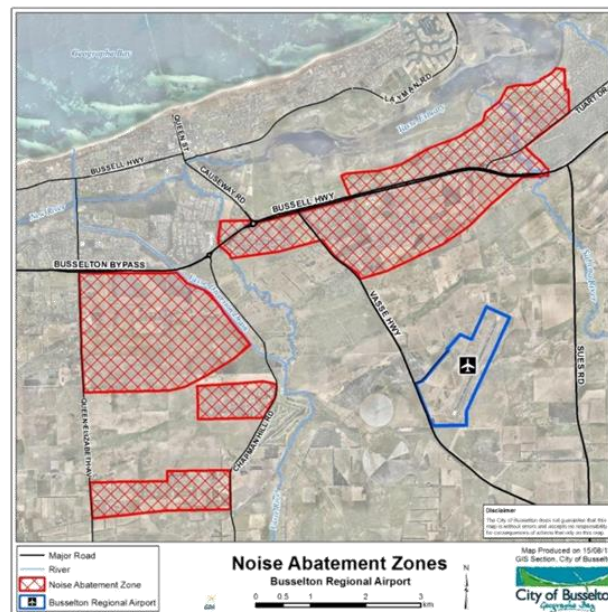


Figure 1 – Existing and Planned residential development with proximity to the Busselton-Margaret River Airport

### 3.1.3. Standard Hours of Operation

The following table has been established to advise airport users of those operations that need City approval and to specify overall limits on operations to limit impacts for the community.

Table 2 – Operational Limitations and Approved Parameters

<u>Operator / Aircraft Type</u>	<u>Standard Hours of Operation</u>	<u>Conditions</u>
Emergency Services	<b>UNRESTRICTED</b>	Emergency situations and normal flight patterns <ul style="list-style-type: none"> <li>training flights require approval under the Flight Training Guidelines</li> </ul>
Light Aviation/ General Aviation	<b>RESTRICTED</b> <b>0600hrs – 2200hrs</b>	Maximum noise level of 85dB (A)* Flight Training approval required (only available for aircraft below 1500kg MTOW and flight training conditions apply) Aircraft above 5,700kgs MTOW – City approval required
Open, Closed Charters, RPT/Commercial Operators	<b>RESTRICTED**</b> <b>0600hrs – 0000 hrs</b>  <b>**Five flights per week approved between 0000 - 0600hrs.</b>	Maximum noise level of 85dB (A)* City approval required
<p>* The Aircraft Noise levels identified in this table are maximum noise levels recorded at any residential or other noise-sensitive location when determined as an LA Slow value at any point within 15m of the identified building. Noise levels regularly exceeding this may initiate noise mitigation procedures (Chapter 6.2.3)</p> <p>Any application that does not conform to the standard hours of operation or conditions set out in this table is considered a Special Event. Assessment of Special Events will be undertaken using the procedures defined in Section 3.2.4</p>		

- **Emergency Services** will have unrestricted use of the airport for emergency situations and normal flight patterns, but will require approval for flight training activities. Emergency Services are:

- Royal Flying Doctor Service;
  - Sea Search and Rescue / AeroRescue;
  - Department of Fire and Emergency Services (DFES) and Department of Biodiversity, Conservation and Attractions (DBCA) aircraft (Firefighting/rescue fixed wing & rotary);
  - Police Airwing;
  - W.A Surf Life Saving (Westpac rescue Helicopter)
  - Military aircraft (no flight training approval required).
- **Light Aviation / General Aviation** – will have restricted use of the airport. Light and General aviation aircraft above 5,700kgs MTOW require prior City approval to operate. Flight training requires specific approval and no approval for flight training activities can be granted to aircraft above 1500kgs MTOW.
- **Open, Closed Charters and RPT Services** – All open, closed charters and RPT services can operate between 0600-0000hrs unrestricted, subject to maximum noise of 85 dB(A)\* and aircraft over 5,700kgs MTOW require City approval.

\* The Aircraft Noise levels identified are maximum noise levels recorded at any residential or other noise-sensitive location when determined as an LA Slow value at any point within 15m of the identified building. Noise levels exceeding this may initiate noise mitigation procedures (Chapter 6.2.3).

#### 3.1.4. Fly Neighbourly Agreement

This Fly Neighbourly Agreement (FNA) is a code of practice to be observed by users of the Busselton-Margaret River Airport to assist with the minimisation of noise nuisance experienced by the Airport's neighbours. Pilots utilising the airport are alerted that there are noise management considerations associated with the airport and these should be taken into consideration during their operations.

Operators are to endeavour to adopt the best practicable noise mitigation solutions in the environs of the airport, generally considered to be within the 10 nautical mile radius of the aerodrome reference point including the circuit area and recognised training area, to reduce the impact of their operations.

In utilising the Busselton-Margaret River Airport, pilots are to observe the following requirements:

- Observe the flight path principles in 3.1.1 of this NMP;
- Observe residential noise abatement zones as identified at 3.1.2 of this NMP;
- Pilots should endeavour to maximise flight paths over coastal water, forest and highways while avoiding residential areas and rural homes wherever possible;
- Avoid flying below 1000 feet AGL within in the circuit area, and avoid flying below 1500 feet AGL over built up areas;
- Observe the Operational Limitations and Approved Parameters as depicted at 3.1.3 of this NMP;
- Observe the noise generation specifications as depicted at 3.2 of this NMP;
- During take-off:
  - utilise the full length of the runway where possible;
  - aircraft to climb out at best rate of climb (Vy) or for Jet aircraft to conduct jet noise abatement climb procedures;
  - consider neighbours when selecting power and propeller pitch control settings by reducing power as soon as possible after take-off.
- When flying in the circuit:
  - light and rotary wing aircraft should not fly below 1000 feet (AGL);
  - jet and turbo prop aircraft should not fly below 1500 feet (AGL);
  - rotary wing aircraft should avoid 'rotor slap' conditions in the circuit area;
  - avoid using individual houses as circuit reference points.



- When landing:
  - Do not increase propeller to full RPM until power has been reduced to final approach power.



Figure 2 – 5nm and 10nm boundaries

### 3.1.5. Flight Training Guidelines

These Guidelines are intended to provide consistency and conformity in considering applications for the establishment of aircraft pilot training for **flight training operators based** at the Busselton-Margaret River Airport. The Guidelines have been developed to ensure maximum Airport usage in a manner that does not unduly impact upon the amenity of the residents of the City of Busselton. The intent of the Guidelines is to provide guidance in relation to pilot training and pilot training schools based at the Busselton-Margaret River Airport. The specific aims of the Guidelines are as follows:

- To minimise impacts on City residents from flight training operations based at the Busselton-Margaret River Airport;
- To recognise the need for the City of Busselton to optimise airport operations;
- To establish guidelines for flight training which relate to safety, types of aircraft, frequency of flights, flying heights, training areas, flight paths, hours/days of operation and provision of facilities which are in accordance with the Civil Aviation Safety Authority;
- To establish a standardised procedure for assessment and approval of flight training proposals;
- To develop consultative mechanisms with the community.

The City of Busselton will use these guidelines in relation to proposals to establish pilot training and pilot training schools based at the Busselton-Margaret River Airport.

#### **Application for a Permit**

The City of Busselton will require an application for a permit to be lodged in order for proposals associated with pilot training and pilot training schools at the Busselton-Margaret River Airport to be considered.

Applications for a permit will only be considered by the City of Busselton for flight training from Instructors based/operating from the location of the Busselton-Margaret River Airport. The Proponent will need to include information in relation to the following:

- Name of individual flying instructor/ Flight Training School;
- Number, type (model/description) and weights of aircraft to be used for flight training;
- Noise characteristics of aircraft to be used for flight training;
- Provide a Flight Training Plan outlining their training programs including description and maps of flight training areas/flight paths and circuits (including nominated emergency landing training areas);
- Number and frequency of flights within the Permit Provisions outlined below;



- Estimated number of trainee pilots;
- Offices/headquarters/hangar base – other land based facilities;
- Airfield emergency response plan;
- Details of any discussions with Department of Water and Environmental Regulation, DBCA, Department of Transport, CASA and residents;
- Professional/commercial background of operator;
- Details on scope of training.

A permit to conduct Flight Training at the Busselton-Margaret River Airport may be issued for a period of 12 months and at the finalisation of this period a further permit may be granted at the discretion of the City.

In addition, the City of Busselton as landowner will require the proponent to provide in writing with the application, a commitment to observe the requirements of the Flight Training Guidelines and other aspects of the NMP, including the Fly Neighbourly Agreement.

#### **Permit Provisions**

The Guidelines will apply to the following aircraft classifications, frequency, times and type of use;

### **1. AIRCRAFT OPERATIONS CLASSIFICATIONS**

#### **i. Aircraft Type**

A. Single engine aircraft under 1500kgs MTOW only

B. Aircraft as per Part A to be approved by the City based on published noise emissions (manufacturers or recognised regulatory body, ie CASA, ASA) to be less than 85 db(A)

#### **ii. Frequency and Type of Use (for each licensed instructor)**

A. A cumulative total of less than 25 flying hours per week of student / instructor flying training (inclusive of circuit training, navigational instrument training (NDB))

B. Circuit Training and/or "touch and go"

- No more than 6 'continuous' circuits in any one flight training session

## 2. FLYING HEIGHTS FOR TRAINING OPERATIONS

- Civil Aviation Regulations flying heights to be observed as an absolute minimum at all times (500 feet (AGL) over rural and 1000 feet (AGL) over urban areas)
- All aircraft fly a minimum of 640 ft (AGL) over wetlands and estuaries of the Vasse and Wonnerup areas to avoid bird strike and disturbance of waterbird habitat.

## 3. TIMES OF OPERATION

The hours of operation for flight training will be as follows:

- 8am to last light on Monday – Friday;
- 9am to 5pm on Saturdays, Sundays and public holidays.
- There is to be no Flight Training on Christmas Day, Boxing Day or Good Friday.

## 4. FLIGHT TRAINING MOVEMENTS

If a permit is issued by the City, conditions will be imposed to require the operator/pilots to use their best endeavours to undertake the following movements unless unsafe to do so:

- Take offs should avoid wetlands in order to minimise impact on waterbirds and the incidence of bird strike (refer Appendix A). Accordingly, take offs should be on runway 21 (Southward) whenever possible.

*"protected wetland" means a conservation category wetland recorded in Table C of the Register or a wetland coloured green on Department of Land Administration Plan Miscellaneous Plan 1815;*

*"wetland" means land in the permit area that is subject to permanent or seasonal inundation or waterlogging, whether by water that is fresh, brackish or saline, or flowing or static, but does not include estuaries, rivers or their tributaries.*

- Follow the Airport circuit with the departure and arrival procedures as published from time to time in the En-Route Supplement of Australia (ERSA).
- Operators to comply with Rules of the Air (CARS) and standard circuit approach and departure procedures published in AIP

## **5. EMERGENCY RESPONSE**

Applicants proposing to operate pilot training at Busselton-Margaret River Airport shall be aware of the Airport Emergency Plan at the airport. Applicants are to provide their Emergency Response Plan.

## **6. NOISE**

Flight training aircraft are subject to the same requirements as other aircraft under the City of Busselton commitment to noise levels detailed in the Noise Management Plan for the Busselton-Margaret River Airport.

Conditions of approval will reflect consideration of the estimated noise and frequency of flight.

## **7. FLY NEIGHBOURLY AGREEMENT**

All applicants for a flight training licence will be requested to abide by the FNA.

## **8. REVOCATION OF APPROVAL**

Any permit issued by the City of Busselton will contain provisions enabling the City to revoke that approval in the event of non-compliance with any of the conditions contained therein.

## **9. EXEMPTIONS FOR FLIGHT TRAINING**

Flight training exemptions will be provided for the Emergency Services however an approval is still required to be applied for. The exemption will apply to the following Emergency Services;

- Royal Flying Doctor Service
- Sea Search and Rescue / AeroRescue
- FESA/ DBCA
- Police Airwing
- Other Emergency Services providers as required from time to time.

RAAF and Military Services are exempt from applying for flight training permits however are required to provide prior notice to the City of Busselton.

### 3.1.6. Licence Renewal Training

Licence renewal training requires written permission, approved by the CEO of the City of Busselton and will only be issued to airline operators that utilise the Busselton-Margaret River Airport on a frequent basis for either FIFO operations or RPT services. A permit will only be issued once a FNA has been agreed to between the potential operator and the City of Busselton.

#### Guidelines

License Renewal Training FNA - A FNA will be agreed between the operator and the City and will include;

- Days per month where license renewal training is permitted;
- Hours of operation;
- Minimum approach to operations (i.e no circuit training, however circuits where landings are required or NDB approaches);
- Residential consultation to occur.

### 3.2. Aircraft Noise Management

Where aircraft utilising the Busselton-Margaret River Airport (that is they are based at the Airport or regular users of the airport such as RPT, FIFO charter operators or Commercial Operators) generate noise levels experienced at any residential or other noise-sensitive location when determined as an  $L_{A\text{ Slow}}$  value at any point within 15m of the identified building that exceed 85dB(A), noise amelioration processes may apply. A residence may be exempt from this requirement by negotiation (such as where noise amelioration has occurred).

Any aircraft assessed by the City to generate noise or potentially generate noise at any non-exempt residential location above that threshold may have restrictions imposed regarding utilisation of the Busselton-Margaret River Airport. Notwithstanding this requirement, the noise level and restrictions shall not apply for emergency and military aircraft required to utilise the airport. Where aircraft are over-flying the City of Busselton in un-controlled airspace and do not utilise the Busselton-Margaret River Airport, the City has no jurisdiction over the pilot or owner of the aircraft and hence not subject to this NMP. Aircraft activities in un-controlled airspace are solely the responsibility of Airservices Australia (ASA) and the Civil Aviation Safety authority (CASA). ASA works to minimise the effects of aircraft noise on communities through operating the national aircraft noise and flight path monitoring system and managing all aircraft noise complaints through the Noise Complaints and Information Service (NCIS). Information on aircraft noise and making a complaint to the NCIS can be found on the ASA website;

<http://www.airservicesaustralia.com/aircraftnoise>

#### 3.2.1. Activities Requiring City Approval

To ensure activity at the Busselton-Margaret River Airport complies with the requirements set out in the NMP and therefore community expectations with regard to noise impacts, airport users are to comply with the relevant sections of the plan. Some airport activities require approval, while others can be undertaken without specific approval, subject to compliance with the operational hours, noise generation limitation and other aspects of the NMP.

Any activity identified as requiring City approval in Section 3.1.3 of the NMP, any request for exemption from one or more requirements of the NMP, and any flight training activity will require specific approval of the City of Busselton. Operators must comply with the approval, including any conditions thereto. An approval can be issued for a single event, such as for a special one off exceedance of the noise generation limitation, or for a particular time period allowing the activity to occur on an ongoing basis.

In considering any application, the CEO or the Council as the case may be, shall have due regard to the cumulative impact of other approved applications and hence recognise potential amenity impacts, the requirements of the Noise Management Plan that relate to noise amelioration procedures and regarding the potential need to update the N65 and/or N75 Noise Modelling.

### **3.2.2. Approval for Charter and RPT Operations**

Any operator seeking to conduct Charter or RPT services utilising the Busselton-Margaret River Airport shall apply to the City of Busselton. Ongoing Charter and RPT activity may be undertaken during the specified hours and utilising aircraft that meet the specifications for noise generation as provided for in this NMP. The City Chief Executive Officer is authorised and empowered to determine applications in accordance with this criteria.

### **3.2.3. Approval for Flight Training or Licence Renewal Training**

Any operator seeking to utilise the Busselton-Margaret River Airport for the purposes of training shall apply to the City of Busselton. Applications will be assessed in accordance with the relevant guidelines and a permit may be issued in accordance with the Busselton-Margaret River Airport Local Law. A new application for a permit shall be referred to the Council for determination after its consideration and comment by the Airport Advisory Committee (or its equivalent replacement at any future time) and public consultation. The CEO is authorised to renew permits, subject to a review of the operator's compliance with the existing permit conditions.

### **3.2.4. Approval for Special Events**

Any operator seeking to utilise the BMRA for an event or operation that does not comply with the specifications in section 3.1.3 shall apply to the City of Busselton setting out the details of the proposal. The City Chief Executive Officer (or approved delegate) is authorised and empowered to determine applications for up to and including twelve (12) Special Events that are approved for a single event or circumstance, where the operation is due to the following circumstances;

- Inclement weather
- Unserviceable aircraft
- One-off events

#### Assessment of other applications

An application for a Special Event that is not a single event or circumstance is to be assessed under a broader Consultation Process outlined in Table 3.

Table 3 – Consultation Process for Special Events

Receipt of application for Special Events that is not a single event or circumstance that does not comply with the Standards Established in 3.1.3;
Referral to the Airport Advisory Committee for recommendation to Council; <ul style="list-style-type: none"><li>- refusal to proceed;</li><li>- alternative proposal; or</li><li>- approval to proceed.</li></ul>
Consideration by Council for approval to progress with the application <ul style="list-style-type: none"><li>- refusal to proceed; or</li><li>- approval to proceed.</li></ul>
Release for public consultation period
Council consideration of consultation outcomes, resulting in: <ul style="list-style-type: none"><li>- refusal; or</li><li>- approval, subject to conditions as required; or</li><li>- approval for a trial period</li></ul>
If approval is sought for extension to the application: <ul style="list-style-type: none"><li>• Evaluation of the trial period, including:<ul style="list-style-type: none"><li>- public feedback;</li><li>- Airport Advisory Committee consideration</li></ul></li></ul>
Council consideration after evaluation of trial, resulting in: <ul style="list-style-type: none"><li>- refusal; or</li><li>- approval, subject to conditions as required</li></ul>
<b>CONDITIONS:</b> In limited circumstances an ongoing Special Event may be approved, subject to a comprehensive assessment of the potential amenity impact of the proposal, in accordance with the noise amelioration requirements of this plan. Any approval provided shall include: <ul style="list-style-type: none"><li>• Noise generation limitation;</li><li>• Hours within which the operations cannot occur;</li><li>• Noise reduction requirements;</li><li>• Any other conditions appropriate to the specific application.</li></ul>



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## 4. NOISE COMPLAINTS

Airservices Australia is a federally owned organisation that works with partners in the aviation industry to minimise the impacts of aircraft noise on communities around airports. Its role involves:

- ensuring that flight departures and arrivals are designed to minimise noise impacts
- providing information about aircraft noise
- monitoring aircraft noise around major airports
- providing a national Noise Complaints and Information Service.

Whilst the City will manage the Busselton-Margaret River Airport through implementing the Noise Management Plan and promoting Fly Neighbourly practices, the City recommends in the first instance that all noise complaints are lodged with the ASA Noise Complaints and Information Service (NCIS). Residents may also direct their noise complaints to the Aircraft Noise Ombudsman (ANO). The ANO's website is [www.ano.gov.au](http://www.ano.gov.au). In addition, noise complaints will be responded to, investigated and treated with priority in accordance with the below procedure.

### 4.1. Noise Complaints Procedure

Any complaint regarding noise impact associated with the Busselton-Margaret River Airport should be submitted to the Chief Executive Officer (or CEO's nominated complaints officer) of the City. Complaints can be lodged verbally, via email or in writing and a contact telephone number, email address and postal address for complaints relating to airport noise impacts will be published and made available via a range of mediums outlined in Section 8.

In order for a complaint to be properly investigated, complainants should be aware that they will need to endeavour to provide:

- Their name;
- The location at which the noise nuisance occurred;
- The date or dates on which the noise nuisance occurred;
- The time or times at which the noise nuisance occurred;
- Any details of the aircraft that may have been observed;
- Any other information that will enable the complaint to be properly investigated.



Complaints will be acknowledged in writing and complainants will receive a response once the complaint has been investigated.

The City will maintain records of complaints regarding aircraft noise impact and utilise this information in the ongoing review and implementation of the NMP.

A preliminary response to the complainant, identifying in the least the length of time that will be required to formally respond to the complaint, is to be provided in accordance with the City's Customer Service Charter requirements. If possible, the preliminary response should also include advice as to whether it is believed to be a matter within the City's enforcement provisions to control or not.

## 4.2. Noise Complaint Investigation

Where the City receives a noise complaint, the details provided by the complainant can be used by the City to investigate the complaint. The City will seek to determine whether the noise nuisance has been caused by an approved operator or an operator that may have utilised the airport in a manner that does not comply with the requirements of the NMP.

The City's focus in relation to operators utilising the Busselton-Margaret River Airport is:

- to ensure that they are aware of the requirements of the NMP;
- to ensure that they are complying with the requirements of the NMP;
- to ensure that operators are acting within the conditions of any approval they have received; and
- to ensure that any operation requiring approval that does not have the necessary approval is ceased.

Where a noise complaint has been investigated, the City will utilise this approach to ensure ongoing compliance with the requirements of the NMP. In addition, the City will report and follow up on any matter of complaint deemed not to be in the jurisdiction of the City.

The City of Busselton will:

- Do what is appropriate with a view to resolving complaints in a cooperative, efficient, timely and fair manner;
- Regularly monitor and report to complainants on the progress and outcome of complaints that have been lodged;
- Maintain records of complaints regarding aircraft noise impact and utilise this information in the ongoing review and implementation of the NMP;
- Provide advice to the community on issues to note when making noise complaints; and
- Be as transparent as possible, whilst also acting in accordance with its confidentiality and privacy obligations.

Where a noise complaint is determined outside of the City of Busselton's jurisdiction, the complainant will be advised to make a formal complaint to ASA Noise Complaints and Information Service (NCIS). Residents may also direct their noise complaints to the Aircraft Noise Ombudsman (ANO). The ANO's website is [www.ano.gov.au](http://www.ano.gov.au)

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## 5. NOISE ASSESSMENT AND MONITORING

The City of Busselton undertakes to implement the NMP and ensure ongoing compliance with its requirements to deliver a viable airport operation on behalf of the community and to provide protection from undue noise impact for affected residents. This will involve noise monitoring and noise modelling for the purposes of providing for the amenity of existing and future residents in noise sensitive areas. The City of Busselton will also utilise various mechanisms to ensure community awareness of airport operations and noise impacts.

