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CITY OF BUSSELTON

MINUTES FOR THE COUNCIL MEETING HELD ON 8 NOVEMBER 2017

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MINUTES

MINUTES OF A MEETING OF THE A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 8 NOVEMBER 2017 AT 5.30PM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 5.30pm.

2. ATTENDANCE

Presiding Member:

Cr Grant Henley Mayor

Members:

Cr John McCallum Deputy Mayor
Cr Coralie Tarbotton
Cr Rob Bennett
Cr Paul Carter
Cr Robert Reekie
Cr Kelly Hick
Cr Lyndon Miles

Officers:

Mr Mike Archer, Chief Executive Officer
Mr Oliver Darby, Director, Engineering and Works Services
Mr Paul Needham, Director, Planning and Development Services
Mrs Naomi Searle, Director, Community and Commercial Services
Mr Cliff Frewing, Director, Finance and Corporate Services
Miss Kate Dudley, Administration Officer, Governance

Apologies

Nil

Approved Leave of Absence

Councillor Ross Paine

Media:

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

Public:

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3. PRAYER

The prayer was delivered by Reverend Wayne Warfield of St Mary's Anglican.

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

Nil

Public Question Time

Nil

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

The Presiding Member thanked the pastor for his Prayer message, his acknowledgment of former councillor David Reid who passed away last week and extended his condolences to the family and friends of Mr Reid.

The Presiding Member recited the ode in honour of Remembrance Day on Saturday 11 November 2017.

Announcements by other Members at the invitation of the Presiding Member

Nil

6. APPLICATION FOR LEAVE OF ABSENCE

Nil

7. PETITIONS AND PRESENTATIONS

Nil

8. DISCLOSURE OF INTERESTS

Nil

9. CONFIRMATION AND RECEIPT OF MINUTES**Previous Council Meetings****9.1 Minutes of the Council Meeting held 11 October 2017****COUNCIL DECISION**

C1711/263

Moved Deputy Mayor J McCallum, seconded Councillor P Carter

That the Minutes of the Council Meeting held 11 October 2017 be confirmed as a true and correct record.

CARRIED 8/0

9.2 Minutes of the Special Council Meeting held 23 October 2017

COUNCIL DECISION

C1711/264 Moved Councillor C Tarbotton, seconded Deputy Mayor J McCallum

That the Minutes of the Special Council Meeting held 23 October 2017 be confirmed as a true and correct record.

CARRIED 8/0

Committee Meetings

9.3 Minutes of the Finance Committee held on 5 October 2017

COUNCIL DECISION

C1711/265 Moved Councillor R Reekie, seconded Deputy Mayor J McCallum

That the minutes of the Finance Committee meeting held on 5 October 2017 be confirmed as a true and correct record.

CARRIED 8/0

9.4 Minutes of the Policy and Legislation Committee Meeting held 19 October 2017

COUNCIL DECISION

C1711/266 Moved Councillor P Carter, seconded Councillor R Bennett

That the minutes of the Policy and Legislation Committee Meeting held 19 October 2017 be confirmed as a true and correct record.

CARRIED 8/0

9.5 Minutes of the Airport Advisory Committee held 18 October 2017

COUNCIL DECISION

C1711/267 Moved Councillor P Carter, seconded Deputy Mayor J McCallum

That the minutes of the Airport Advisory Committee held 18 October 2017 be confirmed as a true and correct record.

CARRIED 8/0

ITEMS BROUGHT FORWARD AND ADOPTION BY EXCEPTION RESOLUTION

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

RECOMMENDATION

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

- 10.1 Finance Committee - 5/10/2017 - REQUEST TO CHANGE THE BASIS OF RATING FROM UNIMPROVED VALUATION TO GROSS RENTAL VALUATION
- 10.2 Finance Committee - 5/10/2017 - REQUEST TO CHANGE THE BASIS OF RATING FROM GROSS RENTAL VALUATION TO UNIMPROVED VALUATION
- 10.3 Finance Committee - 5/10/2017 - REQUEST FOR EXEMPTION FROM RATES - LOCKE ESTATE
- 10.4 Finance Committee - 5/10/2017 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 AUGUST 2017
- 10.5 Policy and Legislation Committee - 19/10/2017 - NEW COUNCIL POLICY - PORTABLE ADVERTISING SIGNS IN PUBLIC PLACES
- 10.6 Policy and Legislation Committee - 19/10/2017 - REVIEW OF COUNCIL POLICY 009/6 - BEACHES AND FORESHORE AREAS - ACCESS BY THE HOLDER OF A COMMERCIAL FISHING BOAT LICENCE
- 10.7 Policy and Legislation Committee - 19/10/2017 - REVIEW OF POLICY 049 – REGIONAL PRICE PREFERENCE
- 14.2 WORKFORCE PLAN 2017/2018 - 2020/21
- 15.1 COUNCILLORS' INFORMATION BULLETIN

10. REPORTS OF COMMITTEE

10.1 Finance Committee - 5/10/2017 - REQUEST TO CHANGE THE BASIS OF RATING FROM UNIMPROVED VALUATION TO GROSS RENTAL VALUATION

SUBJECT INDEX:	Rating Operations - GRV Conversion
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Financial Services
ACTIVITY UNIT:	Rates
REPORTING OFFICER:	Rates Coordinator - David Whitfield
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Lot 17 Whittle Rd Yallingup⇒ Attachment B Lot 17 Restrictive Covenant⇒

This item was considered by the Finance Committee at its meeting on 5 October 2017, the recommendations from which have been included in this report.

PRÉCIS

An application has been received from Mark Nelson on behalf of owner Mrs Margot Nelson, the owner of lot 17 (#216) Whittle Rd Yallingup requesting that Council give consideration to seeking the amendment of the basis of rating of the property from that of an Unimproved Valuation to that of a Gross Rental Valuation. This report considers the request and the possible options available to Council for its deliberation.

BACKGROUND

The property was created 2004 as part of a 2 lot subdivision with both lots (Lots 16 & 17) being approximately 20 hectares (50 acres) in size and are presently zoned 'conservation' under the current town planning scheme. Lot 17 is identified on the plan shown as attachment (A).

At the time of creation lot 17 was subject to a restrictive covenant, pursuant to Section 129BA of the Transfer of Land Act 1893, benefitting a public authority, (namely the Department of Conservation and Land Management – now known as the Department of Biodiversity Conservation and Attractions.)

The details of the covenant can be referenced as attachment (B