### 5.1. Noise Monitoring

Noise monitoring will be utilised to assess compliance with the noise standards established in the NMP. Noise monitoring may be carried out both on Busselton-Margaret River Airport land and the surrounding areas. Where a representative sample of data has been collected noise monitoring results will be used for:

- determining whether a property is significantly affected by Busselton-Margaret River Airport noise emissions and therefore, requires consideration for noise amelioration strategies;
- future land use planning purposes;
- assessing compliance with approval conditions for operations at the Busselton-Margaret River Airport;
- one-off assessments for special events.

Table 4 – Noise Monitoring Schedule

Purpose	When	Where
Noise monitoring	Response to requests or complaints or significant change in operations	At affected noise-sensitive premises (outdoors and / or indoors)
Land use planning	Assessment of proposal	Relevant subject site
Events or one-off occurrences	During the event or at specified time intervals.	Referenced locations (eg runway ends) or at residential properties.

The surrounding areas and identified noise sensitive premises will be monitored by accredited Environmental noise personnel and will involve collecting a sample of representative data. The results of this offsite noise monitoring will also be used to verify compliance with the NMP and the FNA, and considered when reviewing the NMP.

Aircraft noise levels can be greatly affected by prevailing weather conditions occurring at the time of noise emission. It is equally important to monitor weather conditions as well as noise levels as the two are closely related to the perceived level of noise at any given location. The Busselton-Margaret River Airport currently has an automatic weather station on site which provides data on air temperature, relative humidity, wind direction and strength. For noise amelioration purposes, data can be correlated with noise monitoring information to determine worst case conditions for the noise environment.

## 5.2. Noise Modelling

Noise Modelling based on ANEC/ANEI and N65, N70 and N75 contours has been undertaken by the City of Busselton and will continue to be utilised to provide direction for future land use planning considerations as the Busselton-Margaret River Airport develops. In addition, the ANEC and N65 and N75 contours can provide information to be considered when determining whether a property may be significantly affected by noise emissions with the changing environment at the airport.

Noise modelling (ANECs or ANEFs and N-contours) will be reviewed every five years or upon the following trigger points (which will be reviewed on an annual basis):

- change in aircraft models used for RPT and freight operations from those assumed in the aircraft modelling (B737 and A320);
- increase of more than 20% from the aviation movement forecasts used in the current noise modelling at the time; or
- re-design of flight paths and DAPs.

Where any significant proposal is to be considered which may result in a significant increase in traffic or a change in the types of aircraft utilising the airport, N65 and N75 contours will be updated to reflect this changing environment.

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## 6. NOISE AMELIORATION

The community must be provided with a mechanism by which it can be assured that any complaint relating to the noise impact associated with the Busselton-Margaret River Airport will be appropriately dealt with in a timely manner. The Noise Complaints Procedure will enable the City of Busselton to respond effectively to community members impacted by aircraft noise, but the following section provides the parameters within which airport impacts at noise sensitive premises can be addressed.

### 6.1. Noise Context

Noise from aircraft taking off and landing at the Busselton-Margaret River Airport can potentially affect the amenity of a number of residents living in the vicinity of the airport. Although it is not possible to completely stop aircraft noise emanating from the airport, there are standard aircraft operating procedures that form part of the NMP that can be implemented to reduce the effect on residents living near airports. These operating procedures have been encapsulated in the Fly Neighbourly Agreement that forms part of this NMP.

The City has undertaken noise monitoring in a number of areas under aircraft flight paths and considers that standard operating procedures need to be better managed to reduce noise levels. The NMP outlines the strategies employed to reduce the level of noise emanating from the airport. Therefore, to assist residents who have aircraft noise complaints, the City of Busselton will measure the actual noise levels being experienced at the airport on a regular basis in accordance with Clause 5.1.

Should the airport conditions change by any method, i.e. additional flights, changes in flight departures and arrival times, unscheduled flights, flight paths, aircraft size or type or any other airport related conditions, then these changes would be communicated to the residents and stakeholders by various methods (see Section 8).

## 6.2. Noise Reduction and Amelioration Measures

The ongoing implementation and enforcement of the NMP and proper investigation of noise complaints is intended to result in an airport operation that does not significantly impact on the amenity and lifestyle of residents in the vicinity of the Busselton-Margaret River Airport.

The City does, however, acknowledge that it is necessary to provide a mechanism by which actual noise impact can be assessed for a specific location where it is considered that the aircraft noise impact is excessive.

Following research of the literature published by the Australian Department of Infrastructure and Regional Development (including National Airports Safeguarding Framework Principles and Guidelines) and AirServices Australia, the City of Busselton has decided to utilise the Australian Standard AS2021;2015 for the basis of its noise assessment and amelioration process. This decision is partly based on one of the objectives of the Standard being to provide guidance to local governments, and communities concerned with planning and building development on the siting and construction of new buildings against aircraft noise intrusion and on the acoustical acceptability of existing buildings located in the vicinity or near aerodromes. Additionally, the Standard provides guidance on determining building siting acceptability for aerodromes with (i) ANEF charts and (ii) for light general aviation aerodromes without ANEF charts.

To facilitate the City in identifying areas or residential properties that may be impacted by aircraft noise in the future, the City has prepared both ANECs and N-contours based on the extended runway infrastructure that will be delivered as part of the Airport Development Project. The ANECs and N70 contours will be used by the City's Strategic Planning Department in future land use planning and town planning scheme amendments to protect both the community and future Airport development and growth.

Further, in adopting the Australian Standard AS2021;2015 the City will apply the definitions of 'determination of Building site acceptability' of "Acceptable", "Conditionally Acceptable" and "Unacceptable". Using the Standard, the ANEF, N-Contours and noise monitoring techniques, in certain circumstances where the level of impact may be proven to be excessive, the residence can be considered for noise amelioration.



### 6.2.1. Noise Reduction Parameters

As a general guide, the following noise levels have been broadly established as:

- Acceptable - whereby under normal circumstances no noise reduction measures will be necessary;
- Conditionally Acceptable - whereby negotiations may be necessary in an attempt to reduce the number of events and the noise impact;
- Unacceptable - whereby consideration will be given as to how the noise impact may be reduced.

Table 5 – Guide to Noise Level Acceptability

Acceptable	Conditionally Acceptable	Unacceptable
<75dB(A)	75-85dB(A)	>85dB(A)

These criteria relate to all noise sensitive receivers, including residences, and do not relate to commercial and industrial receivers. Where a noise sensitive receiver is experiencing regular noise levels as set out in the Noise Amelioration Assessment table actions can be taken by the City of Busselton to implement further controls on any activity consistently generating this level of noise. Where a residence experiences noise levels that exceed 85dB(A) the City of Busselton can restrict the ongoing use of any aircraft that generates such noise. Should operational noise reduction measures not prove successful, noise amelioration will be utilised.

### 6.2.2. Noise Amelioration as a Noise Reduction Technique

One strategy that the Council will utilise in reducing the noise impact will be noise amelioration measures for specific residences at which such noise levels have been experienced. In assessing any residence as to whether it qualifies for noise amelioration, the City will follow the process below as defined in AS2021; 2015;

Table 6 – Noise Criterion for Amelioration

Outdoor Noise Criterion
Noise Amelioration action is required where $L_{Amax}$ regularly exceeds <sup>2</sup> –
(1) 85dB(A); or
(2) 80dB(A) for > 6 events <sup>1</sup> per day; or
(3) 75dB(A) for > 12 events <sup>1</sup> per day.
Notes:
(1) Each aircraft noise event occurring between 7pm and 7am is to be counted as 4 events.
(2) Regularly exceeds refers to events occurring at uniform (even / constant) intervals. Noise generated by Emergency Services Aircraft operating in emergency situations are not to be taken to count towards the monitored noise events for amelioration purposes.
AND / OR
Table 2.1 Building Site Acceptability based on ANEF Zones in AS2021:2015; where a house, home, unit, flat, caravan park falls in the 20-25 ANEF zone

For the option of Acoustic Insulation to be considered a relevant response to the need for Noise Amelioration, the *Australian Standard (AS2021-2015) for Indoor Design Sound Levels for Determination of Aircraft Noise Reduction* as it relates to residences is the target to ensure the adequate design of the Noise Attenuation Package.

Table 7 – Target Levels for the Design of an Acoustic Insulation Package

Building type and activity	Indoor design sound level dB(A)
<i>Houses, home units, flats, caravan parks</i>	
Sleeping areas, dedicated lounges	50
Other habitable spaces	55
Bathrooms, toilets, laundries	60

Table 8 – Noise Exceedance Response

Consideration Initiated as a Result of Flight Training Activity
In addition to the parameters that address the louder noise events, it is also necessary to include consideration of the repetitive noise events, which are those caused by flight training and, given the restriction on the aircraft to be used for flight training, will not cause the noise levels identified above. High levels of repetitive noise caused by flight training may also qualify a resident for Noise Amelioration Assessment, with the primary noise amelioration action to be operational controls / permit reviews before the consideration of the other noise amelioration measures identified. Ultimately, the determination of these levels will necessarily be discretionary for the Council and will primarily be dealt with by the determination of whether to issue a permit or not.



### 6.2.3. Process for Amelioration Assessment

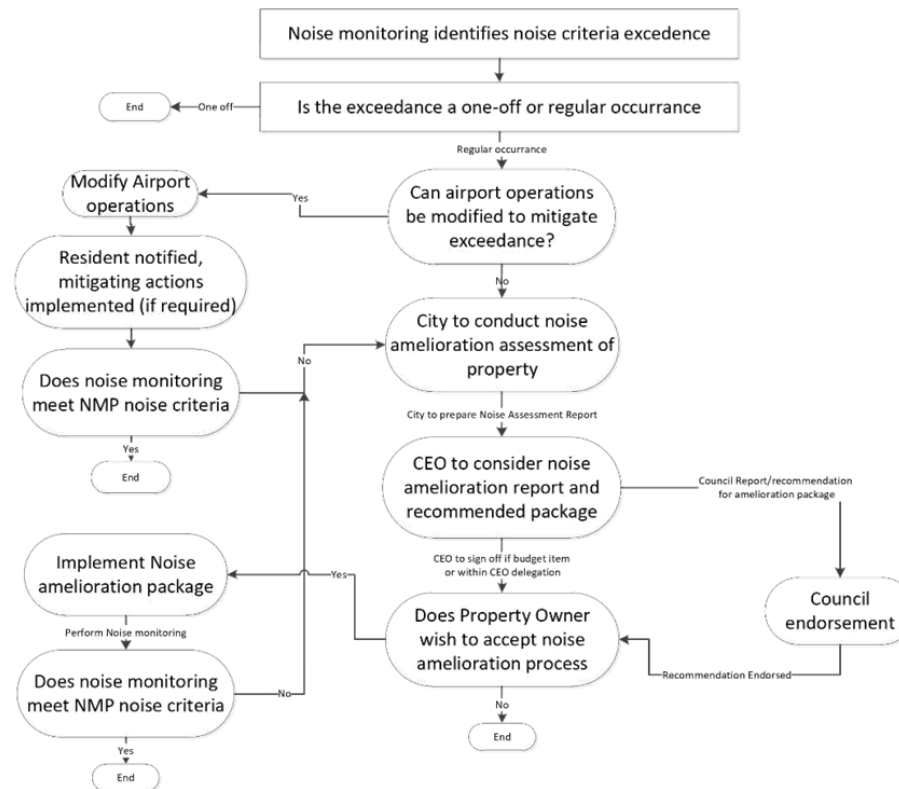
A key management action for the implementation of the NMP is to identify residences requiring noise amelioration assessment. This assessment will be undertaken in accordance with the process identified in Table 8 and process flow detailed in Table 9.

Table 9 – Amelioration Assessment Process

Action	Input / Output	Parties Involved
Identify Residential Property for assessment	1. Request or complaint from property owner; or 2. Noise Monitoring data identify noise level 'breach'	Property owner City of Busselton
Desktop analysis of noise monitoring	1. Determine if noise monitoring data exists or is required 2. Conduct noise monitoring (if required) 3. Compare noise monitoring to noise level criteria	City of Busselton Property owner
Liaison with Property owner	Initial discussions with property owner regarding amelioration packages provided for in the NMP	City of Busselton Property owner
Acoustic assessment for amelioration design	Assessment of property for amelioration design packages in accordance with Australian Standard Indoor Design Sound Levels*	Acoustic Engineers Acoustic insulation specialists City of Busselton Property owner
Liaison with Property owner	Further discussion with property owner to confirm options on amelioration packages	City of Busselton Property owner
Report to CEO	Report on details of amelioration and officer recommendation including if Council consideration is required.	City of Busselton
Report to Council (if required)	Report to contain <ul style="list-style-type: none"> <li>- results of noise monitoring</li> <li>- Cost of possible amelioration packages</li> <li>- Results of consultation with private property owner</li> <li>- AAC and City Officers' Recommendation</li> </ul>	City of Busselton

Follow-up acoustic assessment	Noise monitoring to assess effectiveness of amelioration implementation	Accredited Noise Monitoring
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Figure 3: Noise amelioration process flow.



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## 7. LAND USE PLANNING

Several planning documents are in place for land use relating to areas in close proximity to the Busselton-Margaret River Airport. The plans have been developed in recognition of the airport's location and potential impacts, leading to specific planning controls.

The City has commenced the process of developing a broad land-use strategy and a Town Planning Scheme amendment in order to provide protection to the airport as a continuing acceptable use of the land in its current location and to protect future amenity for noise sensitive land-uses.

For future development purposes ANEF contours provide information as to the likely cumulative exposure to aircraft noise that communities near an airport are likely to experience in a specified future time and over a specified duration. This then enables potential land uses to be established based on the noise exposure contour within which an area is located. It is noted that ANEF contours have inherent limitations for the purposes of regional airports, and while an indicator with some application, should not be relied upon as the only appropriate land use indicator.

There are a number of existing planning documents that are relevant to the land that may be considered to be "airport noise sensitive". In addition to this, the ANEF, N70 contours will be utilised for land use planning purposes. As part of a town planning scheme amendment process, the noise modelling information will guide the identification of frame areas for notification, insulation and restricted use areas.

The planning process will therefore result in Special Control Areas whereby the considerations for those areas is clearly identified as to where noise sensitive uses are not permitted, where noise insulation and title notifications are a specific development requirement and where title notifications are otherwise required. In addition to this, prospective owners of properties identified in airport noise sensitive areas shall be informed of the issues associated with airport noise and the parameters established in the NMP. Where appropriate, title notifications will be utilised to ensure this level of awareness and ultimately acceptance of the airport noise impact associated with the land.

Areas covered by the following planning documents will be further considered in this scheme amendment process.

### **7.1. Busselton Airport Development Guide Plan**

The Busselton Airport DGP outlines the planning within the City of Busselton owned and managed Busselton-Margaret River Airport land. The plan describes the development that is permissible on the land, known as an "Airport Business Park". This plan will cater for the expansion of aircraft hangars, on-ground passenger and engineering support infrastructure for the airport.

### **7.2. Busselton Airport Structure Plan**

The Busselton Airport Structure Plan deals with all of the privately owned land to the northwest of the Busselton-Margaret River Airport precinct. It outlines guidance policy statements that relate to environmental issues including noise. With specific reference to noise, the structure plan provides that:

- appropriate investigations shall be undertaken to ensure that the potential for future noise impacts from the airport operations are taken into account in the development of the land;
- any required noise attenuation associated with potential noise impacts determined from investigations are adequately planned for.

Noise monitoring information gathered in accordance with this NMP will be used to ensure the planning policy requirements are adhered to.

### **7.3. Urban Growth Strategy**

The Urban Growth Strategy outlines the preferred areas of urban growth to the south of the existing town site and the focus of this strategy is to locate any further development further to the west of the Busselton-Margaret River Airport. A key component of this strategy is the Ambergate North District Structure Plan. The area covered in the plan will cater for an additional 12,000+ people over the next 15-30 years. This area of land is located within 6km to the west of the airport and is included in noise abatement zones depicted at 3.1.2. In addition the use of regular noise monitoring and noise modelling information will assist City decisions relating to building approval and change of land use applications, both within the airport development precinct, and in the adjoining town site and rural land.

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## 8. COMMUNICATION AND CONSULTATION

Community access to information and involvement in high impact decisions is a key component of the management of noise impact associated with the Busselton-Margaret River Airport. The City of Busselton will therefore utilise a range of mechanisms to ensure that the community is informed and involved.

In this regard, the City may utilise at various times any or all of the following communication and consultation initiatives:

- An advisory committee or similar established body to provide specific input to various proposals and to assist with stakeholder communication and consultation;
- Regularly update the City of Busselton's Busselton-Margaret River Airport website with airport operations information;
- Ensure that airport noise complaints procedures are advertised and available on the website;
- Place all Council endorsed, related noise exposure contour maps on the website and make available to the public by various other means (i.e. ANEF, ANEI, N-contours);
- Provide land use planning information in various formats along with the noise contour information;
- Utilise newspaper releases, radio updates, forums, community meetings and advisory committee meetings;
- Ensure that all members of the community have an opportunity to have input at the formative stage of any change to operations, policy or procedure;
- Direct communication with interested members of the public (eg those living near the airport) with information containing any imminent happenings
- Noise amelioration Information Package.

The NMP is established to provide community protection from the impacts of noise associated with the operation of the airport. In establishing the parameters within which the airport can operate and therefore the operations that will be deemed acceptable, there is of course acknowledgement that some operations and noise impacts are unacceptable. The Noise Complaints section provides the framework by which the community can raise concerns regarding the noise impact of the operations

at the airport and the City of Busselton can assess complaints and the actual noise impact of the airport's operations.

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## 9. IMPLEMENTATION AND REVIEW

The Busselton-Margaret River Airport is owned and managed by the City of Busselton, which is required to implement this Noise Management Plan to ensure all operators utilising the airport are doing so in an approved manner, either by utilising the airport in the manner specified in the NMP or by seeking a specific approval or permit as required.

Table 10 - The Management Structure consists of:

Council	<p>Sets high level direction for Airport development and management</p> <p>Approves land use planning parameters, including scheme amendments</p> <p>Approves changes to Noise Management Plan</p> <p>Considers initial applications for Flight Training</p> <p>Considers applications for ongoing special event or special circumstance exemptions</p>
Airport Advisory Committee	<p>Provides input to:</p> <ul style="list-style-type: none"><li>• high level direction for Airport development and management</li><li>• changes to Noise Management Plan</li><li>• initial applications for Flight Training</li><li>• applications for ongoing special event or special circumstance exemptions</li></ul>



The Chief Executive Officer	<p>Informs and makes recommendations to the Council and/or Airport Advisory Committee</p> <p>Manages the day to day operations of the Busselton-Margaret River Airport</p> <p>Ensures compliance with the NMP and Flight Training Permits</p> <p>Considers applications for Charter and RPT services in accordance with the NMP</p> <p>Considers one-off special event or special circumstances exemptions</p> <p>Considers requests for flight training permit renewal</p> <p>Considers Noise amelioration assessments and implementation packages</p>
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## 9.1. Compliance Framework

Operators are required to comply with the parameters outlined in this Noise Management Plan and in accordance with any approval granted by the City for operations at the Busselton-Margaret River Airport.

The City of Busselton, as an accountable and responsible owner and operator of the Busselton-Margaret River Airport, is committed and able to implement, apply and enforce, within its powers and available resources, all required strategies and available measures to achieve the requirements and objectives of this NMP.

For purposes of developing and implementing such strategies and/or enforcing compliance with these measures, it is necessary to distinguish between land based activities and activities taking place in airspace.

### Land based activities

The City of Busselton, as owner of the land where the Busselton-Margaret River Airport is located and also as operator of the airport, has the power to regulate, subject to certain limitations (like safety

requirements and/or emergency measures), land based activities at BMRA. These powers include (but are not limited to) determining:

- Operating hours;
- Types of aircraft which may use the aerodrome for landing or taking off;
- Which aircraft operators may use the facilities at the airport (including who may use the aerodrome for landing or taking off);
- Whether flight training operators may use the aerodrome for landing and taking off and under what conditions.

In order to seek/enforce compliance by aircraft operators with the requirements and objectives of this NMP, the City of Busselton shall implement/employ the following measures with regards to land based activities at BMRA:

- City of Busselton Airport Local Law which, among other things, regulates the activities of flight training operators. Under this process a proponent will be required to apply for a flight training permit and only operators holding valid permits will be allowed to use the facilities at BMRA for flight training. Further detail about this process is set out under Paragraph 3.1.5 of the NMP;
- Entering into Fly Neighbourly Agreements with aircraft operators – see paragraph 3.1.4 of the NMP;
- Consultation with aircraft operators using the facilities at the airport. This is a two tiered process, firstly ensuring that approved aircraft operators are aware of the regulatory measures which apply to the airport and also of the requirements of the NMP, and secondly consulting with non-compliant aircraft operators in an attempt to resolve any issues and prevent re-occurrence of unapproved/non-compliant activities;
- Reporting non-compliance to relevant government agencies (like CASA, AirServices Australia and DWER) and seeking support from these agencies to prevent re-occurrence of such activities;
- Prosecuting serial non-compliant aircraft operators;
- Ban serial non-compliant aircraft operators from using the facilities at the airport (banning certain non-compliant activities at the airport or prohibiting such operators from landing and taking off from the aerodrome).

#### **Activities in Airspace**

Since the powers to regulate Australian administered airspace are considered to be exclusive to CASA and AirServices Australia, the City of Busselton has no power or authority to regulate activities in airspace. The City, for instance, does not have the power to regulate matters like height restrictions

and flight paths through a local law. That does however not prevent the City from seeking and enforcing compliance by aircraft operators with existing measures regulating activities in airspace.

## 9.2. Review Process

The review of the Noise Management Plan will be undertaken every three years in conjunction with the Airport Advisory Committee (or its equivalent replacement at any future time). The review will be undertaken in consultation with key stakeholders, including the community, Industry, government agencies and airport users. The results of the review and any proposed changes to the NMP will be advertised for comment in the local newspapers following Council's consideration of the recommended changes. It is noted that proposed amendments to the NMP may require approval under the Environmental Protection Act 1986 or other relevant Acts.

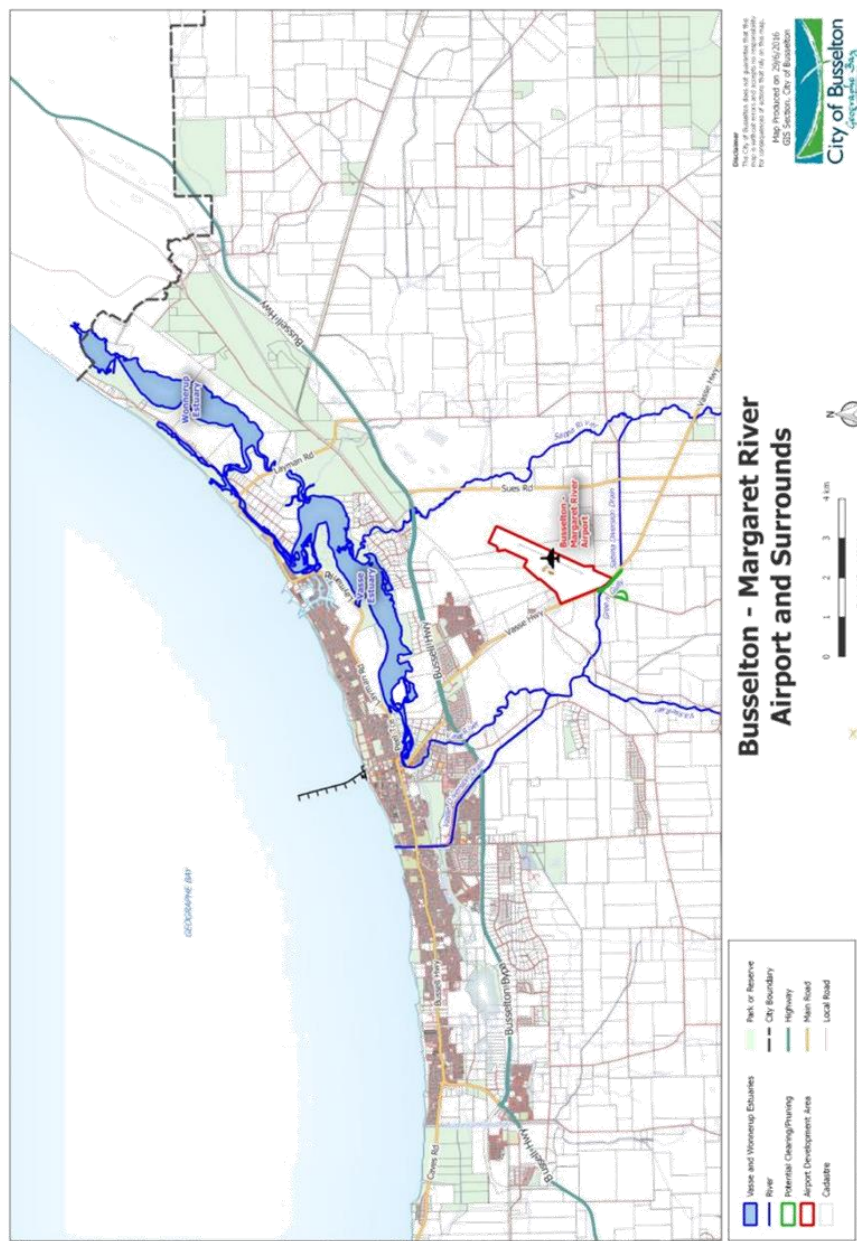
Following the review of the NMP, if adopted by the Council and sanctioned, where necessary, by the relevant statutory bodies, the revised NMP will take effect for the airport operations for the forthcoming twelve month period or until a further review is held.

Any review of the NMP will take into consideration:

- How the development opportunities for the airport have been pursued;
- Whether the flight paths and noise abatement zones need updating;
- Whether the hours of operation need to be adjusted;
- How well noise emissions associated with the airport have been managed, which will include consideration of noise monitoring data, complaints statistics and compliance information.

The review will also include a review of the Fly Neighbourly Agreement and the Flight Training Guidelines.

Appendix A – Busselton-Margaret River Airport Surrounds





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**Minister for Environment; Disability Services  
Deputy Leader of the Legislative Council**

Statement No. 1088

**STATEMENT THAT A REVISED PROPOSAL MAY BE IMPLEMENTED  
(*Environmental Protection Act 1986*)**

**BUSSELTON–MARGARET RIVER AIRPORT EXPANSION**

**Proposal:** Proposal to amend Busselton Regional Aerodrome the subject of Statement Numbers 901 dated 22 June 2012 and 1009 dated 7 July 2015.

**Proponent:** City of Busselton  
Australian Business Number 87 285 608 991

**Proponent Address:** 2 Southern Drive  
BUSSELTON WA 6280

**Assessment Number:** 2105

**Report of the Environmental Protection Authority:** 1616

**Previous Assessment Numbers:** 2008, 1876, 1918, 1913, 1867, 1827 and 775

**Previous Reports of the Environmental Protection Authority:** 1546, 1435, 1428, 1418, 1385, 1348 and 785

**Previous Statement Numbers:** 1009, 901, 887, 878, 856, 825 and 399

Pursuant to section 45, read with section 45B of the EP Act, it has been agreed that:

1. the revised proposal described and documented in Schedule 1 may be implemented;
2. this Statement supersedes Statement Numbers 901 and 1009, and from the date of this Statement each of the implementation conditions in Statements 901 and 1009 no longer apply in relation to the revised proposal; and
3. the implementation of the revised proposal, is subject to the following revised implementation conditions:

Published on:

7 January 2019

**1 Proposal Implementation**

- 1-1 When implementing the revised proposal, the proponent shall not exceed the authorised extent of the revised proposal as defined in Table 2 in Schedule 1.

**2 Contact Details**

- 2-1 The proponent shall notify the CEO of any change of its name, physical address or postal address for the serving of notices or other correspondence within twenty-eight (28) days of such change. Where the proponent is a corporation or an association of persons, whether incorporated or not, the postal address is that of the principal place of business or of the principal office in the State.

**3 Compliance Reporting**

- 3-1 The proponent shall prepare, and maintain a Compliance Assessment Plan which is submitted to the CEO at least six (6) months prior to the first Compliance Assessment Report required by condition 3-6.
- 3-2 The Compliance Assessment Plan shall indicate:
- (1) the frequency of compliance reporting;
  - (2) the approach and timing of compliance assessments;
  - (3) the retention of compliance assessments;
  - (4) the method of reporting of potential non-compliances and corrective actions taken;
  - (5) the table of contents of Compliance Assessment Reports; and
  - (6) public availability of Compliance Assessment Reports.
- 3-3 After receiving notice in writing from the CEO that the Compliance Assessment Plan satisfies the requirements of condition 3-2 the proponent shall assess compliance with conditions in accordance with the Compliance Assessment Plan required by condition 3-1.
- 3-4 The proponent shall retain reports of all compliance assessments described in the Compliance Assessment Plan required by condition 3-1 and shall make those reports available when requested by the CEO.
- 3-5 The proponent shall advise the CEO of any potential non-compliance within seven (7) days of that non-compliance being known or suspected.

- 3-6 The proponent shall submit to the CEO the first Compliance Assessment Report fifteen (15) months from the date of issue of this Statement addressing the twelve (12) month period from the date of issue of this Statement and then annually from the date of submission of the first Compliance Assessment Report, or as otherwise agreed in writing by the CEO.

The Compliance Assessment Report shall:

- (1) be endorsed by the proponent's Chief Executive Officer or a person delegated to sign on the Chief Executive Officer's behalf;
- (2) include a statement as to whether the proponent has complied with the conditions;
- (3) identify all potential non-compliances and describe corrective and preventative actions taken;
- (4) be made publicly available in accordance with the approved Compliance Assessment Plan; and
- (5) indicate any proposed changes to the Compliance Assessment Plan required by condition 3-1.

#### **4 Public Availability of Data**

- 4-1 Subject to condition 4-2, within a reasonable time period approved by the CEO of the issue of this Statement and for the remainder of the life of the proposal the proponent shall make publicly available, in a manner approved by the CEO, all validated environmental data (including sampling design, sampling methodologies, empirical data and derived information products (e.g. maps)), environmental management plans and reports relevant to the assessment of this proposal and implementation of this Statement.

- 4-2 If any data referred to in condition 4-1 contains particulars of:

- (1) a secret formula or process; or
- (2) confidential commercially sensitive information,

the proponent may submit a request for approval from the CEO to not make these data publicly available. In making such a request the proponent shall provide the CEO with an explanation and reasons why the data should not be made publicly available.

#### **5 Noise Management Plan**

- 5-1 The proponent shall manage the operation of the proposal to meet the following environmental objective:



- (1) noise emissions from the ongoing operation of the proposal shall be managed so as not to unreasonably impact on noise sensitive premises.
- 5-2 In order to meet the requirements of condition 5-1, the proponent shall implement the *Busselton-Margaret River Airport Noise Management Plan 2018* (version 1, May 2018).
- 5-3 The proponent shall implement the most recent version of the *Busselton-Margaret River Airport Noise Management Plan 2018* which the CEO has confirmed by notice in writing, addresses the requirements of condition 5-1.
- 5-4 The proponent shall continue to implement the *Busselton-Margaret River Airport Noise Management Plan 2018* (version 1, May 2018), or any subsequent revisions as approved by the CEO in condition 5-3, until the CEO has confirmed by notice in writing that the proponent has demonstrated that the objective in condition 5-1 is being and will continue to be met and therefore the implementation of the management plan is no longer required.
- 5-5 In the event of failure to implement management actions detailed in the Plan, the proponent shall meet the requirements of condition 3-5 (Compliance Reporting) and shall implement the measures outlined in the Plan, including, but not limited to, actions and investigations to be undertaken.
- 5-6 Within six months of the issue of this Statement or as otherwise agreed in writing from the CEO, the proponent shall amend section 3.1.3, and any consequential amendments, in the *Busselton-Margaret River Airport Noise Management Plan 2018* (version 1, May 2018) to define the standard hours of operation for 'Open, Closed charters, Regular Passenger Transport/Commercial operators' to be between 0600 and 0000 hours.

## **6 Review of Noise Management Plan**

- 6-1 Within three months of each three-year period, from the date of issue of this Statement, the proponent shall submit a report to the CEO which reviews the effectiveness of the *Busselton-Margaret River Airport Noise Management Plan 2018* (version 1, May 2018), or any subsequently approved revisions, in achieving the objective of condition 5-1.
- 6-2 The report required by condition 6-1 shall include, but not be limited to:
  - (1) noise monitoring results;
  - (2) noise amelioration assessments and/or implementation;
  - (3) number of complaints received and actions taken to resolve complaints;
  - (4) published flight paths to minimise impacts; and



- (5) the findings of the review to determine the effectiveness of the *Busselton-Margaret River Airport Noise Management Plan 2018* (version 1, May 2018), or any subsequently approved revisions, and whether amendments to the Plan are required.



Hon Stephen Dawson MLC  
**MINISTER FOR ENVIRONMENT**

27 DEC 2018

**Schedule 1**

**Table 1: Summary of the Proposal**

<b>Proposal Title</b>	Busselton-Margaret River Airport Expansion
<b>Short Description</b>	The proposal is to operate a regional airport at 86 Neville Hyder Drive, Yalyalup.

**Table 2: Location and authorised extent of physical and operational elements**

Column 1	Column 2	Column 3
Element	Location	Authorised Extent
Airport	Figure 1	Airport infrastructure not to extend outside the 206.2 ha proposal development envelope as shown in Figure 1.
Runway Heading	Figure 1	030°/210°

**Table 3: Abbreviations and Definitions**

Acronym or Abbreviation	Definition or Term
CEO	The Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the <i>Environmental Protection Act 1986</i> , or his delegate.
EP Act	<i>Environmental Protection Act 1986</i>
Ha	hectares
noise sensitive premises	A building, or a part of a building, on the premises that is used for a noise sensitive purpose, in accordance with those premises defined in Schedule 1 Part C of the <i>Environmental Protection (Noise) Regulations 1997</i> .

**Figure (attached)**

Figure 1 Busselton-Margaret River Airport location and development envelope.



Figure 1 Busselton-Margaret River Airport location and development envelope

**Schedule 2**

Coordinates defining the Busselton-Margaret River Airport development envelope as shown in Figure 1 are held by the Department of Water and Environmental Regulation, document reference number 2018-1521079909791 (dated 15 March 2018).

12.3 Airport Advisory Committee - 20/10/2021 - BUSSELTON MARGARET RIVER AIRPORT - BUSINESS DEVELOPMENT UPDATE

<b>STRATEGIC THEME</b>	OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy
<b>STRATEGIC PRIORITY</b>	3.4 Develop aviation opportunities at the Busselton Margaret River Airport.
<b>SUBJECT INDEX</b>	Airport Operations
<b>BUSINESS UNIT</b>	Commercial Services
<b>REPORTING OFFICER</b>	Manager Economic and Business Development Services - Jennifer May
<b>AUTHORISING OFFICER</b>	Director, Community and Commercial Services - Naomi Searle
<b>NATURE OF DECISION</b>	Noting: The item is simply for information purposes and noting
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Nil

This item was considered by the Airport Advisory Committee at its meeting on 20/10/2021, the recommendations from which have been included in this report.

The committee recommendation was moved and carried.

**COUNCIL DECISION**

**C2111/084** Moved Councillor P Carter, seconded Councillor A Ryan

That the Council notes the business development update report and endorses:

1. The marketing and advertising of the Industrial and Commercial Request For Proposal to a maximum of \$12,000, to be funded from the 2021/22 Airport Operations budget.
2. The submission of an application to the Regional Economic Development Grant Scheme Round Four for \$135,000 to be matched by the City for the construction of a general aviation hangar for the purposes of entering into a commercial lease with an aviation maintenance and servicing operator.

**CARRIED 8/0**

**EN BLOC**

**OFFICER RECOMMENDATION**

That the Council notes the business development update report and endorses:

1. The marketing and advertising of the Industrial and Commercial Request For Proposal to a maximum of \$12,000, to be funded from the 2021/22 Airport Operations budget.
2. The submission of an application to the Regional Economic Development Grant Scheme Round Four for \$135,000 to be matched by the City for the construction of a general aviation hangar for the purposes of entering into a commercial lease with an aviation maintenance and servicing operator.

**EXECUTIVE SUMMARY**

This report provides an update on the business development activities for the Busselton Margaret River Airport (BMRA) and outlines the proposed activities over the coming months to capitalise on the potential aviation and economic opportunities and benefits the BMRA can provide to the region.

## BACKGROUND

The City of Busselton's Economic Development Strategy identifies the development of aviation related industries as an emerging industry base and as an opportunity to diversify the region's economy. The City's aim is to encourage and attract investment in the Busselton Margaret River Region through the aviation industry as it will provide employment benefits, attract additional investment and trade for local suppliers, and influence decisions of other businesses to relocate or set up in the region.

One of the key aims of the BMRA business unit is to develop the BMRA as a hub for air services by encouraging new competitors to operate from the BMRA, including airlines, freight services, charters and fly in fly out operations, and by stimulating new air routes to new destinations.

In December 2020, officers presented a report to Council outlining the key business development activities for the BMRA which included the below activities, with the priority focus on BMRA interstate route development (Sydney services) and progression of the industrial and commercial precinct to attract investment:

Product/Service	Description	Actions	Timeline	Revised Timeline
<b>BMRA Route Development</b>	<ul style="list-style-type: none"> <li>Interstate RPT domestic services (Melbourne, Sydney, Brisbane)</li> <li>Intrastate FIFO closed charter operations</li> <li>Intrastate RPT domestic services (Port Hedland, Karratha, Broome, Newman)</li> <li>International RPT services (Singapore)</li> </ul>	<ul style="list-style-type: none"> <li>Develop business case for Sydney and Singapore services with State Government (TWA)</li> <li>Continue to promote the BMRA as a FIFO regional base to mining /resource sector (Rio Tinto, BHP, FMG, CME)</li> <li>Negotiations with airlines</li> <li>Federal Govt approvals (Home Affairs, Border Force)</li> </ul>	2021	2021/2022
<b>Alternate landing Site</b>	<ul style="list-style-type: none"> <li>Alternate airport for international airlines to Perth Airport in the event of inclement weather and/or closure</li> <li>Business analysis to provide the service including airline pricing structure, aircraft infrastructure and aviation firefighting and rescue services</li> </ul>	<ul style="list-style-type: none"> <li>Quantify the requirements and costings for the City to provide a full alternate landing site facility</li> <li>Prepare an appropriate pricing structure for charging international airlines for using BMRA</li> </ul>	Dec 2020 – January 2021	Re-engage April 2022

Product/Service	Description	Actions	Timeline	Revised Timeline
<b>General Aviation</b>  34 lots Code B	<ul style="list-style-type: none"> <li>Various sizes, with capacity to combine land lots</li> <li>Fully serviced lots for lease with Code B apron access</li> <li>GA focus</li> </ul>	<ul style="list-style-type: none"> <li>Option 1 - advertise and market lease opportunities</li> <li>Option 2 - prepare business case for Council to lease developed hangar lots (City construct hangars)</li> <li>Option 3 - enter into a partnership with developer/investor to build and lease hangar lots</li> </ul>	2021 (Q2)	EOI – Completed August 2021  RFQ to Construct 2x GA Hangars – Nov 2021  Lease execution ~ May 2022
<b>General Aviation</b>  1 x Code C lot	<ul style="list-style-type: none"> <li>Fully serviced</li> <li>Size: 3840m<sup>2</sup> each</li> <li>Suit aircraft maintenance / servicing / freight / smaller RPT operations</li> </ul>	<ul style="list-style-type: none"> <li>Advertise commercial lease opportunity, including domestic freight, private charter operations or RPT operations (GA aircraft &lt; 30,000kgs)</li> </ul>	2021 (Q2)	2022 (Q2)
<b>Commercial &amp; Industrial precinct</b> 4 land lots	<ul style="list-style-type: none"> <li>Fully serviced land lots for lease</li> <li>Size: 4864m<sup>2</sup> each</li> <li>Direct runway access</li> <li>Dedicated airfreight focus for lease by commercial aviation and support businesses</li> </ul>	<ul style="list-style-type: none"> <li>Option 1 - City advertise and market commercial lease opportunities intrastate and nationally</li> <li>Option 2 – City enter into commercial arrangement on long term lease basis with private developer/investor</li> <li>Option 3 - Approach Airport North Developer and negotiate commercial arrangement for external management of precinct</li> <li>Option 4 - Offer land lots for sale, either individually or as a precinct</li> </ul>	2021 (Q1 – Q2)	Advertise/market RFP: Phase 1 & 2a, November 2021 – January 2022
<b>Commercial &amp; Industrial precinct</b>	<ul style="list-style-type: none"> <li>Remaining 15ha undeveloped land – RFP Commercial &amp; Industrial Opportunities</li> </ul>			

Product/Service	Description	Actions	Timeline	Revised Timeline
<b>Advertising</b>	<ul style="list-style-type: none"> <li>Electronic screens in the terminal / arrivals hall</li> <li>Static posters located in the terminal</li> <li>Fences and benches within carparks</li> <li>Billboard (Neville Hyder Drive)</li> </ul>	<ul style="list-style-type: none"> <li>Electronic screen is available - advertising to be completed</li> <li>Static poster boards to be installed early 2021 – advertising to be completed</li> <li>Following commencement RPT services, landside advertising opportunities (car parks, benches etc.) to be completed</li> </ul>	2020/21 (Q1)	Ongoing
<b>Landside commercial opportunities</b>	<ul style="list-style-type: none"> <li>Airport Café/kiosk</li> <li>Retail / tourism products</li> <li>Car valeting and storage</li> <li>Fuel station</li> <li>Hotel / short stay accommodation</li> </ul>	<ul style="list-style-type: none"> <li>BMRA café /kiosk license in negotiations now</li> <li>Retail / tourism product once RPT operations commence (small scale), dependent on new terminal</li> <li>Car valeting and storage once RPT operations have commenced</li> <li>Long term opportunities - Fuel stations and hotel sites</li> </ul>	2021  2022  + 2025	Licence in place  2022 (Q1)  2022 (Q2-Q3)  + 2025

As detailed in this report, the aviation industry has been significantly affected by the COVID-19 pandemic, making the above activities difficult to achieve in the originally specified timeframe. As such, timeframes have been revised as outlined in the above table.

This report outlines the progress on the above activities and proposed next steps.

#### OFFICER COMMENT

Officers have been working with airlines and mining companies over the past twelve months to facilitate the changes in operations due to COVID-19 requirements and to increase fly in fly closed charter services. As a result there are 40 closed charter aircraft movements (20 flights) per week operating from the BMRA, made up of 28 operated by Virgin Australia for Rio Tinto, four by Qantas Group for FMG, four by Alliance Airlines for BHP and four by Maroomba Airlines for Northern Star Resources.

Direct Jetstar RPT services between Melbourne and Busselton have been further delayed to mid-February 2022 due to the continued COVID-19 imposed border restrictions. Despite the delay, the BMRA had a total of 3,267 aircraft landings in 2020/21, an increase of 690 landings for the same period in 2019/20 and record number of passengers with 40,469 passengers in 2020/21 compared to 26,496 passengers for 2019/2020.



### BMRA Interstate Domestic Route Development

In early 2021, the City engaged an aviation consultant to complete airline route analysis and prepare business cases for Sydney and Brisbane services to present to airlines. The analysis showed that both Sydney and Brisbane routes were commercially sustainable with Sydney services indicating positive yields from 2021. Officers in conjunction with Tourism WA approached airlines and discussed informally a new Sydney – Busselton route. Given the impacts on the aviation industry resulting from the COVID-19 pandemic, it was agreed by all parties to delay negotiations until domestic travel has been restored and the Busselton-Melbourne services have commenced. Officers will continue to liaise with airlines and stakeholders on potential new domestic routes over the next twelve months.

### Alternate Landing Site (ALS)

On 1 March 2019, the City received confirmation that BMRA was designated as an alternate international airport by the Department of Infrastructure, Regional Development and Cities. Prior to COVID-19 and restrictions to international travel, the City had received enquiries from numerous international airlines interested in nominating BMRA as an international alternate airport. In discussions with international airlines, officers identified a potential commercial opportunity to share in the financial savings made by international airlines if they were to nominate BMRA as an alternate to Perth Airport. In the event of Perth Airport being unavailable to airlines, aircraft could divert, park and refuel at BMRA and continue onto their destination once available.

Aviation Projects has been engaged to further assess the opportunity of BMRA being designated an alternate international airport with selected international airlines. While feedback from airlines to date has been positive, the current environment as a result of the COVID-19 pandemic is proving difficult to proceed with detailed discussions on the opportunity. Staffing numbers across all airlines have reduced and personnel are often changing roles meaning previous dialogue undertaken is continuously being undertaken with newly appointed personnel. In addition to this, it is uncertain when international borders will reopen. Based on this it is recommended that discussions are placed on hold for 6-12 months until the industry has more certainty on its future and more meaningful discussions can be held.

### Industrial and Commercial Precinct

In the past two years, the City has been approached by a number of private investment / fund managers in regards to joint venture (JV) or partnership opportunities for the BMRA. To date, discussions have been high level and relate to the type of investment partnerships that the City can legally enter into. However, this has highlighted potential opportunities to progress the development of the industrial and commercial precinct with a key goal to create investment and economic activity for the BMRA, and more broadly the region.

The BMRA Master Plan (2016-2036) identifies approximately 20 hectares of available land for aviation related industrial and commercial development. However, industrial/commercial land development is a specialised area that the City does not have deep knowledge or experience in. To ensure the City is able to maximise the commercial opportunities for the BMRA, officers engaged a consultant experienced in urban planning, design, property and retail economics to prepare a Request for Proposal (RFP) document to market and advertise BMRA industrial and commercial opportunities. The RFP document has now been completed and officers have prepared a communications plan to detail the marketing and advertising activities to market the commercial opportunities.

The table below provides a summary of the activities proposed:

	Action	Medium	Timeline	Costs
Phase 1	City to use existing contacts to advertise/market the RFP	SWDC; RDA; Industry & Aviation stakeholders; VendorPanel; Print media	4 weeks	Minimum \$ for print media advertising; Staff time
Phase 2a	City to advertise through industry specific media – no agents	e.g. Urban Developer The Industrialist	4 weeks	Website from \$2,000/month - \$4,000/month EDM from \$3,000/month - \$4,500/month Editorial from \$1,500 - \$4,000
Phase 2b	Advertise through agents	Commercial, Property, real estate websites	4 weeks	TBC – dependent on membership / agent costs
Phase3	COB engage an agent to complete, either: - Market sourcing exercise - Market advertising	Colliers; CBRE; Savills; KnightFrank	Based on scope	\$20K-\$30K market sourcing exercise \$50K+ Public Advertising campaign
Phase 4	Conduct market demand analysis report with recommendations	Consultant	Based on scope	\$50K+

In the absence of completing a market demand analysis to determine the current market supply and demand for aviation related commercial land, officers propose that phase 1 and 2a be undertaken to gauge the level of market interest. The costs associated with phases 1 and 2a are not expected to exceed \$12,000. This approach minimises the costs while exploring any potential development and lease opportunities. Depending on the level of interest received from the RFP, further phases could be considered.

#### General Aviation (GA) Precinct – Code B

On 12 May 2021 Council endorsed (C2105/092), subject to an expression of interest (EoI), the construction of up to three general aviation hangars at the BMRA and the allocation of \$210,000 for the construction of the hangars, to be funded from the Airport Infrastructure Renewal Reserve.

Officers advertised the EoI for constructed hangar leases in the new GA precinct in August 2021 for three weeks. Only one submission was received and officers have met with the proponent to confirm their level of interest in entering into a lease. Officers have since liaised with a local shed builder and been advised that the costs of the hangars are likely to have increased by approximately 30% since seeking quotes in April this year, and that also delivery times for materials can be up to six months. As a result, officers will issue a Request for Quotation (RFQ) for the supply and construction of two general aviation hangars this calendar year. Officers are proposing the construction of two hangars, with one to be leased following a submission from the EOI and the second available as a short term hire arrangement or for any new lease enquiries.

The EoI advertising has however generated a number of enquiries for the leasing of larger hangars and/or ground leases which officers are progressing. One concern that has been raised with potential lessees building their own hangars is the lease term of up to 20 years, with lessees requesting terms of up to 30 and 40 years. Despite the City owning the airport land in freehold, the City is not able to enter into leases for longer than 20 years without approval from the WA Planning Commission. As such, officers have met with the Department of Planning to investigate the processes and approvals to achieve this.

The City has also been liaising with a helicopter operator wanting to establish a helicopter maintenance and servicing business and once established, helicopter tourism flights. The operator, who would like to proceed this financial year, would consider building their own hangar however requires the lease term to be a minimum of 30 years to ensure a return on investment. Securing such an operator would be considered a great opportunity for the BMRA as this would attract aviation activity, provide job opportunities and economic benefits for the City of Busselton. To facilitate this, officers are proposing that the City submit an application to Regional Economic Development (REDs) Grants scheme round four for up to \$135,000 with the City of Busselton contributing a matching contribution of \$135,000 to build a hangar of approximately 500sqm. Once built, the hangar would be leased out at a commercial rate. If the City was to be successful with a REDs grant application to build the hangar, officers propose the remaining unspent budgeted funds for the construction GA hangars, estimated to be approximately \$50,000, be allocated towards the City's matching contribution of \$135,000 with the remaining \$85,000 being funded from the Airport Infrastructure Reserve. This however will be subject to a separate Council report should the City be successful in obtaining REDs funding and if the City is not successful then the Council will need to consider, along with the benefits and cost implications, if the City should fund the total cost of constructing a hangar.

#### General Aviation Precinct – Code C

As part of the Airport Development Project, two 50mx50m serviced hangar lease areas with Code 4C apron access were developed. Since this time, the City has utilised one of the hangar lots for the construction of the new Arrivals Hall. The remaining lease area has potential to host commercial operators for RPT aircraft freight operations, private charter or smaller RPT operations (aircraft less than 30,000kgs MTOW), and aircraft servicing or maintenance services. However in the current environment it is difficult to secure investment, especially with no RPT services operating. Officers therefore propose to hold off on formally advertising this commercial opportunity nationally until RPT services are operating and, in the meantime, will undertake more passive, low cost marketing activities.

#### Landside Commercial Opportunities

##### ***Terminal Advertising***

The terminal expansion works completed in March 2020 in preparation for the Jetstar Melbourne - Busselton flights included the installation of an electronic advertising screen and static light boxes in the new Arrivals Hall. Currently the Arrivals Hall is utilised for arriving FIFO passengers. An EoI was advertised for advertising opportunities with five businesses taking up advertising space on the electronic screen and one business operator advertising on each of the static light boxes. Advertising is booked on a three monthly basis with bookings secured for the next quarter. Interest and take up is expected to increase once RPT services have commenced.

##### ***Terminal Concessions and Retail***

A licence was issued for the BMRA café/kiosk located in the Terminal building in late 2020 and has been operating for the FIFO closed charter flights on Tuesday, Wednesday and Thursday mornings. Once RPT services commence, the operator will increase their opening hours to cater for the Jetstar flights as well as FIFO.

***Transport Providers***

Officers have been liaising with transport providers such as car hire companies, coach, shuttle and mini-bus operators and private chauffeur and limousine operators since March 2020 and will re-engage in early 2022 for the commencement of RPT services.

**Statutory Environment**

The BMRA operates in accordance with the following:

- *Aviation Transport Security Act 2004*
- *Aviation Transport Security Regulations 2005*
- CASA Manual of Standards 139
- Council's Transport Security Plan
- City policies and procedures

**Relevant Plans and Policies**

There are no relevant plans or policies to consider in relation to this matter.

**Financial Implications**

The adopted 2021/22 Airport Operations Budget has an allocation of \$50,000 for consultancy based activities. To date, there has been no consultancy expenditure. While there are activities that will draw on the consultancy budget throughout the year, there will be sufficient funds to cover the costs associated with phases 1 and 2a to market and advertise the commercial and industrial RFP opportunities to a maximum value of \$12,000.

The adopted 2021/22 budget has an allocation of \$210,000 towards the construction of GA hangars. The proposal to construct two hangars as a result of a successful EoI process will be funded from this budget allocation.

The proposal to build a hangar for an aviation maintenance and servicing operator is dependent on the City applying and being successful in a REDs grant. If successful the City would be required to match the grant funding contribution of \$135,000 which could be part funded from unspent funds allocated towards the construction of GA hangars and funding from the Airport Infrastructure Reserve. If the City is successful in a REDs grant this would require Council consideration through a budget amendment report.

There are no other direct financial implications associated with the officer recommendations in this report.

**Stakeholder Consultation**

Officers have consulted with the relevant stakeholders in regards to this report, including Airlines, Tourism WA, Margaret River Busselton Tourism Association, Australia South West, aircraft operators and owners and commercial / investment developers.

**Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

**Options**

As an alternative to the proposed recommendation, the Council could:

1. Not support business development activities for the BMRA and choose to do nothing.
2. Propose alternative priorities for BMRA Business Development activities for any or all recommendations.

**CONCLUSION**

Significant commercial opportunities now exist at the BMRA as a result of the completion of the airside and landside developments. Unfortunately, due to the COVID-19 pandemic, commercial investment opportunities have slowed and have been difficult for officers to progress and secure. As the COVID-19 restrictions begin to lift within Australia and the aviation industry begins its recovery as airlines recommence operations, there will be potential for officers to market and attract various commercial and investment opportunities at the BMRA.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

If supported, officers will commence marketing and advertising of the commercial and industrial RFP immediately to maximise the commercial opportunities as the aviation industry begins to reopen and both domestic and international operations commence. The request for quotations for the general aviation hangars will be issued before the end of October and if supported, a REDs application will be submitted by 21 October 2021.

13.1 WALGA ENERGY SUSTAINABILITY AND RENEWABLES PROJECT

<b>STRATEGIC THEME</b>	ENVIRONMENT - An environment that is valued, conserved and able to be enjoyed by current and future generations.
<b>STRATEGIC PRIORITY</b>	1.6 Promote and facilitate environmentally responsible practices.
<b>SUBJECT INDEX</b>	Energy Management
<b>BUSINESS UNIT</b>	Environmental Services
<b>REPORTING OFFICER</b>	Senior Sustainability/Environment Officer - Mathilde Breton Contracts and Tendering Officer - Lucinda McLeod Manager Legal and Property Services - Ben Whitehill
<b>AUTHORISING OFFICER</b>	Director, Planning and Development Services - Paul Needham
<b>NATURE OF DECISION</b>	Contractual: To enter into a contract e.g. a lease or the award of a tender etc.
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Published Under Separate Cover Confidential Energy Framework Offer Document - City of Busselton

The officer recommendation was moved and carried.

**COUNCIL DECISION****C2111/085**

Moved Councillor P Carter, seconded Councillor A Ryan

**That the Council:**

- 1. Endorses the City's participation in the Western Australian Local Government Association (WALGA) Energy Sustainability and Renewables Energy project;**
- 2. Accept WALGA's offer and authorise the CEO to enter into an Electricity Supply Agreement with Electricity Generation and Retail Corporation trading as Synergy for the period commencing 1 April 2022 and ending 31 March 2025 on the basis of accepting an unbundled price structure and 100% NaturalPower.**

**CARRIED 8/0****EN BLOC****OFFICER RECOMMENDATION****That the Council:**

- 1. Endorses the City's participation in the Western Australian Local Government Association (WALGA) Energy Sustainability and Renewables Energy project;**
- 2. Accept WALGA's offer and authorise the CEO to enter into an Electricity Supply Agreement with Electricity Generation and Retail Corporation trading as Synergy for the period commencing 1 April 2022 and ending 31 March 2025 on the basis of accepting an unbundled price structure and 100% NaturalPower.**

**EXECUTIVE SUMMARY**

The City has the opportunity to purchase electricity for its contestable sites as part of an aggregated electricity procurement process undertaken by the Western Australian Local Government Association (WALGA) on behalf of WA local governments.

This report recommends that the City joins the WALGA Energy Sustainability and Renewables project and selects the unbundled rate with 100% renewable energy provided by Electricity Generation and Retail Corporation trading as Synergy. The recommendation is likely to assist the City in reducing its energy costs and meeting its renewable energy and emission reduction targets.

## BACKGROUND

Electricity supplied to metered sites with an annual load greater than 50,000 kWh can be taken to the market as “contestable supply” under the *Electricity (Licencing) Regulations 1991*. Currently, the City has 16 contestable sites with a combined annual electricity cost of \$489,782 in 2020/21. The City currently purchases its contestable electricity under a WALGA preferred supplier arrangement, with the current two year contract with Perth Energy set to expire in April 2022.

The *City of Busselton Energy Strategy*, endorsed by Council (C1912/254), has committed to reducing the City’s per capita greenhouse gas emissions by 50% and to generate 100% of the City’s electricity needs from renewable sources by 2030. It should be noted that electricity consumption is only one contributor to the City’s greenhouse gas emissions, with other significant contributions arising from landfill gas emissions, use of the City’s plant and fleet, and gas consumption.

Recognising the challenges faced by most local governments of increasing energy costs and community desires to reducing their carbon footprint, WALGA developed the Energy Sustainability and Renewables project.

Through this project, WALGA intends to procure and implement a State-wide energy procurement structure for the local government sector, which aims to assist in achieving renewable energy policy targets and reduce the cost of renewable electricity, standard electricity, gas, and carbon offsets.

WALGA’s Energy Sustainability and Renewables project has the following objectives:

1. Enhance access to and development of renewable energy for WA Local Governments thereby driving positive climate change outcomes;
2. Diversify supply options and application of new technology; and
3. Leverage the best price outcomes for Local Government supply.

In general terms the phasing of this project is as follows:

Phase 1: Contestable energy supply and renewable energy options

Phase 2: Load shifting, minimising cost (i.e. energy management systems, contestability assessments, understanding emissions, non-contestable supply investigation (including streetlights), preparation for carbon offset integration and preparation for a PPA

Phase 3: Long Term PPA

Phase 4: Carbon management, integrated technologies

Phase 5: Sustainable Fleet Transition and Sustainable Infrastructure Technologies

Phase 6: Offsetting

Phase 7: Large-scale Local Government Sustainability projects

The first phase of the project focuses on the aggregation of contestable energy and supply of renewable energy options. This is the focus of this report.

The City submitted an expression of interest to participate in the project in December 2020 and provided its contestable electricity loads to WALGA in January 2021 to feed into an indicative pricing process. A total of 51 Local Governments expressed interest in participating in the project.

In August 2021, WALGA undertook a formal Request for Tender (RFT) for the procurement of contestable energy with renewable options. Through that process, Synergy has been selected as the preferred supplier subject to contracting, satisfaction of minor variations and the minimum thresholds of local government participation reached. Terms of the offer are included as Attachment A (confidential) and discussed under Officer Comment, below.

The offer has a strict validity period for acceptance (18 November 2021) and is contingent on a collective minimum scaled volume of 60 gigawatt hours across a three-year term for electricity. WALGA estimates that, if fully adopted, the project will deliver collective savings of \$5 million a year and the single largest reduction in carbon footprint for the local government sector.

#### **OFFICER COMMENT**

The City will spend approximately \$500,000 and generate 1,653 tonnes of carbon emissions per annum for the supply of electricity to its contestable sites in 2020/21. Additional electricity is consumed by non-contestable sites (approximately \$330,000 in 2020/21) provided by Synergy and \$893,000 on street-lighting owned by Western Power, which are deemed non-contestable and include combined supply and maintenance costs (i.e. only a portion of the street-lighting cost is attributable to energy consumption). The WALGA Energy Sustainability and Renewables project provides the opportunity to reduce energy costs while assisting the City in reducing its carbon emissions.

Identified benefits of an aggregated electricity purchase arrangement include:

1. Cost savings on the City's current supply rates;
2. A reduction in price for renewable energy;
3. Contractual protection from future price increases;
4. The ability to remove take or pay risks as the consumption obligation is absorbed by the aggregate load (this is a provision in our existing contract to apply penalties if a minimum electricity consumption is not met. This can be an issue when large energy efficiency or rooftop solar projects are implemented); and
5. Cost savings (staff salary and consultant costs) compared to running our own contestable electricity procurement process.

In a nutshell, the City has the following choices to make:

1. Whether to participate or not in the WALGA Energy Sustainability and Renewables project;
2. What type of rate to subscribe to (bundled or unbundled); and
3. Whether to purchase NaturalPower.

Further information on each of these considerations is provided below.

#### ***1. Participation in the WALGA Energy Sustainability and Renewables Project***

The City can decide to participate or not participate in the WALGA Energy Sustainability and Renewables project.

The pricing provided by Synergy as part of the WALGA project provides a reduction in energy costs for the City based on existing rates and 2020/21 energy use. However, there is no guarantee that better pricing could not be obtained if the City was to run a procurement process for contestable electricity supply at the end of its existing electricity contract in April 2022.



To mitigate the risks, WALGA provided benchmarking rates from Synergy or Alinta outside of this project and the City obtained pricing from Perth Energy.

A summary of the WALGA pricing and benchmark pricing is provided in the table below.

Product	Year 1	Year 2	Year 3
<b>Current pricing (Perth Energy)</b>	<b>\$489,782</b>		
<b>WALGA Synergy Bundled</b>	\$490,308	\$490,308	\$490,308
<b>WALGA Synergy Unbundled (Low Point)</b>	\$457,777	\$463,439	\$461,663
<b>WALGA Synergy Unbundled (High Point)</b>	\$568,773	\$574,435	\$572,659
<b>WALGA 100% NaturalPower (Additional Cost)</b>	\$71,920	\$62,330	\$53,460
<b>Synergy (Benchmark Pricing)</b>	\$495,297		
<b>Alinta (Benchmark Pricing)</b>	\$502,282		
<b>Perth Energy (Benchmark Pricing)</b>	\$521,767		

Note, all estimates are to the nearest dollar and based on 2020/21 electricity use at the City's contestable sites with total annual consumption of 2,397,321 kWh, may be subject to State mandated changes. Current and benchmark pricing is not available for years 2 and 3.

It is also important to note that failure to join Phase 1 of the WALGA project may exclude the City from participating and benefiting from subsequent phases. For example, a future stage may allow the City to convert existing non-contestable sites to contestable and hence benefit from more competitive pricing.

Notwithstanding the above, the City may wish to continue purchasing contestable electricity through WALGA Electricity Supply Preferred Supplier Arrangement, which remains valid until June 2022. There will be additional operational costs in managing a Request for Quotation process. The City may also be required to undertake a tender process for purchasing electricity post 2024, as it is unlikely WALGA will continue maintaining the current Electricity Preferred Supplier Panel.

It is noted that projecting electricity costs beyond a relatively short period can be difficult, for example new facilities can be built, usage patterns may vary or contestable sites can be added. Weather can also be a significant factor. Having said this, officers consider it unlikely that the City will achieve substantially cheaper rates outside of the WALGA offer.

The offer has a strict validity period for acceptance and is contingent on a collective minimum scaled volume across the sector of 60 Gigawatt hours across a three-year term for electricity. The renewable component is also contingent on a minimum volume being achieved in each contract year. Due to market pricing processes and vesting arrangements, no extensions can be sought, and if WALGA is not able to accept this offer due to a lack of collective participation levels then it will lapse. The renewable component is also contingent on a minimum volume being achieved on each contract year.

Officers are recommending participation in the WALGA Energy Sustainability and Renewables project because it offers:

1. cheaper prices for renewable energy;
2. contractual protection from future price increases; and
3. savings (staff salary and consultant costs) compared to running our own contestable electricity procurement process.

## **2. Electricity Rates (bundled or unbundled)**

If the City decides to participate in the WALGA Energy Sustainability and Renewables project, the following two electricity rate structures are available:

### ***Option 1: Bundled rates (specific to City of Busselton)***

The City's current electricity contract provides for bundled rates. It is the simplest and safest option, by providing greatest certainty with regards to electricity costs. A fixed rate is provided inclusive of energy costs and other non-commodity prices. The rate is only amended for other minor government mandated cost increases. The table below estimates additional costs compared to existing rates that may be achieved on the bundled rate provided as part of the WALGA project for the duration of the three-year contract (based on 2020/21 electricity use).

The difference is negligible with estimated costs at approximately an additional \$500 per annum compared to current contract prices. More detailed analysis, included Synergy rates are included in the Offer Document listed as confidential attachment.

### ***Option 2: Unbundled rates***

Unbundled pricing separates the price into energy, network, capacity, and other charges. Using unbundled pricing, energy suppliers can pass through regulated cost components over which they have no control. In this manner, they can offer customers a more competitive rate based on the cost components that they have control over, which are energy costs. Non-commodity costs typically represent 60%-70% of invoice charges.

Unbundled rates usually allow consumers that actively manage their energy use to reduce an additional component of their energy bills and realise cost saving. The primary principle is by managing electricity use at key facilities during the peak trading intervals to benefit from lower energy costs.

The Peak Trading Intervals are determined by the Australian Energy Market Operator (AEMO) which identifies the 12 trading intervals (half hourly periods) for the preceding capacity year based on the four days that had the highest demand for electricity in the South West Interconnected System (SWIS) between 1 December and 31 March. Peak Trading Intervals are usually on a week day and in the late afternoon when rooftop solar production starts to decline. Synergy provides advanced notice to its unbundled customers as to when Peak Trading Intervals are likely to be enacted, giving them the opportunity to modify their operations and reduce energy use.

WALGA has provided a benchmarking range for non-commodity costs to allow Local Governments to estimate total electricity costs. The range spans between 13.692c/kWh at the lower end to 18.322c/kWh at the highest end. The more the City actively manage its electricity use at its key facilities such as the Geographe Leisure Centre and the City's Administration Building, the more it will reduce its electricity costs. Even small changes can lead to significant savings.

On average, it is estimated a 10% reduction in electricity consumption during Peak Trading Intervals will result in a 3% reduction on total energy costs. Some of the measures that could be implemented may include temporarily increasing the temperature of the HVAC at the GLC or Administration Building or powering down some of the non-essential mechanical services like pumps (note that the GLC represents approximately 50% of total energy use at the City's contestable sites, and would be expected to represent over 50% during most Peak Trading Intervals). WALGA has indicated that it will provide support to its members to identify where and how Local Governments can reduce their median peak load. Having milder summer weather than Perth will also assist the City in reducing its capacity charges.

The first stage of the WALGA project is a three-year contract for the supply of energy, combined with the option to purchase renewable energy. One of the objectives of this first stage is to get all Local Governments more familiar with operating on an unbundled rate and the associated additional requirements to manage its electricity use with a view to developing a 10-year Power Purchase Agreement which is likely to deliver greater cost savings and more tangible renewable energy outcomes for participants. By selecting the unbundled rate, the City would build its capacity for the future energy market.

WALGA recommends selecting an unbundled rate to achieve greater financial savings and building whole-of-sector capacity for a future 10-year PPA.

The table below estimates financial savings that may be achieved on the unbundled rate provided as part of the WALGA project for the duration of the three-year contract (based on 2020/21 electricity use). Estimates have been provided using a low and high benchmarking for non-commodity costs. The advice provided by WALGA is that the City is likely to be at the lower end of the range.

	Year 1	Year 2	Year 3
Unbundled rate savings (low point projections)	\$32,005	\$26,343	\$28,119
Unbundled rate savings (high point projections)	-\$78,991	-\$84,653	-\$82,877

Officers are recommending that Council adopt the unbundled rate for the following reasons:

1. it offers the greatest potential savings if energy use is managed; and
2. future stages of the WALGA Energy Sustainability and Renewables project (the 10-year Power Purchase Agreement) will require an unbundled price so the City will need to become familiar with this method of electricity pricing.

### **3. Renewable energy**

As part of this project, the City also has the option to purchase 'NaturalPower' from Synergy, which is a form of green power that specifically sources Large Generation Certificates (LGCs) from WA renewable energy sources connected to the South West Interconnected System – namely the Albany, Collgar and Emu Downs wind farms. The City has the option to purchase renewable energy in increments of 25% up to 100% in year 1, 2 or 3.

Based on 2020/21 energy use, purchasing 100% renewable energy is projected to result in the following additional costs:

	Year 1	Year 2	Year 3
Renewable energy cost	\$79,920	\$62,330	\$53,460

By purchasing 100% renewable energy for its contestable sites, the City (and other participants to this project) will contribute to sending a message to the market to speed up the transition to renewable energy by increasing the demand for locally produced LGCs. While the City's energy targets have a 2030 year, it will take a number of years for the market to invest in renewable infrastructure. The total costs of 'NaturalPower' represents an increase of approximately 12-16% in year 1 falling to 9-12% in year 3.

The purchase of 'NaturalPower' at an additional cost of approximately \$62,571 (averaged over 3 years), will result in the carbon emissions attributable to the City's energy use decreasing by 1653 tonnes at an average cost of \$38 per tonne. This is higher than \$20/tonne of carbon offset but it is preferable to support the production of renewable energy locally rather than fund the planting of trees to capture the emissions produced by burning fossil fuels. It will also mean the City would source approximately 46% of its electricity requirements from renewable energy (with an additional 35% coming from streetlighting and 19% from non-contestable sites).

With the potential solar farm project at Lot 27 Rendezvous Road having recently being put on hold, this provides a cost effective and achievable mechanism to work towards the City's 100% renewable energy target. The key reason that project has been put on hold is because of the current grid network arrangements, and the success of the City's rollout of rooftop solar, which has reduced the City's consumption of energy from the grid at the times when the solar farm would be generating energy. A number of opportunities to add further rooftop solar capacity have with high rates of financial return have, however, been identified, and it is envisaged those opportunities will be pursued in the next few years.

The renewable energy market is experiencing a steady increase in competition due to an increasing number of companies and organisations setting net-zero emissions. This is likely to result in an increase in prices in the near future as demand for LGCs outstrip supply. By selecting 'NaturalPower' now, the City can secure reduced prices as per Synergy's offer.

Officers are recommending that Council adopt the 100% NaturalPower option for contestable sites which is consistent with the objectives of the Council endorsed Energy Strategy (2019) and Climate Change Policy (2020).

### **Statutory Environment**

The West Australian Wholesale Energy Market (WEM) is established under the *Electricity Industry Act 2004*. Electricity supplied to metered sites with an annual load greater than 50,000 kWh can be taken to the market as "contestable supply" under the *Electricity (Licencing) Regulations 1991*.

Large Scale Certificates (LGCs) for the production of accredited renewable energy are generated and traded as per the *Renewable Energy (Electricity) Act 2000*.

The *Local Government (Functions and General) Regulations 1996* (LG Regulations) requires a local government to publicly invite tenders where the consideration for the supply of the relevant goods or services is likely to exceed \$250,000, unless an exemption under LG Regulation 11(2) applies. In terms of LG Regulation 11(2)(b) tenders do not have to be publicly invited if the supply of the goods or services are to be obtained through the WALGA Preferred Supplier Program.

The consideration for the supply of electricity to the City's contestable sites over the proposed three year term of the contract will exceed \$250,000. However as the procurement has been undertaken in accordance with the WALGA Preferred Supplier Program an exemption under LG Regulation 11(2)(b) applies.

The Australian Competition and Consumer Commission (ACCC) has granted an authorisation (ACCC Determination AA1000562 granted 26 August 2021) to WALGA to enable local governments who are current and future members of a proposed joint renewable energy purchasing group to pool their demand and collectively tender for and negotiate an electricity supply arrangement.

### **Relevant Plans and Policies**

The officer recommendation aligns to the following adopted plans and policies:

#### ***City of Busselton Energy Strategy (2019)***

The City's Energy Strategy, endorsed by Council in December 2019, outlines the City's approach and commitments to reducing energy use and increasing the uptake of renewable energies.

The Energy Strategy contains the targets of generating 100% of the City of Busselton electricity needs from renewable sources by 2030 and reducing corporate carbon emissions per capita to 50% on 2017/18 levels by 2030.

Selecting to purchase 100% NaturalPower for contestable sites as part of this project would assist the City in achieving its Energy Strategy targets. Contestable electricity represents 46% of the City's total electricity supply.

#### ***Climate Change Policy (2020)***

Electricity-related greenhouse gas emissions are a key component of the City's total greenhouse gas emissions. By electing to purchase 100% NaturalPower for its contestable sites, the City will be contributing to the driving of additional investment in the local production of renewable energy.

### **Financial Implications**

The City spent \$489,782 last financial year for purchasing electricity at its 16 contestable sites. By entering into the WALGA energy offer (unbundled rates), it is estimated the City will achieve a saving of up to \$32,005 in the first year of the contract if at the lower end of non-commodity costs or spend up to an additional \$78,991 if at the higher end of non-commodity costs. Customers that are located remotely and use electricity intermittently are more likely to pay higher non-commodity costs. WALGA advised that the City is likely to be at the lower end of the non-commodity price range.

The City is required to pay a premium to access renewable energy for its contestable sites. Based on 2020/21 electricity use, it is estimated the City will have to pay an additional \$71,920 in year 1, dropping to \$62,330 in year 2 and \$53,460 in year 3. Savings that may be achieved by going unbundled could offset some of the additional cost of NaturalPower.

It is important to note that potential savings and additional costs outlined in this report have been estimated using energy used by the City at its 16 contestable sites during 2020/21. Should the City increase its energy use through additional visitation at its facilities, extensions and/or construction of additional facilities, the cost predictions will vary accordingly. Total costs will also vary based on energy charges as set by the market and if going unbundled, how much the City is able to manage its energy use. The weather can also have significant impact on energy consumption and therefore cost.

The increased cost of electricity can be accommodated within the existing 2021/22 budget (noting that there are inherent uncertainties associated with energy costs, and that only approximately two months of 21/22 energy consumption would be under the proposed arrangements) and future costs and/or savings will be taken into consideration during drafting of the budget for the financial years 2022/23, 2023/24 and 2024/25.

### **Stakeholder Consultation**

The Sustainability and Energy Working Group provided in principle support for the City to participate in the project at its meeting on 28 June 2021. They did not get the opportunity to review the outcomes of the RFQ process prior to this report being drafted due to the short timeline for implementation.

No external stakeholder consultation was required or undertaken in relation to this matter.

### **Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. The following risks have been identified:

Participating in the WALGA Energy Sustainability and Renewable Project			
<b>Risk Category</b>	<b>Risk Consequence</b>	<b>Likelihood of Consequence</b>	<b>Risk Level</b>
Financial	Minor	Unlikely	Low

There is low financial risk as per the City's Risk Management Framework that purchasing contestable electricity through the WALGA project will result in higher costs than if the City had continued to purchase electricity through the existing WALGA Preferred Supplier Arrangement or through a separate tender process. An aggregated procurement process is likely to attract lower energy prices, especially for a trading commodity like electricity. To further mitigate the risks, three benchmarking offers have been sought, two by WALGA and one independently by the City from our current contestable electricity supplier. All three offers provide higher electricity prices than the WALGA project (except the high point projections of the unbundled rate).

Selecting the unbundled price structure.			
<b>Risk Category</b>	<b>Risk Consequence</b>	<b>Likelihood of Consequence</b>	<b>Risk Level</b>
Financial	Minor	Unlikely	Low
Reputation	Minor	Unlikely	Low

There is a low financial risk that the City may pay more for electricity than it is currently paying if energy use at large facilities such as the Geographe Leisure Centre are not managed during the Peak Trading Intervals. Procedures will be developed and put in place for facilities managers to implement.

There is also a minor reputational risk if some of the operational changes associated with reducing energy use during the Peak Trading Intervals negatively impact some facility users. Where possible, only equipment with minor impacts will be switched off or turned down. Reasons for the disruptions will be communicated to the broad community

**Options**

As an alternative to the proposed recommendation, the Council could:

1. The City may decline to participate in the WALGA Energy Sustainability and Renewables Project and continue purchasing contestable electricity through WALGA Preferred Supplier Arrangement. The City may also be required to undertake a tender process for purchasing electricity post 2024 as it is unlikely WALGA will continue maintaining the current Electricity Preferred Supplier Panel. Electricity rates may be higher and the City may miss out on further opportunities provided by future stages of the WALGA project.
2. The City may decide to purchase electricity under the WALGA project but as bundled rates. The City may still benefit from lower energy prices but not as low as through the unbundled rate structure.
3. The City may decide to purchase a lower percentage of renewable energy, or not at all. Alternative ways of reaching the Energy Strategy targets will need to be investigated and some of these may be more costly. This may also be seen by the community as not in line with the City's commitments outlined in the Energy Strategy (2019).







**CONCLUSION**

In summary, by participating in the WALGA Energy Sustainability and Renewables project, the City chooses to take a more proactive role in energy procurement, which will result in greater efficiencies and financial sustainability. The energy market is changing rapidly and it is important for the City to adapt and take on new opportunities. The officer recommendation of an unbundled rate structure and 100% renewable energy for the City's contestable sites will assist the City in building capacity and showing leadership in energy management.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The City is required to notify WALGA of its decision whether to participate in the project by 18 November 2021. There is a very short timeframe for LGAs to opt in or out of the project due to the short validity of energy prices. Subject to the minimum volumes of electricity Supply and Renewables Adoption having been met, the City will be required to sign and accept the Energy Supply Agreement with Synergy by 30 November 2021. Contracts under the new Energy Portfolio will commence on 1 April 2022.

17.1 COUNCILLORS' INFORMATION BULLETIN

<b>STRATEGIC THEME</b>	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
<b>STRATEGIC PRIORITY</b>	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
<b>SUBJECT INDEX</b>	Councillors' Information Bulletin
<b>BUSINESS UNIT</b>	Executive Services
<b>REPORTING OFFICER</b>	Reporting Officers - Various
<b>AUTHORISING OFFICER</b>	Chief Executive Officer - Mike Archer
<b>NATURE OF DECISION</b>	Noting: The item is simply for information purposes and noting
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Current State Administrative Tribunal Reviews   Attachment B Letter from Alannah MacTiernan MLC - Busselton Performing Arts and Convention Centre   Attachment C Thank You Letter - Building Busselton Town Team  

The officer recommendation was moved and carried.

**COUNCIL DECISION****C2111/086**

Moved Councillor P Carter, seconded Councillor A Ryan

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

- 17.1.1 State Administrative Tribunal Reviews**
- 17.1.2 Correspondence from Department of Premier and Cabinet – South West Native Title Settlement**
- 17.1.3 Letter from Alannah MacTiernan MLC – Busselton Performing Arts and Convention Centre**
- 17.1.4 Thank You Letter – Building Busselton Town Team**

**CARRIED 8/0****EN BLOC****OFFICER RECOMMENDATION**

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

- 17.1.1 State Administrative Tribunal Reviews**
- 17.1.2 Correspondence from Department of Premier and Cabinet – South West Native Title Settlement**
- 17.1.3 Letter from Alannah MacTiernan MLC – Busselton Performing Arts and Convention Centre**
- 17.1.4 Thank You Letter - Building Busselton Town Team**



## EXECUTIVE SUMMARY

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

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

## INFORMATION BULLETIN

### 17.1.2 State Administrative Tribunal Reviews

A summary of the current State Administrative Tribunal Reviews at Attachment A.

### 17.1.2 Correspondence from Department of Premier and Cabinet – South West Native Title Settlement

*The following correspondence was received from the Department of Premier and Cabinet:*

#### ***Forming the Noongar Corporations***

The South West Aboriginal Land and Sea Council (SWALSC) has been busy holding successful ‘pre-incorporation’ meetings with the Noongar people, to establish their Noongar Regional Corporations and the supporting Central Services Corporation (the Noongar Corporations).

The meetings, held on Noongar country, ran from Saturday the 24th of July to Saturday the 18th of September with the Noongar people voting to support all resolutions, including:

- establishing their Regional Corporations;
- electing their ‘Initial Directors’; and
- endorsing SWALSC to potentially become the Central Services Corporation.

These meetings are the first in a number of steps for the establishment of the Noongar Corporations. The next steps include registration with Office of the Registrar for Indigenous Corporations, and the Australian Taxation Office as well as Member Director postal vote elections and endorsement by the Government of Western Australia and the Noongar Boodja Trustee.

The Noongar Corporations are expected to be operating by mid-2022.

Interested Noongar people are encouraged to contact the SWALSC to get involved with the Noongar corporations and other opportunities linked to the Noongar governance structure. SWALSC have also recently launched a new membership app for staying up to date about the Settlement.

For more information about the Noongar Corporation establishment process, please read the Regional Corporation Transition Program or fill in the Expression of interest to join your Noongar regional corporation (SWALSC site).

***What are the Noongar corporations?***

The Noongar corporations are the most integral part of the Noongar governance structure, they are the only beneficiaries of the Noongar Boodja Trustee, and will be a direct Noongar voice to the WA Government on Aboriginal heritage, land management, economic participation and community development matters. Only once the Noongar corporations are formed can the fulsome benefits and opportunities from the Settlement be realised. The Noongar Regional Corporations will:

- manage and use the land and waters within the region which they have a traditional connection;
- develop a strategic plan based on regional priorities;
- maintain, protect, promote and support their culture, customs, language and traditions
- engage with government and stakeholders to further Noongar community interests and priorities; and
- meet the various obligations created through the Settlement.

The WA Government looks forward to partnering with the Noongar people, through their corporations, for a stronger future for all West Australians.”

**17.1.3 Letter from Allannah MacTiernan MLC – Busselton Performing Arts and Convention Centre**

A letter from Alannah MacTiernan MLC regarding the Busselton Performing Arts and Convention Centre is at Attachment B.

**17.1.4 Thank You Letter - Building Busselton Town Team**

A letter from Lisa Skrypichayko, Building Busselton Town Team, thanking the City for its involvement in the Celebrate Mitchell Park event, is at Attachment C.

As at 29 October 2021

[illegible]

APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	RESPONSIBLE OFFICER	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
NIL							
WESTERN AUSTRALIAN PLANNING COMMISSION							
NIL							



**Hon Alannah MacTiernan MLC**  
**Minister for Regional Development; Agriculture and Food;**  
**Hydrogen Industry**

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Our ref: 64-22050

Cr Grant Henley  
Mayor  
City of Busselton  
Locked Bag 1  
BUSSELTON WA 6280

Dear Cr Henley

**BUSSELTON PERFORMING ARTS AND CONVENTION CENTRE**

I refer to my letter of 20 July 2021 regarding the City's request for financial support from the State Government towards the Busselton Performing Arts and Convention Centre (BPACC) project.

I note the decision taken by Council on 8 September 2021 to proceed with construction of the BPACC on the basis that the City is in a strong financial position to more than cover the full debt required to complete the build.

In light of this decision and the significant State Government investment into the Busselton community in recent years, our Government does not consider further State funding can be justified at this time.

I wish you all the best with the project.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Alannah MacTiernan', with a stylized flourish at the end.

**HON ALANNAH MACTIERNAN MLC**  
**MINISTER FOR REGIONAL DEVELOPMENT; AGRICULTURE AND FOOD;**  
**HYDROGEN INDUSTRY**

19 OCT 2021



15 October 2021

Mike Archer, CEO; Mayor Grant Henley  
City of Busselton  
Locked Bag 1, Busselton WA 6280

Good afternoon, Mike and Mayor Henley

Celebrate Mitchell Park Event - 9 October, 2021

On behalf of Building Busselton, I would like to thank everyone from the City of Busselton who assisted us in delivery of last weekend's historic Celebrate Mitchell Park event. We were honoured to partner with the City on this, and appreciated the opportunity.

Judging from all the happy faces on people of all ages and backgrounds, we feel that the afternoon was very successful, and contributed in a meaningful way to Building Busselton's mission to '(re)Discover and Activate our Busselton'.

We're thankful for the support we have received in particular from Maxine Palmer and the entire Events and Cultural Services Team, Community Development (Cassandra), Economic Development (Sheridan), Public Relations, and Operations teams (Drummo), as well as from individual staff members, to bring this together. No doubt others assisted in ways we don't know of, but we're grateful to those people as well.

Thanks also to the Mayor and councillors who attended on the day - it was great to have you with us on such a special day.

Building Busselton is planning more events and activations down the track (including activities in Mitchell Park in the leadup to Christmas) - we'd love the City to be involved. If you have any ideas, please be sure to let us know!

Your support of our community and City centre is deeply appreciated.

Warmest regards,

A handwritten signature in black ink, appearing to read "Lisa Skrypichayko", written over a light blue horizontal line.

Lisa Skrypichayko  
Building Busselton Town Team  
[buildingbusselton@gmail.com](mailto:buildingbusselton@gmail.com)  
0417171312

## ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION

### 12.4 Policy and Legislation Committee - 27/10/2021 - ESTABLISHMENT OF BEHAVIOUR COMPLAINTS COMMITTEE

<b>STRATEGIC THEME</b>	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
<b>STRATEGIC PRIORITY</b>	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
<b>SUBJECT INDEX</b>	Code of Conduct
<b>BUSINESS UNIT</b>	Governance Services
<b>REPORTING OFFICER</b>	Governance Coordinator - Emma Heys
<b>AUTHORISING OFFICER</b>	Director Finance and Corporate Services - Tony Nottle
<b>NATURE OF DECISION</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
<b>VOTING REQUIREMENT</b>	Absolute Majority
<b>ATTACHMENTS</b>	Attachment A Proposed Delegation DA 11 - 03 Behaviour Complaints Committee <a href="#">↓</a> 
	Attachment B Proposed Terms of Reference - Behaviour Complaints Committee <a href="#">↓</a> 
	Attachment C Amended Council policy: Management of Complaints of Alleged Breaches of Behaviour <a href="#">↓</a> 
	Attachment D Current Council policy: Management of Complaints of Alleged Breaches of Behaviour <a href="#">↓</a> 
	Attachment E Council Policy: Management of Complaints of Alleged Breaches of Behaviour with Committee amendments <a href="#">↓</a> 

**This item was considered by the Policy and Legislation Committee at its meeting on 27/10/2021, the recommendations from which have been included in this report.**

Cr Henley foreshadowed an alternative recommendation. In accordance with clause 10.18(7) of the City's Standing Orders Local Law 2018, the committee recommendation was moved first.

### **SUBSTANTIVE MOTION**

**That the Council:**

- 1. Establish a committee of Council to determine complaints called the Behaviour Complaints Committee.**
- 2. Delegates power and authority to the Behaviour Complaints Committee to make findings and dismiss complaints in relation to clause 12(1), (4) and (7) and clause 13 of the Local Government (Model Code of Conduct) Regulations 2021, as per Attachment A.**
- 3. Adopt the Terms of Reference for the Behaviour Complaints Committee as per Attachment B.**
- 4. Appoints membership to the Behaviour Complaints Committee:**
  - i. 5 Members**
  - ii. 4 Deputy Members**

5. **Adopts the Council policy: Management of Complaints of Alleged Breaches of Behaviour inclusive of the Committee amendments (Attachment E), being the inclusion of an additional clause to provide the CEO the discretion to refer the Complaints Officer report, in extraordinary circumstances, to a Council Meeting for Council to make a finding in relation to a complaint of alleged breach of behaviour; and amendments to clauses of the Policy that refer to a meeting of the Committee to now include 'and Council'.**

**LAPSED**

**FOR WANT OF A MOVER**

The motion lapsed and the foreshadowed alternative motion was moved and carried.

**COUNCIL DECISION**

**C2111/087**

Moved Councillor G Henley, seconded Councillor R Paine

**That the Council:**

1. **Establish a committee of Council to determine complaints called the Behaviour Complaints Committee.**
2. **Delegates power and authority to the Behaviour Complaints Committee to make findings and dismiss complaints in relation to clause 12(1), (4) and (7) and clause 13 of the Local Government (Model Code of Conduct) Regulations 2021, as per Attachment A.**
3. **Adopt the Terms of Reference for the Behaviour Complaints Committee as per Attachment B, inclusive of changes to paragraph 3. 'Membership', being that Council shall appoint all Elected Members to the Committee.**
4. **Appoints all Elected Members to membership of the Behaviour Complaints Committee.**
5. **Adopts the Council policy: Management of Complaints of Alleged Breaches of Behaviour inclusive of the Committee amendments (Attachment E), being the inclusion of an additional clause to provide the CEO the discretion to refer the Complaints Officer report, in extraordinary circumstances, to a Council Meeting for Council to make a finding in relation to a complaint of alleged breach of behaviour; and amendments to clauses of the Policy that refer to a meeting of the Committee to now include 'and Council'.**

**CARRIED 8/0**

**BY ABSOLUTE MAJORITY**

Reasons: The alternative motion was in response to practical examples from other local governments where including all Councillors in the Committee removed any perception of bias in its decision making.



**OFFICER RECOMMENDATION**

**That the Council:**

- 1. Establish a committee of Council to determine Complaints called the Behaviour Complaints Committee.**
- 2. Delegates power and authority to the Behaviour Complaints Committee to make findings and dismiss complaints in relation to Clause 12(1), (4) and (7) and Clause 13 of the *Local Government (Model Code of Conduct) Regulations 2021*, as per Attachment A.**
- 3. Adopt the Terms of Reference for the Behaviour Complaints Committee as per Attachment B.**
- 4. Appoints membership to the Behaviour Complaints Committee:**
  - i. 5 Members**
  - ii. 4 Deputy Members**
- 5. Adopts the amended Council policy: Management of Complaints of Alleged Breaches of Behaviour (Attachment C) (the Policy) to replace the current policy (Attachment D).**

**EXECUTIVE SUMMARY**

This report seeks Council endorsement of the establishment of a Behaviour Complaints Committee (the Committee), under section 5.8 of the *Local Government Act 1995*, with the Committee to be delegated the power and authority to make findings or dismiss complaints in relation to alleged breaches of Part 3 of the City of Busselton Code of Conduct for Council Members, Committee Members and Candidates. Presented for Council adoption is the Committee Terms of Reference; under which the Council is asked to appoint membership to the Committee.

Council is also requested to adopt the amended Council policy: Management of Complaints of Alleged Breaches of Behaviour, to reflect the proposed changes to the complaints management process.

**BACKGROUND**

The *Local Government (Model Code of Conduct) Regulations 2021* (the Regulations) came into effect on 3 February 2021. The Regulations replaced the *Local Government (Rules of Conduct) Regulations 2007* (repealed) and prescribed a Model Code of Conduct for local government council members, committee members and candidates (Model Code).

At its 28 April 2021 meeting, Council, in accordance with s.5.104 of the Act, adopted the City's Code of Conduct for Council Members, Committee Members and Candidates (the Code), and the form for making Complaints. Council also appointed the CEO as the Complaints Officer. The CEO has delegated this power to the Director Finance and Corporate Services.

At its meeting of 9 June 2021 Council adopted Council policy: Management of Complaints of Alleged Breaches of Behaviour. Whilst the policy was informed by several other local government council policies, the Western Australian Local Government Association (WALGA) template Complaints Management Process was released post formulation of our policy. The City's complaints management process as adopted differs from the WALGA process in that, at the time, the City chose to have complaints managed by a third party investigation and findings by Council.

**OFFICER COMMENT**

Officers have had some time since commencement of the new requirements to reflect and further discuss with other local governments the best way to manage complaints when they arise, particularly in relation to interests that may arise. On reflection, officers believe it is prudent to revisit the City's position in regards to complaints management.

The complaints management process in the current policy requires a complaint to be dealt with by the whole of Council. Putting aside the common law principles of apprehended bias, there is no provision in the Act that excuses a Councillor from the deliberative voting process in a Council meeting, outside of a financial or proximity interest. There would be no financial implication arising from a finding in relation to a complaint and therefore a Councillor who is the subject of a complaint would arguably be required to remain in the Council meeting during the determination of the complaint, after having declared an impartiality interest. Similarly so would a maker of the complaint. This may cause a perception of bias and may negate the principles of natural justice.

In order to manage this issue, WALGA's template policy and their approach is predicated on a committee being delegated the power from Council to deal with each complaint.

Officers are proposing that the City adopt this approach also and that the Council establish a committee of Council, the Behaviour Complaints Committee, to make findings and/or dismiss complaints received under Part 3 of the Code.

Officers have developed Terms of Reference (ToR) for the Committee which outline the proposed membership and delegated powers and conditions. The ToR are presented to Council for endorsement (Attachment B). Notably, the membership of the Committee, as outlined in the ToR, require the appointment of 5 Members and 4 Deputy Members, thereby allowing members who are the subject or maker of a complaint, to recuse themselves and for the meeting to continue with the attendance of a Deputy Member/s.

The proposed delegated powers to the Committee as detailed in the ToR and proposed Delegation DA 11 – 03 (Attachment A) (the Delegation) are:

- a. the authority to make a finding as to whether an alleged breach the subject of a complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur and determine reasons for any finding.
- b. where a finding is made that a breach has occurred, the power to:
  - i. vary the proposed action plan; or
  - ii. consider the adoption of the action plan.
- c. dismiss a complaint and determine the reasons for the dismissal.

The proposed delegate powers to the Committee will be subject to the following conditions:

- a. the Committee will make decisions in accordance with Council Policy: Management of Complaints of Alleged Breaches of Behaviour and these Terms of Reference.
- b. that part of a Committee meeting which deals with a Complaint will be held behind closed doors in accordance with s.5.23(2)(b) of the Act.

- c. the Committee is prohibited from exercising its delegated power where a Committee Member in attendance at a Committee meeting is either the complainant or respondent to the complaint under consideration by the Committee.

### **Statutory Environment**

Section 5.103 of the *Local Government Act 1995* (the Act) [Model code of conduct for council members, committee members and candidates] provides that regulations must prescribe a Model Code of conduct for council members, committee members and candidates and must include:

- (a) general principles to guide behaviour; and
- (b) requirements relating to behaviour; and
- (c) provisions specified to be rules of conduct;

and may include provisions about how to deal with alleged breaches of the behaviour requirements.

Section 5.104 of the Act provides that a local government must prepare and adopt by absolute majority a code of conduct to be observed by council members, committee members and candidates, and which incorporates the Model Code.

The *Local Government (Model Code of Conduct) Regulations 2021* prescribe the Model Code of Conduct for Council Members, Committee Members and Candidates.

### **Relevant Plans and Policies**

The officer recommendation aligns to the City's Code of Conduct for Council Members, Committee Members and Candidates.

### **Financial Implications**

There are no specific financial implications associated with the appointment of members to Committees/groups, as the costs associated with attendance at these Committees/groups have been allocated in the current budget.

### **Stakeholder Consultation**

Officers consulted with the Western Australian Local Government Association (WALGA) and the documents and processes developed by the City of Rockingham have all formed part of the research undertaken by officers in preparing this report and the associated documents.

### **Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. The following risks have been identified. No risks of a medium or greater level have been identified.

### **Options**

As an alternative to the proposed recommendation, the Council could choose not to establish a Behaviour Complaints Committee under section 5.8 of the Act. However, officers do not recommend this course of action, as leaving the complaints management process in its current form may result in the perception of bias with Council as a whole responsible for determining complaints of alleged breaches of behaviour.

**CONCLUSION**

Council are asked to endorse the establishment of a committee of Council, Behaviour Complaints Committee, in accordance with section 5.8 of the Act, to make findings and/or dismiss complaints of alleged breaches of Part 3 of the Code; adopt the Terms of Reference and Delegation of Authority as per attachments A and B; appoint membership to the Committee; and adopt the amended Council policy: Management of Complaints of Alleged Breaches of Behaviour.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The Behaviours Complaints Committee, membership of the committee and amended policy will be in effect immediately upon adoption of Council.

**THE LOCAL GOVERNMENT ACT 1995**

DA 11 - 03 Behaviour Complaints Committee

<b>POWER / DUTY ASSIGNED TO</b>	Local Government
<b>POWER TO DELEGATE</b>	<i>Local Government Act 1995</i> s.5.16 Delegation of some powers and duties to certain committees s.5.17 Limits on delegations of some powers and duties to certain committees
<b>DELEGATED TO</b>	Behaviour Complaints Committee
<b>POWER / DUTY DELEGATED</b>	<i>Local Government (Model Code of Conduct) Regulations 2021</i> Clause 12 Clause 13
<b>FUNCTION</b>	<p><b>Clause 12(1)</b> After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.</p> <p><b>Clause 12(4)</b> If the local government makes a finding that the alleged breach has occurred, the local government may –  (a) Take no further action; or  (b) Prepare and implement a plan to address the behaviour of the person to whom the complaint relates</p> <p><b>Clause 12(7)</b> If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of –  (a) Its findings and the reasons for its findings; and  (b) If its finding is that the alleged breach has occurred – its decision under subclause (4)</p> <p><b>Clause 13</b> Dismissal of complaint</p>
<b>CONDITIONS</b>	<ol style="list-style-type: none"> <li>The Committee will make decisions in accordance with Council Policy: Management of Complaints of Alleged Breaches of Behaviour and these Terms of Reference.</li> <li>That part of a Committee meeting which deals with a Complaint will be held behind closed doors in accordance with s.5.23(2)(b) of the Act.</li> <li>The Committee is prohibited from exercising its delegated power where a Committee Member in attendance at a</li> </ol>

	Committee meeting is either the complainant or respondent to the Complaint under consideration by the Committee.
<b>POLICY</b>	Council policy: Management of Complaints of Alleged Breaches of Behaviour
<b>REFERENCE DOCUMENTS</b>	City of Busselton Code of Conduct for Council Members, Committee Members and Candidates
<b>SUB DELEGATION</b>	Nil

<b>RECORD KEEPING</b>	ECM – GOVN001 'Authorised Delegation of Power/Authority'	
<b>VERIFICATION</b>	Initial Council Resolution	Recent Council Resolution
<b>RECENT ALTERATIONS</b>	Implementation October 2021	
<b>PREVIOUS DELEGATION REFERENCE</b>	NA	



## 1. INTRODUCTION

- 1.1. The Council of the City of Busselton has established a Behaviour Complaints Committee (the Committee) pursuant to section 5.8 of the *Local Government Act 1995* (the Act).
- 1.2. The Committee is established for the purpose of dealing with complaints submitted under Part 3, clause 13 of the City of Busselton Code of Conduct for Council Members, Committee Members and Candidates (the Code).

## 2. OBJECTIVE

- 2.1. The objective of the Committee is to dismiss or make findings in relation to complaints received of alleged breaches of Part 3 - Behaviour, of the Code, in a fair, impartial and timely manner, following natural justice and due process principles.

## 3. MEMBERSHIP

- 3.1. The Council shall appoint five elected members to the Committee.
- 3.2. The Council shall appoint four elected members as deputy members of the Committee.

## 4. PRESIDING MEMBER

- 4.1. The Committee shall appoint a Presiding Member and Deputy Presiding Member to conduct its business.

## 5. MEETINGS

- 5.1. The Committee shall meet as required.
- 5.2. The part of the meeting that deals with a complaint will be held behind closed doors in accordance with s.5.23(2)b of the Act.
- 5.3. An appointed Committee member must not attend a Committee meeting if they are a complainant or respondent to a complaint under consideration by the Committee.
- 5.4. A Committee Member who is identified as either the complainant or respondent is required to recuse themselves by notifying the Presiding Member of their intention to be an apology for the meeting at which the Complaint is an agenda item.
- 5.5. The Committee may resolve to defer consideration to a future meeting at which any conflicted Committee Member is absent and a Deputy Committee Member is in attendance.

- 5.6. Notice of meetings shall be given to members at least five days prior to each meeting, with the agenda papers to be provided to members not less than 72 hours prior to the meeting.
- 5.7. The Presiding Member shall ensure that detailed minutes of all meetings are kept in accordance with the *City of Busselton Standing Orders Local Law 2018*.
- 5.8. All members of the Committee shall have one vote. If the vote of the members present is equally divided, the Presiding Member shall cast a second vote.
- 5.9. The Chief Executive Officer shall ensure that the outcomes of the Committee meeting will be on the agenda of the next practicable ordinary Council meeting for noting purposes.

#### 6. QUORUM

- 6.1. The quorum for a meeting shall be at least 50% of the number of offices of membership, whether vacant or not.

#### 7. DELEGATED POWERS

- 7.1. Pursuant to section 5.17 of the Act, the Committee is delegated the powers in accordance with the *Local Government (Model Code of Conduct) Regulations 2021* (the Regulations), clause 12(1), 12(4), and 12(7) and clause 13.
- 7.2. The Committee has the delegated power to:
  - a. make a finding as to whether an alleged breach the subject of a complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur and determine reasons for any finding.
  - b. where a finding is made that a breach has occurred, the power to:
    - i. vary the proposed action plan; or
    - ii. consider the adoption of the action plan.
  - c. dismiss a complaint and determine the reasons for the dismissal.
- 7.3. The delegated powers of the Committee are subject to the following conditions:
  - a. the Committee will make decisions in accordance with Council Policy: Management of Complaints of Alleged Breaches of Behaviour and these Terms of Reference.
  - b. that part of a Committee meeting which deals with a Complaint will be held behind closed doors in accordance with s.5.23(2)(b) of the Act.
  - c. the Committee is prohibited from exercising its delegated power where a Committee Member in attendance at a Committee meeting is either the complainant or respondent to the Complaint under consideration by the Committee.

#### 8. APPROVAL

Council Adoption	DATE		Resolution #	
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## Council Policy

**Council Policy Name:** Management of Complaints of Alleged Breaches of Behaviour

**Responsible Directorate:** Finance and Corporate Services

**Version:** ~~Adopted~~ **PROPOSED**

### 1. PURPOSE

- 1.1. The purpose of this Policy is to outline the City's approach to the management of complaints relating to breaches of the behaviour requirements in Part 3 of the City of Busselton Code of Conduct for Council Members, Committee Members and Candidates (the Code).

### 2. SCOPE

- 2.1. This Policy is applicable to complaints about breaches of the behaviour requirements in Part 3 of the Code, and should be read in conjunction with the Code.
- 2.2. A breach of Part 4 of the Code ~~the Rules of Conduct in the Code~~ is a minor breach under section 5.105(1) of the Act, and is not the intended subject of this Policy. The following are inappropriate to be dealt with under this Policy:
- a. complaints made with the intent of addressing personal grievances or disagreements;
  - b. complaints made to express dissatisfaction with a council or committee member's lawfully made decisions or performance of their role;
  - c. minor breaches under section 5.105(1) of the Act;
  - d. serious breaches under section 5.114 of the Act; and
  - e. allegations of corruption.

### 3. DEFINITIONS

Term	Meaning
<del>Committee</del>	<del>The Behaviour Complaints Committee established under section 5.8 of the Local Government Act 1995 and delegated the power to make findings of complaints of alleged breaches of Part 3 of the Code</del>
City's Complaints Officer	a person authorised in writing by Council resolution or by the CEO exercising delegated authority under clause 12.3 of the Code to receive complaints and withdrawals of complaints and in accordance with this Policy.
Investigator	an impartial third party, appointed by the CEO, with the skills, knowledge and experience to investigate complaints in accordance with this Policy.
Mediator	an impartial third party, appointed by the CEO, with the skills, knowledge and experience to facilitate mediation between the person to whom the complaint relates and the complainant in accordance with this Policy.
Policy	this City of Busselton Council policy titled "Management of Complaints of Alleged Breaches of Behaviour".

### 4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key ~~Theme 4 - Goal Area 6~~ Leadership of the City's Strategic Community Plan ~~2017 2021-2031~~ and specifically the Strategic Priority 4.2: Deliver governance systems that facilitate open,

~~ethical and transparent decision making. Community Objective 6.1: Governance systems, process and practices are responsible, ethical and transparent.~~

## 5. POLICY STATEMENT

- 5.1. The Code provides for requirements relating to the behaviour of council members, committee members and candidates.
- 5.2. The Code sets out requirements for:
  - a. making a complaint;
  - b. dealing with a complaint;
  - c. dismissal of a complaint; and
  - d. withdrawal of a complaint.
- 5.3. This Policy further outlines how the City will deal with a complaint; specifically the mechanism for investigating, determining, making recommendations and implementing action plans when dealing with alleged breaches of the behavioural requirements set out in the Code.

### Investigating a complaint

- 5.4. The Chief Executive Officer (CEO) will appoint an Investigator to investigate complaints of alleged breaches of behaviour, and if required under paragraph 5.9, a Mediator.
- 5.5. A complaint cannot be submitted anonymously.
- 5.6. The City's Complaints Officer, within 14 days of receiving a complaint:
  - a. will contact the complainant acknowledging that the complaint has been received;
  - b. as part of the acknowledgment process, will provide the complainant with a copy of this Policy and the Code;
  - c. will outline the process that will be followed and possible outcomes and the application of confidentiality;
  - d. will provide the council or committee member to whom the complaint relates with a copy of this Policy, the Code, and a copy of the complaint, including the name of the complainant; and
  - e. will send to the Investigator the complaint together with details of the alleged breach and any supporting evidence provided by the complainant.
- 5.7. Complaints are to be dealt with and considered in the order in which they are received by the City's Complaints Officer. If more than one complaint is received that relates to the same alleged behaviour, the City's Complaints Officer may determine to progress those complaints concurrently.
- 5.8. In investigating the complaint, the Investigator may request the City's Complaints Officer to search for any relevant records in the City's record management system.
- 5.9. The Investigator must offer mediation to both parties as the first option for dealing with a complaint and before progressing with the assessment of the complaint.
- 5.10. If mediation is accepted by both parties, the investigative timelines outlined in this Policy are suspended until such time as the mediation is finalised or discontinued in accordance with paragraph 5.11.
- 5.11. If issues raised in the complaint are resolved to the satisfaction of both parties in mediation, or otherwise, the complainant must, before the assessment of the complaint, lodge a withdrawal of complaint in accordance with the Code. In the event that the complainant does not withdraw the complaint, assessment of the complaint will continue.

- 5.12. Before making an assessment in relation to a complaint, the Investigator must provide the person to whom the complaint relates with an opportunity to respond to the allegations in the complaint, and to provide their own comments and evidence for consideration. The person to whom the complaint relates must do this within 21 days of formally being notified of the complaint.
- 5.13. After considering a complaint, the Investigator must make an assessment as to whether or not the alleged behaviour breach has occurred.
- 5.14. The Investigator's assessment must be made within 21 days from receiving a copy of the response to the allegations by the person to whom the complaint relates.
- 5.15. Within 21 days of making an assessment on the alleged behaviour breach, the Investigator must provide a report to the City's Complaints Officer.
- 5.16. If the Investigator makes an assessment that the alleged breach has occurred, the report must make a recommendation as to whether further action is required.
- 5.17. In making a recommendation of further action, the Investigator is to prepare an action plan to address the behaviour of the person to whom the complaint relates.
- 5.18. An action plan should be prepared in consultation with the person to whom the complaint relates. If the person to whom the complaint relates does not participate in the preparation of an action plan, this is to be noted in the Investigator's report to the City's Complaints Officer and included in the report to Council.
- 5.19. The Investigator may recommend to the Committee -council- to dismiss a complaint in accordance with clause 14.1 of the Code.
- 5.20. If the Investigator assesses that the behaviour is an offence under the *City's Standing Orders Local Law 2018*, the complaint should be referred back to the City's Complaints Officer.
- 5.21. The Investigator's deliberations and assessment are to be confidential and reported only to the CEO and the City's Complaints Officer, but subject to any consultation with the person to whom the complaint relates.

**Council-Committee finding**

5.22. A meeting of the Committee must be convened within 21 days after receipt of the Investigators assessment, at which theThe City's Complaints Officer must provide a confidential report.

~~provide a confidential report to the council at the next ordinary meeting after receipt of the Investigator's assessment.~~The report is to include:

- a. a copy of the complaint;
- b. the report of the Investigator together with the evidence received and any submissions or other communications from parties;
- c. a recommendation on the question whether or not a breach of behaviour has occurred;
- d. a recommendation as to whether any, and if so what, further action is required; and
- e. an action plan, prepared in consultation with the person to whom the complaint relates, if relevant.

~~5-22-5.23.~~ Based on the Investigator's report, the evidence and any further comments or submissions by the parties, the ~~Behaviour Complaints Committee~~~~council~~ may do one of the following:

- a. dismiss the complaint in accordance with clause 14.1 of the Code; ~~or~~
- b. find the alleged breach has occurred and decide no further action is required; ~~or~~
- c. find the alleged breach has occurred, decide that further action is required and:
  - i. vary the proposed action plan; or
  - ii. consider the adoption of the action plan.
- ~~or~~
- d. find that the alleged breach has not occurred.

#### Action plans

~~5-23-5.24.~~ An action plan should outline:

- a. the behaviour/s of concern;
- b. the actions to be taken to address the behaviour/s;
- c. who is responsible for the actions; and
- d. an agreed timeframe for the actions to be completed.

~~5-24-5.25.~~ In deciding whether to implement an action plan, ~~the Committee~~ ~~Council~~ should consider:

- a. the nature and seriousness of the breach(es);
- b. any submission made by the person to whom the complaint relates;
- c. whether the person to whom the complaint relates breached the Code knowingly or carelessly;
- d. whether the person to whom the complaint relates has breached the Code on previous occasions; and
- e. any other matters which may be regarded as contributing to the conduct or mitigating its seriousness.

#### Confidentiality of complaints

~~5-25-5.26.~~ The complaint, its existence and details, and the processes undertaken in connection with it, are confidential matters and should not be disclosed unless and until the ~~council~~ ~~Committee~~ has reached an outcome in respect of the complaint.

#### Compliance with plan requirement

~~5-26-5.27.~~ The City's Complaints Officer is to monitor the actions and timeframes set out in an action plan.

~~5-27-5.28.~~ Failure to comply with a requirement included in an action plan is a minor breach under section 5.105(1) of the *Local Government Act 1995* and clause 24.1 of the Code.

~~5-28-5.29.~~ The City's Complaints Officer must provide a report to Council advising of any failure to comply with a requirement included in an action plan.

## 6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Local Government (Model Code of Conduct) Regulations 2021*
- 6.3. City of Busselton Code of Conduct for Council Members, Committee Members and Candidates
- 6.4. Code of Conduct Alleged Breach Form

## 7. REVIEW DETAILS

Review Frequency		3 yearly		
<u>Council Adoption</u>	<u>DATE</u>		<u>Resolution #</u>	
<del>Council</del> <u>Previous Adoption</u>	<u>DATE</u>	9 June 2021	<u>Resolution #</u>	C2106/113



## Council Policy

**Council Policy Name:** Management of Complaints of Alleged Breaches of Behaviour  
**Responsible Directorate:** Finance and Corporate Services **Version:** Adopted

### 1. PURPOSE

- 1.1. The purpose of this Policy is to outline the City's approach to the management of complaints relating to breaches of the behaviour requirements in Part 3 of the City of Busselton Code of Conduct for Council Members, Committee Members and Candidates.

### 2. SCOPE

- 2.1. This Policy is applicable to complaints about breaches of the behaviour requirements in Part 3 of the Code, and should be read in conjunction with the Code.
- 2.2. A breach of the Rules of Conduct in the Code is a minor breach under section 5.105(1) of the Act, and is not the intended subject of this Policy. The following are inappropriate to be dealt with under this Policy:
- a. complaints made with the intent of addressing personal grievances or disagreements;
  - b. complaints made to express dissatisfaction with a council or committee member's lawfully made decisions or performance of their role;
  - c. minor breaches under section 5.105(1) of the Act;
  - d. serious breaches under section 5.114 of the Act; and
  - e. allegations of corruption.

### 3. DEFINITIONS

Term	Meaning
City's Complaints Officer	a person authorised in writing by Council resolution or by the CEO exercising delegated authority under clause 12.3 of the Code to receive complaints and withdrawals of complaints and in accordance with this Policy.
Investigator	an impartial third party, appointed by the CEO, with the skills, knowledge and experience to investigate complaints in accordance with this Policy.
Mediator	an impartial third party, appointed by the CEO, with the skills, knowledge and experience to facilitate mediation between the person to whom the complaint relates and the complainant in accordance with this Policy.
Policy	this City of Busselton Council policy titled "Management of Complaints of Alleged Breaches of Behaviour".

### 4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Goal Area 6 – Leadership of the City's Strategic Community Plan 2017 and specifically the Community Objective 6.1: Governance systems, process and practices are responsible, ethical and transparent.



## 5. POLICY STATEMENT

- 5.1. The Code provides for requirements relating to the behaviour of council members, committee members and candidates.
- 5.2. The Code sets out requirements for:
  - a. making a complaint;
  - b. dealing with a complaint;
  - c. dismissal of a complaint; and
  - d. withdrawal of a complaint.
- 5.3. This Policy further outlines how the City will deal with a complaint; specifically the mechanism for investigating, determining, making recommendations and implementing action plans when dealing with alleged breaches of the behavioural requirements set out in the Code.

### Investigating a complaint

- 5.4. The Chief Executive Officer (CEO) will appoint an Investigator to investigate complaints of alleged breaches of behaviour, and if required under paragraph 5.9, a Mediator.
- 5.5. A complaint cannot be submitted anonymously.
- 5.6. The City's Complaints Officer, within 14 days of receiving a complaint:
  - a. will contact the complainant acknowledging that the complaint has been received;
  - b. as part of the acknowledgment process, will provide the complainant with a copy of this Policy and the Code;
  - c. will outline the process that will be followed and possible outcomes and the application of confidentiality;
  - d. will provide the council or committee member to whom the complaint relates with a copy of this Policy, the Code, and a copy of the complaint, including the name of the complainant; and
  - e. will send to the Investigator the complaint together with details of the alleged breach and any supporting evidence provided by the complainant.
- 5.7. Complaints are to be dealt with and considered in the order in which they are received by the City's Complaints Officer. If more than one complaint is received that relates to the same alleged behaviour, the City's Complaints Officer may determine to progress those complaints concurrently.
- 5.8. In investigating the complaint, the Investigator may request the City's Complaints Officer to search for any relevant records in the City's record management system.
- 5.9. The Investigator must offer mediation to both parties as the first option for dealing with a complaint and before progressing with the assessment of the complaint.
- 5.10. If mediation is accepted by both parties, the investigative timelines outlined in this Policy are suspended until such time as the mediation is finalised or discontinued in accordance with paragraph 5.11.
- 5.11. If issues raised in the complaint are resolved to the satisfaction of both parties in mediation, or otherwise, the complainant must, before the assessment of the complaint, lodge a withdrawal of complaint in accordance with the Code. In the event that the complainant does not withdraw the complaint, assessment of the complaint will continue.

- 5.12. Before making an assessment in relation to a complaint, the Investigator must provide the person to whom the complaint relates with an opportunity to respond to the allegations in the complaint, and to provide their own comments and evidence for consideration. The person to whom the complaint relates must do this within 21 days of formally being notified of the complaint.
- 5.13. After considering a complaint, the Investigator must make an assessment as to whether or not the alleged behaviour breach has occurred.
- 5.14. The Investigator's assessment must be made within 21 days from receiving a copy of the response to the allegations by the person to whom the complaint relates.
- 5.15. Within 21 days of making an assessment on the alleged behaviour breach, the Investigator must provide a report to the City's Complaints Officer.
- 5.16. If the Investigator makes an assessment that the alleged breach has occurred, the report must make a recommendation as to whether further action is required.
- 5.17. In making a recommendation of further action, the Investigator is to prepare an action plan to address the behaviour of the person to whom the complaint relates.
- 5.18. An action plan should be prepared in consultation with the person to whom the complaint relates. If the person to whom the complaint relates does not participate in the preparation of an action plan, this is to be noted in the Investigator's report to the City's Complaints Officer and included in the report to Council.
- 5.19. The Investigator may recommend to the council to dismiss a complaint in accordance with clause 14.1 of the Code.
- 5.20. If the Investigator assesses that the behaviour is an offence under the City's *Standing Orders Local Law*, the complaint should be referred back to the City's Complaints Officer.
- 5.21. The Investigator's deliberations and assessment are to be confidential and reported only to the CEO and the City's Complaints Officer, but subject to any consultation with the person to whom the complaint relates.

#### Council finding

- 5.22. The City's Complaints Officer must provide a confidential report to the council at the next ordinary meeting after receipt of the Investigator's assessment. The report is to include:
  - a. a copy of the complaint;
  - b. the report of the Investigator together with the evidence received and any submissions or other communications from parties;
  - c. a recommendation on the question whether or not a breach of behaviour has occurred;
  - d. a recommendation as to whether any, and if so what, further action is required; and
  - e. an action plan, prepared in consultation with the person to whom the complaint relates, if relevant.

- 5.23. Based on the Investigator's report, the evidence and any further comments or submissions by the parties, the council may:
- a. dismiss the complaint in accordance with clause 14.1 of the Code; or
  - b. find the alleged breach has occurred and decide no further action is required; or
  - c. find the alleged breach has occurred, decide that further action is required and:
    - i. vary the proposed action plan; or
    - ii. consider the adoption of the action plan.
  - or
  - d. find that the alleged breach has not occurred.

#### Action plans

- 5.24. An action plan should outline:
- a. the behaviour/s of concern;
  - b. the actions to be taken to address the behaviour/s;
  - c. who is responsible for the actions; and
  - d. an agreed timeframe for the actions to be completed.
- 5.25. In deciding whether to implement an action plan, Council should consider:
- a. the nature and seriousness of the breach(es);
  - b. any submission made by the person to whom the complaint relates;
  - c. whether the person to whom the complaint relates breached the Code knowingly or carelessly;
  - d. whether the person to whom the complaint relates has breached the Code on previous occasions; and
  - e. any other matters which may be regarded as contributing to the conduct or mitigating its seriousness.

#### Confidentiality of complaints

- 5.26. The complaint, its existence and details, and the processes undertaken in connection with it, are confidential matters and should not be disclosed unless and until the council has reached an outcome in respect of the complaint.

#### Compliance with plan requirement

- 5.27. The City's Complaints Officer is to monitor the actions and timeframes set out in an action plan.
- 5.28. Failure to comply with a requirement included in an action plan is a minor breach under section 5.105(1) of the *Local Government Act 1995* and clause 24.1 of the Code.
- 5.29. The City's Complaints Officer must provide a report to Council advising of any failure to comply with a requirement included in an action plan.

## **6. RELATED DOCUMENTATION / LEGISLATION**

- 6.1. *Local Government Act 1995*
- 6.2. *Local Government (Model Code of Conduct) Regulations 2021*
- 6.3. City of Busselton Code of Conduct for Council Members, Committee Members and Candidates
- 6.4. Code of Conduct Alleged Breach Form

## **7. REVIEW DETAILS**

Review Frequency		3 yearly		
Council Adoption	DATE	9 June 2021	Resolution #	C2106/113





## Council Policy

**Council Policy Name:** Management of Complaints of Alleged Breaches of Behaviour

**Responsible Directorate:** Finance and Corporate Services      **Version:** Adopted PROPOSED

### 1. PURPOSE

- 1.1. The purpose of this Policy is to outline the City's approach to the management of complaints relating to breaches of the behaviour requirements in Part 3 of the City of Busselton Code of Conduct for Council Members, Committee Members and Candidates [\(the Code\)](#).

### 2. SCOPE

- 2.1. This Policy is applicable to complaints about breaches of the behaviour requirements in Part 3 of the Code, and should be read in conjunction with the Code.
- 2.2. A breach of [Part 4 of the Code](#) ~~the Rules of Conduct in the Code~~ is a minor breach under section 5.105(1) of the Act, and is not the intended subject of this Policy. The following are inappropriate to be dealt with under this Policy:
- a. complaints made with the intent of addressing personal grievances or disagreements;
  - b. complaints made to express dissatisfaction with a council or committee member's lawfully made decisions or performance of their role;
  - c. minor breaches under section 5.105(1) of the Act;
  - d. serious breaches under section 5.114 of the Act; and
  - e. allegations of corruption.

### 3. DEFINITIONS

Term	Meaning
<a href="#">Committee</a>	<a href="#">The Behaviour Complaints Committee established under section 5.8 of the Local Government Act 1995 and delegated the power to make findings of complaints of alleged breaches of Part 3 of the Code</a>
City's Complaints Officer	a person authorised in writing by Council resolution or by the CEO exercising delegated authority under clause 12.3 of the Code to receive complaints and withdrawals of complaints and in accordance with this Policy.
Investigator	an impartial third party, appointed by the CEO, with the skills, knowledge and experience to investigate complaints in accordance with this Policy.
Mediator	an impartial third party, appointed by the CEO, with the skills, knowledge and experience to facilitate mediation between the person to whom the complaint relates and the complainant in accordance with this Policy.
Policy	this City of Busselton Council policy titled "Management of Complaints of Alleged Breaches of Behaviour".

### 4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key [Theme 4 - Goal Area 6](#)—Leadership of the City's Strategic Community Plan [2017 2021-2031](#) and specifically the [Strategic Priority 4.2: Deliver governance systems that facilitate open,](#)

ethical and transparent decision making. Community Objective 6.1: Governance systems, process and practices are responsible, ethical and transparent.

## 5. POLICY STATEMENT

- 5.1. The Code provides for requirements relating to the behaviour of council members, committee members and candidates.
- 5.2. The Code sets out requirements for:
  - a. making a complaint;
  - b. dealing with a complaint;
  - c. dismissal of a complaint; and
  - d. withdrawal of a complaint.
- 5.3. This Policy further outlines how the City will deal with a complaint; specifically the mechanism for investigating, determining, making recommendations and implementing action plans when dealing with alleged breaches of the behavioural requirements set out in the Code.

### Investigating a complaint

- 5.4. The Chief Executive Officer (CEO) will appoint an Investigator to investigate complaints of alleged breaches of behaviour, and if required under paragraph 5.9, a Mediator.
- 5.5. A complaint cannot be submitted anonymously.
- 5.6. The City's Complaints Officer, within 14 days of receiving a complaint:
  - a. will contact the complainant acknowledging that the complaint has been received;
  - b. as part of the acknowledgment process, will provide the complainant with a copy of this Policy and the Code;
  - c. will outline the process that will be followed and possible outcomes and the application of confidentiality;
  - d. will provide the council or committee member to whom the complaint relates with a copy of this Policy, the Code, and a copy of the complaint, including the name of the complainant; and
  - e. will send to the Investigator the complaint together with details of the alleged breach and any supporting evidence provided by the complainant.
- 5.7. Complaints are to be dealt with and considered in the order in which they are received by the City's Complaints Officer. If more than one complaint is received that relates to the same alleged behaviour, the City's Complaints Officer may determine to progress those complaints concurrently.
- 5.8. In investigating the complaint, the Investigator may request the City's Complaints Officer to search for any relevant records in the City's record management system.
- 5.9. The Investigator must offer mediation to both parties as the first option for dealing with a complaint and before progressing with the assessment of the complaint.
- 5.10. If mediation is accepted by both parties, the investigative timelines outlined in this Policy are suspended until such time as the mediation is finalised or discontinued in accordance with paragraph 5.11.
- 5.11. If issues raised in the complaint are resolved to the satisfaction of both parties in mediation, or otherwise, the complainant must, before the assessment of the complaint, lodge a withdrawal of complaint in accordance with the Code. In the event that the complainant does not withdraw the complaint, assessment of the complaint will continue.

- 5.12. Before making an assessment in relation to a complaint, the Investigator must provide the person to whom the complaint relates with an opportunity to respond to the allegations in the complaint, and to provide their own comments and evidence for consideration. The person to whom the complaint relates must do this within 21 days of formally being notified of the complaint.
- 5.13. After considering a complaint, the Investigator must make an assessment as to whether or not the alleged behaviour breach has occurred.
- 5.14. The Investigator's assessment must be made within 21 days from receiving a copy of the response to the allegations by the person to whom the complaint relates.
- 5.15. Within 21 days of making an assessment on the alleged behaviour breach, the Investigator must provide a report to the City's Complaints Officer.
- 5.16. If the Investigator makes an assessment that the alleged breach has occurred, the report must make a recommendation as to whether further action is required.
- 5.17. In making a recommendation of further action, the Investigator is to prepare an action plan to address the behaviour of the person to whom the complaint relates.
- 5.18. An action plan should be prepared in consultation with the person to whom the complaint relates. If the person to whom the complaint relates does not participate in the preparation of an action plan, this is to be noted in the Investigator's report to the City's Complaints Officer and included in the report to Council.
- 5.19. The Investigator may recommend to the [Committee or Council](#) ~~–council~~ to dismiss a complaint in accordance with clause 14.1 of the Code.
- 5.20. If the Investigator assesses that the behaviour is an offence under the City's *Standing Orders Local Law 2018*, the complaint should be referred back to the City's Complaints Officer.
- 5.21. The Investigator's deliberations and assessment are to be confidential and reported only to the CEO and the City's Complaints Officer, but subject to any consultation with the person to whom the complaint relates.

**[Council Committee or Council finding](#)**

[5.22. A meeting of the Committee must be convened within 21 days after receipt of the Investigators assessment, at which the](#) The City's Complaints Officer must [provide a confidential report](#).

[5.23. In accordance with clause 5.25, if the Council is required to make a finding on the complaint, the City's Complaints Officer must provide a confidential report at the next practicable Council meeting.](#)

~~provide a confidential report to the council at the next ordinary meeting after receipt of the Investigator's assessment.~~ The [confidential](#) report is to include:

- a. a copy of the complaint;
- b. the report of the Investigator together with the evidence received and any submissions or other communications from parties;
- c. a recommendation on the question whether or not a breach of behaviour has occurred;
- d. a recommendation as to whether any, and if so what, further action is required; and
- e. an action plan, prepared in consultation with the person to whom the complaint relates, if relevant.

~~5.22-5.24.~~ Based on the Investigator's report, the evidence and any further comments or submissions by the parties, the ~~Behaviour Complaints Committee or Council~~ ~~council~~ may do one of the following:

- a. dismiss the complaint in accordance with clause 14.1 of the Code; ~~or~~
- b. find the alleged breach has occurred and decide no further action is required; ~~or~~
- c. find the alleged breach has occurred, decide that further action is required and:
  - i. vary the proposed action plan; or
  - ii. consider the adoption of the action plan.

~~or~~

- d. find that the alleged breach has not occurred.

5.25. The CEO has the discretion to refer the confidential report, in extraordinary circumstances, to Council to make a finding in relation to an alleged breach of behaviour.

#### Action plans

~~5.23-5.26.~~ An action plan should outline:

- a. the behaviour/s of concern;
- b. the actions to be taken to address the behaviour/s;
- c. who is responsible for the actions; and
- d. an agreed timeframe for the actions to be completed.

~~5.24-5.27.~~ In deciding whether to implement an action plan, ~~the Committee or Council~~ ~~Council~~ should consider:

- a. the nature and seriousness of the breach(es);
- b. any submission made by the person to whom the complaint relates;
- c. whether the person to whom the complaint relates breached the Code knowingly or carelessly;
- d. whether the person to whom the complaint relates has breached the Code on previous occasions; and
- e. any other matters which may be regarded as contributing to the conduct or mitigating its seriousness.

#### Confidentiality of complaints

~~5.25-5.28.~~ The complaint, its existence and details, and the processes undertaken in connection with it, are confidential matters and should not be disclosed unless and until the ~~council~~ ~~Committee~~ has reached an outcome in respect of the complaint.

#### Compliance with plan requirement

~~5.26-5.29.~~ The City's Complaints Officer is to monitor the actions and timeframes set out in an action plan.

~~5.27-5.30.~~ Failure to comply with a requirement included in an action plan is a minor breach under section 5.105(1) of the *Local Government Act 1995* and clause 24.1 of the Code.

~~5.28-5.31.~~ The City's Complaints Officer must provide a report to Council advising of any failure to comply with a requirement included in an action plan.



### **6. RELATED DOCUMENTATION / LEGISLATION**

- 6.1. *Local Government Act 1995*
- 6.2. *Local Government (Model Code of Conduct) Regulations 2021*
- 6.3. City of Busselton Code of Conduct for Council Members, Committee Members and Candidates
- 6.4. Code of Conduct Alleged Breach Form

7. REVIEW DETAILS

Review Frequency		3 yearly		
<a href="#">Council Adoption</a>	<a href="#">DATE</a>		<a href="#">Resolution #</a>	
<a href="#">Council — Previous Adoption</a>	<b>DATE</b>	9 June 2021	<b>Resolution #</b>	C2106/113

16.1 APPOINTMENT OF ELECTED MEMBERS TO EXTERNAL BOARDS

<b>STRATEGIC THEME</b>	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
<b>STRATEGIC PRIORITY</b>	4.1 Provide opportunities for the community to engage with Council and contribute to decision making.
<b>SUBJECT INDEX</b>	Committees
<b>BUSINESS UNIT</b>	Governance Services
<b>REPORTING OFFICER</b>	Governance Coordinator - Emma Heys
<b>AUTHORISING OFFICER</b>	Director Finance and Corporate Services - Tony Nottle
<b>NATURE OF DECISION</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Invitation from BJI Management Board  

The officer recommendation was moved and carried.

**COUNCIL DECISION****C2111/088**

Moved Councillor P Carter, seconded Councillor A Ryan

**That the Council appoints a member as a delegate to the following external organisations:**

**1. Busselton Senior Citizens Centre Board of Management:**

**Member: Cr Jodie Richards**

**2. Busselton Jetty Inc Board of Management:**

**Member: Cr Grant Henley**

**CARRIED 8/0****OFFICER RECOMMENDATION**

**That the Council appoints a member as a delegate to the following external organisations:**

**1. Busselton Senior Citizens Centre Board of Management:**

**Member: Cr Jodie Richards**

**2. Busselton Jetty Inc Board of Management:**

**Member: Cr Grant Henley**

**EXECUTIVE SUMMARY**

This report is presented to enable Council to appoint elected members' as delegates to external groups where City representation is required, namely the Busselton Senior Citizens Centre Board of Management and the Busselton Jetty Inc. Board of Management.

**BACKGROUND**

At the Special Council Meeting of Council, 18 October 2021, Councillors were appointed to the City's formal Council Committees, various working groups, and as delegates to external groups where City representation is required. Appointments to the Busselton Senior Citizens Centre Board of Management or Busselton Jetty Inc. Board of Management were not made at this time as the City was awaiting confirmation as to the appointments and for the Busselton Jetty Inc. Annual General meeting to be held.



**OFFICER COMMENT**

The Council has over the years formed many working groups to assist with progressing various initiatives and is additionally represented on a number of local community committees and working groups.

In accordance with the Busselton Senior Citizen Centre's constitution, a Councillor is appointed to represent the City on their Board of Management. Discussions have previously been held with the Senior Citizen's Centre around the necessity and the potential conflicts of having a Councillor sit as a voting member of the Board. They have however indicated their desire to see the arrangement continue, as per their Constitution. Any potential conflicts of interest will need to be managed by the appointed member.

Following the Busselton Jetty Inc. Annual General Meeting, the Busselton Jetty Inc. Board of Management has invited a Councillor to an ex-officio (non-voting rights) position on the Board (Attachment A).

**Statutory Environment**

These appointments support the general function of a local government under the *Local Government Act 1995*, to provide for the good government of persons in its district.

**Relevant Plans and Policies**

There are no relevant plans or policies to consider in relation to this matter.

**Financial Implications**

There are no specific financial implications associated with the appointment of members to Committees/groups as the costs associated with attendance at these Committees/groups have been recognised in the current budget.

**Stakeholder Consultation**

Other than the communications with the Senior Citizen's Centre and the Busselton Jetty Inc. outlined in the Officer Comment, no external stakeholder consultation was required or undertaken in relation to this matter.

**Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

**Options**

As an alternative to the proposed recommendation the Council could determine not to appoint any members to the external boards, and have further discussions with the associations.

**CONCLUSION**

Council are asked to appoint members as delegates to the boards of two external organisations, namely the Busselton Senior Citizen Centre and the Busselton Jetty Inc.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The organisations will be informed of Council's decision within a week of the Council meeting.



Cr Grant Henley  
Mayor  
City of Busselton  
Locked Bag 1  
BUSSELTON WA 6280

Dear Grant

I would like to confirm our discussions at previous Jetty Reference Group meetings in writing.

Busselton Jetty Inc has agreed to invite a City of Busselton Councillor as ex-officio (non voting rights) to sit on the BJI Board of Management.

Please advise BJI at your earliest convenience of the appointed Councillor so that we can send them information about the next Board of Management meeting.

Meetings are normally held the fourth Thursday of each month from 3pm to 6pm.

Please contact Lisa should you require further operational information.


Kind regards



Hon Barry House AM  
Chair  
Busselton Jetty Inc  
26 October 2021



17.2 STRATEGIC ENGAGEMENT WITH THE DUNSBOROUGH COMMUNITY - PROPOSED SUPPORT FOR FORMATION OF 'DUNSBOROUGH REFERENCE GROUP'

<b>STRATEGIC THEME</b>	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
<b>STRATEGIC PRIORITY</b>	4.1 Provide opportunities for the community to engage with Council and contribute to decision making.
<b>SUBJECT INDEX</b>	Stakeholder Relationship Management
<b>BUSINESS UNIT</b>	Planning and Development Services
<b>REPORTING OFFICER</b>	Director, Planning and Development Services - Paul Needham Manager Governance and Corporate Services - Sarah Pierson
<b>AUTHORISING OFFICER</b>	Chief Executive Officer - Mike Archer
<b>NATURE OF DECISION</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Draft 'Dunsborough Reference Group' terms of reference, as prepared by Dunsborough 2030 members 

The officer recommendation was moved and carried.

**COUNCIL DECISION**

**C2111/089**

Moved Councillor J Richards, seconded Councillor S Riccelli

**That the Council, in line with its adopted Community Engagement Framework, supports engagement with a 'Dunsborough Reference Group' on strategic planning and other issues or proposals of strategic importance to the long term future of the Dunsborough community, generally as described below:**

- 1. Key aims from a City perspective are as follows:**
  - a) Provision of greater opportunity for stakeholders to contribute to considered decision making with respect to the future development of Dunsborough;**
  - b) Assisting in identifying current and future community needs, and identifying and assessing options to meet those needs; and**
  - c) Assisting in building partnerships and two-way communication between the City and the community, and within the community.**
- 2. Formation of a 'Dunsborough Reference Group' led by members of the community, and consistent with the following:**
  - a) The Group endeavors to establish and maintain a diverse membership base, broadly representative of the Dunsborough community as a whole, including:**
    - Representatives of the Dunsborough & Districts Progress Association;**
    - Representatives of the Dunsborough-Yallingup Chamber of Commerce & Industry;**
    - Representatives of Dunsborough 2030;**
    - Persons involved in community and sporting clubs and associations; and**
    - Other residents and ratepayers from Dunsborough and nearby areas;**

- b) The Group forms an 'executive' or similar, and adopts terms of reference broadly consistent with this resolution;
    - c) The Group's executive is able to provide feedback or other input to the City and other stakeholders on behalf of the Group;
    - d) When input is sought from the Group by the City or other stakeholders, the individual members of the Group involved identify and declare potential or perceived financial conflicts of interest that may arise, and not involve themselves in the providing of input through the Group in those cases (although they would remain able to provide input through other means, in the same ways as any other citizen);
    - e) In the narrow range of circumstances where input is sought from the Group by the City or other stakeholders on a confidential basis, that confidence is respected; and
    - f) The Group and its members understand and respect the fact that City officers and Councillors may be limited in what they can say with respect to a particular matter due to confidentiality requirements and the need to avoid 'apprehended bias'.
3. Subject to the formation and maintenance of a Group consistent with point 2 above, the City commits to engage with the Group on the following terms:
  - a) The City shall seek the input of the Group, through the Group's executive, prior to making decisions or forming positions on strategic planning and other issues or proposals of strategic importance to the long term future of the Dunsborough community;
  - b) The City shall consider the input provided by the Group, but is not obligated to accept or agree with the views expressed by the Group;
  - c) Matters about which input shall be sought include:
    - Strategic planning matters, including planning strategies or amendments to such strategies (which includes both City of Busselton and WAPC planning strategies), town planning schemes and amendments, and structure plans (including precinct structure plans);
    - Major development proposals that may have strategic implications (with the preference being that input is sought at the pre-application phase, but noting that will only occur with the agreement of the proponent, which the City will actively seek to obtain, and noting that timeframes may mean that input may not be able to sought through a meeting with the Group's executive);
    - City plans or projects relating to new or modified community, recreation or other infrastructure or services; and
    - State-led infrastructure projects;
  - d) Input may be sought either through meetings with the Group's executive, or through written communications, and the City will seek to meet with the Group's executive approximately 4 times per year, or as reasonably required;
  - e) When the City meets with the Group's executive to seek input, the City shall be represented by the following delegates of the City:
    - Cr Kate Cox and Cr Paul Carter;
    - Cr Sue Riccelli and Cr Jodie Richards as deputies; and
    - City staff as determined by the CEO;

- f) If, during the course of a meeting between the City and the Group's executive, attendees are asked to vote or similar, City delegates shall not participate; and
  - g) The key role of both Councillors and City staff in such meetings shall be to listen to the input provided, respond to and ask questions, and provide information.
4. These arrangements will be reviewed and potentially adjusted, in consultation with the Group, in approximately 12 months.
5. These arrangements do not preclude other means of engagement with the Dunsborough community.

**CARRIED 8/0**

#### **OFFICER RECOMMENDATION**

That the Council, in line with its adopted Community Engagement Framework, supports engagement with a 'Dunsborough Reference Group' on strategic planning and other issues or proposals of strategic importance to the long term future of the Dunsborough community, generally as described below:

1. Key aims from a City perspective are as follows:
  - a) Provision of greater opportunity for stakeholders to contribute to considered decision making with respect to the future development of Dunsborough;
  - b) Assisting in identifying current and future community needs, and identifying and assessing options to meet those needs; and
  - c) Assisting in building partnerships and two-way communication between the City and the community, and within the community.
2. Formation of a 'Dunsborough Reference Group' led by members of the community, and consistent with the following:
  - a) The Group endeavours to establish and maintain a diverse membership base, broadly representative of the Dunsborough community as a whole, including –
    - Representatives of the Dunsborough & Districts Progress Association;
    - Representatives of the Dunsborough-Yallingup Chamber of Commerce & Industry;
    - Representatives of Dunsborough 2030;
    - Persons involved in community and sporting clubs and associations; and
    - Other residents and ratepayers from Dunsborough and nearby areas;
  - b) The Group forms an 'executive' or similar, and adopts terms of reference broadly consistent with this resolution;
  - c) The Group's executive is able to provide feedback or other input to the City and other stakeholders on behalf of the Group;
  - d) When input is sought from the Group by the City or other stakeholders, the individual members of the Group involved identify and declare potential or perceived financial conflicts of interest that may arise, and not involve themselves in the providing of input through the Group in those cases (although they would remain able to provide input through other means, in the same ways as any other citizen);

- e) In the narrow range of circumstances where input is sought from the Group by the City or other stakeholders on a confidential basis, that confidence is respected; and
  - f) The Group and its members understand and respect the fact that City officers and Councillors may be limited in what they can say with respect to a particular matter due to confidentiality requirements and the need to avoid 'apprehended bias'.
3. Subject to the formation and maintenance of a Group consistent with point 2 above, the City commits to engage with the Group on the following terms:
- a) The City shall seek the input of the Group, through the Group's executive, prior to making decisions or forming positions on strategic planning and other issues or proposals of strategic importance to the long term future of the Dunsborough community;
  - b) The City shall consider the input provided by the Group, but is not obligated to accept or agree with the views expressed by the Group;
  - c) Matters about which input shall be sought include:
    - Strategic planning matters, including planning strategies or amendments to such strategies (which includes both City of Busselton and WAPC planning strategies), town planning schemes and amendments, and structure plans (including precinct structure plans);
    - Major development proposals that may have strategic implications (with the preference being that input is sought at the pre-application phase, but noting that will only occur with the agreement of the proponent, which the City will actively seek to obtain, and noting that timeframes may mean that input may not be able to sought through a meeting with the Group's executive);
    - City plans or projects relating to new or modified community, recreation or other infrastructure or services; and
    - State-led infrastructure projects;
  - d) Input may be sought either through meetings with the Group's executive, or through written communications, and the City will seek to meet with the Group's executive approximately 4 times per year, or as reasonably required;
  - e) When the City meets with the Group's executive to seek input, the City shall be represented by the following delegates of the City:
    - Cr Kate Cox and Cr Paul Carter;
    - Cr Sue Riccelli and Cr Jodie Richards as deputies; and
    - City staff as determined by the CEO;
  - f) If, during the course of a meeting between the City and the Group's executive, attendees are asked to vote or similar, City delegates shall not participate; and
  - g) The key role of both Councillors and City staff in such meetings shall be to listen to the input provided, respond to and ask questions, and provide information.
4. These arrangements will be reviewed and potentially adjusted, in consultation with the Group, in approximately 12 months.
5. These arrangements do not preclude other means of engagement with the Dunsborough community.

## EXECUTIVE SUMMARY

The Council is asked to consider the establishment of a relationship between the City and a proposed Dunsborough Reference Group (the Group) for the purposes of improved community engagement. Officers are recommending the Council support the idea and that 2 councillors (plus deputies) are endorsed as City delegates, when the City meets with the Group.

## BACKGROUND

Over the next few years, a range of important decisions about the future of Dunsborough may need to be made by the City and other stakeholders, including the State Government. There have also been recent community concerns about the nature and scale of change occurring in the area, or which may occur in the future, with a number of people in the community feeling that their views and values are not being fully considered.

Those facts have contributed to the formation of the 'Dunsborough 2030' group, and have also led to the City having informal discussions with members of that group around the potential formation of a 'Dunsborough Reference Group'. The (commonly agreed) aim of establishing such a reference group is to increase the level of community engagement in strategic decisions that may affect the long-term future of the community.

City officers have previously informally sought the input of Councillors with respect to the formation of such a group, and considered that input in preparing this report. The Council is now asked to give consideration to a proposal for the establishment of a relationship between the City and a proposed Dunsborough Reference Group.

The kinds of decisions that may need to be made includes, but is not necessarily limited to:

- Planning and development controls applying to the Dunsborough Town Centre, in particular the planned preparation of a 'Dunsborough Town Centre Precinct Structure Plan';
- Implementation of the WAPC's *Leeuwin-Naturaliste Sub-regional Planning Strategy*, in particular work to identify a 'Planning Investigation Area', which may provide for future urban expansion;
- Potentially, the development of an overall 'Dunsborough Townsite Strategy', or similar, which may seek to provide planning direction for the settlement of Dunsborough as a whole;
- The preparation of a new town planning scheme for the City, as required of the City by the WAPC;
- Planning for future community and recreational facilities, including at the Dunsborough Playing Fields/Naturaliste Community Centre site, the planned Dunsborough Lakes Sporting Precinct site and the Dunsborough Country Club site; and
- Planning for coastal nodes within the Dunsborough townsite, including at Old Dunsborough and in Quindalup.

**OFFICER COMMENT**

Given the kinds of decisions that may need to be made over the next few years, the level of community interest in those decisions, and the City's commitment to engage with the community, the formation of a 'Dunsborough Reference Group' or similar to support considered decision-making is seen as appropriate. There are a number of different models for the establishment of such a group – and there is not necessarily one 'right' or 'correct' model. It is up to the Council, the City more broadly, and the broader community, to identify a preferred model, and then work to ensure that model is effective.

Initially, the City had envisaged that a 'Dunsborough Reference Group' may be formed by the City itself. Such a group might have been similar to some other reference or advisory groups that the City has formed, usually with the formal support of Council through a Council resolution, such as the Lower Vasse River Management Advisory Group (noting that and other similar groups are not formal 'committees' of the Council), but are led by the City.

Members of the Dunsborough 2030 group, however, have proposed a different model, whereby a group is formed by members of the community, with the aim of having input into decision-making by the City, and potentially the State Government and/or other stakeholders. Individual members of the community are obviously free to form such a group without any formal recognition of that by the City. The City may also choose to engage with such groups as part of its decision-making processes, again without any formal recognition or structure. Doing so would be consistent with the City's Council-adopted *Community Engagement Framework 2021*, as well as long-standing practice the City has taken with groups formed to represent the interests of particular areas or interests, such as the Dunsborough & Districts Progress Association, Yallingup Residents' Association, Toby Inlet Catchment Group or Dunsborough Bay Yacht Club, amongst many others.

What members of the Dunsborough 2030 group have proposed, however, goes beyond what occurs with some other groups currently. A draft terms of reference, prepared by members of that group, is provided as Attachment A. This report recommends that the Council indicates support for an approach thought to be broadly consistent with what has been proposed. The reasons for that recommendation are chiefly that:

- The proposal looks to be broadly workable and able to contribute to better decision-making and greater community engagement;
- Relative to the alternative model, it may assist in ensuring a greater sense of community ownership of the group;
- Relative to the alternative model, it may assist in avoiding perceptions that the City may seek to 'control' the group;
- In common with a City formed reference group or similar, it avoids the formality and constraints of a formal committee of the Council; and
- Relative to the alternative model, and relative to existing approaches, it potentially reduces the commitment of City resources necessary to obtain considered and broad input from the community.

A model of this kind would certainly be unique for the City of Busselton, and City officers have no direct experience of this kind of model. But especially given the enthusiasm of some in the community for pursuing a model of this kind, officers feel it is worth doing so. If the Council agrees that the model proposed is appropriate, a question then arises as to how the relationship between the City and the Group is to be defined or determined?

With the alternative model, of a group formed by the City itself, the Council would ordinarily be asked to consider and adopt a terms of reference. If the Group is not being formed by the City itself, however, that is not necessary, and the group itself would need to establish its terms of reference (or equivalent); noting that work is already very well advanced. Further, whilst the Group has, to a reasonable degree, already begun to form, that process is not complete. It is also understood that the Group may not necessarily become an incorporated entity, so the exact point at which the group has ‘formed’ may not be clear.

Given the above, there appear to be two fundamental options for determining the relationship between the City and the Group. One may involve an agreement (such as a Memorandum-of-Understanding) between the City and the Group. The other would involve the City setting out its aims, commitments and expectations for the relationship, as outlined in the Officer Recommendation. Whilst in this case it is proposed that the Council make that decision, there is actually no statutory reason why it is necessary to do so to establish such a relationship, in the case of either option.

It is, however, the second option that is recommended. The principal reasons for that are:

- It is considered that the City’s aims are broadly consistent with the proposal that has been developed by members of the community;
- It should enable the relationship to begin somewhat sooner;
- It is relatively informal and adaptable; and
- Entering into an ‘agreement’ with what may be an unincorporated entity would be somewhat unusual.

Reflecting and building upon that option, the officer recommendation consists of five parts:

1. Potential aims that the City is seeking to achieve through the relationship;
2. Confirming key expectations in terms of the membership and operations of the Group;
3. Setting out the commitments that the City is making to the Group in terms of how it will engage with the Group;
4. Providing for a review of the approach in approximately 12 months (which is seen as appropriate, especially given the relative novelty of the approach proposed); and
5. Confirming that the relationship with the Group does not preclude other means of engaging with the Dunsborough community.

Some commentary on key aspects of parts 1-3 of the officer recommendation is set out below.

#### ***Aims of the relationship (part 1 of the recommendation)***

The draft terms of reference, prepared by members of the Dunsborough 2030 group, and provided as Attachment A, does set out some objectives for the Dunsborough Reference Group. Those objectives describe what the Group may seek to examine, rather than what it may seek to achieve in terms of outcomes. The things identified as objectives are also essentially reflected in part 3 (c) of the officer recommendation, which seeks to set out the matters regarding which the City would seek input from the Group.

With the model proposed, it is up to the Group itself to determine the details of its terms of reference, but it is considered that the Council may wish to explicitly set out what it is trying to achieve, from its perspective, and the following is recommended:

- Provision of greater opportunity for stakeholders to contribute to considered decision making with respect to the future development of Dunsborough;
- Assisting in identifying current and future community needs, and identifying and assessing options to meet those needs; and
- Assisting in building partnerships and two-way communication between the City and the community, and within the community.

***Expectations of the Group (part 2 of the officer recommendation)***

In drafting part 2 of the officer recommendation, officers have sought to generally reflect the draft terms of reference. Rationale for aspects of part 2 is set out briefly below –

- Part 2 recognises that, for the identified aims to be met, it is important that the Group is broadly representative of the community, which is intended to include from an age, interest and background perspective;
- Part 2 (d) and (e) recognises that it would be appropriate for financial interests to be declared and confidences respected, to ensure that parties other than the City especially, will be comfortable providing information to the Group; and
- Part 2 (f) asks that the Group recognise that City representatives will be bound by certain governance constraints, recognition and understanding of which is important.

***Commitments of the City (part 3 of the officer recommendation)***

As well as confirming what it may expect of the Group, it is important that the City set out what commitment it is making to the Group and the relationship. Some aspects of the proposed commitments and associated rationale are set out briefly below –

- Parts 3 (a) and (b) set out that the City shall seek input prior to making decisions, and will consider, but is not bound by, the input of the Group – which is a reflection of the fact that the City, including the Council, cannot delegate its decision-making responsibilities to the Group;
- Part 3 (c) sets out the matters regarding which input will be sought, which includes both ‘town planning’ matters, but also other kinds of strategic decisions, which are also important for the future of the community; and
- Part 3 (f) and (g) seek to clarify the role of City delegates at meetings with the Group.

**Statutory Environment**

The officer recommendation supports the general function of a local government under the *Local Government Act 1995* to provide for the good government of persons in its district.

**Relevant Plans and Policies**

The officer recommendation aligns to the adopted *City of Busselton Community Engagement Framework 2021*.

**Financial Implications**

There are no significant financial implications associated with the officer recommendation, other than with respect to the time of Councillors and City officers, some of which is likely to be required outside normal business hours. This can be accommodated within current City budget parameters.



### **Stakeholder Consultation**

The recommendation of the report itself relates to approaches to future stakeholder consultation. In preparing this report, City officers have communicated with members of the Dunsborough 2030 group on several occasions. The Mayor and (now) Deputy Mayor, as well as the CEO and Director of Planning and Development services also attended a meeting organised by that group in October 2021, where this matter was discussed.

### **Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

It should be noted that a reputational risk exists in the event that Council chooses not to support engaging in manner outlined with an established Dunsborough Reference Group. This risk is assessed as medium, noting there is significant community interest in the future development of Dunsborough and there appears to be broad support for the establishment of a Reference Group such as this.

### **Options**

As an alternative to the officer recommendation the Council could:

1. Not support engaging with formation of a Dunsborough Reference Group in the way outlined in this report;
2. Not express a view on the matter; or
3. Support an alternative model.

### **CONCLUSION**

As already noted, given the kinds of decisions that may need to be made over the next few years, the level of community interest in those decisions, and the City's commitment to improve its engagement with the community, the formation of a 'Dunsborough Reference Group' or similar to support considered decision-making is seen as appropriate. Whilst the model proposed is somewhat novel, officers feel it is worth doing, especially given the enthusiasm of some in the community for pursuing a model of this kind. It is considered that the formation of such a group, and the building of an engaged and productive relationship between the City and the group, could make a significant contribution to better decision-making and greater engagement, to the long-term benefit of the Dunsborough community.

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

It is anticipated that the Group could be formed prior to the end of the 2021 calendar year.

## **DUNSBOROUGH REFERENCE GROUP**

### **TERMS OF REFERENCE**

#### **1. INTRODUCTION**

- a) Dunsborough2030, The Dunsborough and Districts Progress Association Inc and The Dunsborough and Yallingup Chamber of Commerce Inc have proposed to the City of Busselton the establishment of a Dunsborough Reference Group ("the Group").
- b) It is proposed that the Group would consider and make recommendations to the City regarding significant and strategic plans for the town of Dunsborough and/or its surrounding areas (hereinafter called "Dunsborough").

#### **2. OBJECTIVES**

The objectives of the Group are to consider and make recommendations to the City Council in respect of:

- a) All proposed strategic planning documents affecting Dunsborough, including the Precinct Structure Plan for the town centre of Dunsborough and the Dunsborough Town Strategy Plan;
- b) Such proposed structure plans, development applications and subdivision proposals in respect of land in Dunsborough as may be considered by the City to have strategic impact upon Dunsborough;
- c) The required new Town planning scheme and amendments to the existing scheme of the City in so far as they impact upon Dunsborough;
- d) Proposals and decisions of the State Government, the Minister for Planning or the WA Planning Commission that may impact upon Dunsborough;
- e) All proposals for infrastructure or services or other proposals that may have a significant impact upon Dunsborough.
- f) Current and future community needs of Dunsborough.

#### **3. CONSULTATION**

It is intended that:

- a) The Group will consult the Community of Dunsborough and keep it informed of all matters the subject of its considerations and recommendations;
- b) The City will consult with and inform the Group of its considerations and decisions at all stages of proposals the subject of the Group's objectives; and
- c) The Group will keep the City informed of its views and the views of the community of Dunsborough in respect of all matters the subject of the Group's objectives.
- d) The Group will provide feedback to the City, State agencies, infrastructure providers, service providers and prospective developers on plans and priorities for development control and regulation, infrastructure development, property development and service provision.

**4. MEMBERSHIP**

The Group shall consist of the following:

- a) Two representatives of each of:
  - (i) The Dunsborough and Districts Progress Association Inc,
  - (ii) The Dunsborough and Yallingup Chamber of Commerce Inc,
  - (iii) Dunsborough2030;
- b) Two Elected Members of the Council of the City;
- c) Four representatives of other community clubs and associations in Dunsborough selected by the representatives referred to in subparagraph a) hereof;
- d) Four individuals who are residents of Dunsborough and appointed by the representatives referred to in subparagraph a) hereof.
- e) The Presiding member of the Group shall be chosen by the representatives referred to in subparagraph a) hereof;

**5. MEETINGS**

The Group shall meet at such times and in accordance with such rules as shall be determined from time to time by the Group.

**6. PROFESSIONAL SUPPORT**

The City shall instruct its Strategic planning staff to provide professional advice and support for the Group and to attend meetings of the Group.

**7. REPORTS**

The Group shall report to the City on its decisions and recommendation.

**8. STATUS OF RECOMMENDATIONS**

The recommendations of the Group shall be considered by the Council of the City prior to making any decisions on which recommendations have been made.

**9. CONFIDENTIALITY**

In recognition of the fact that on occasions it is appropriate that discussions regarding planning issues be kept confidential the Group will at the request of the City meet to discuss such issues at meetings that are closed to other members and members of the public and will keep confidential information provided by the City to such meetings until such time as the City shall determine that the confidentiality is no longer required.

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

Nil

**19. URGENT BUSINESS**

Nil

**20. CONFIDENTIAL REPORTS**

Nil

**21. CLOSURE**

The Presiding Member closed the meeting at 6.02pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 151 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 24 NOVEMBER 2021.

DATE:

24/11/21

PRESIDING MEMBER:

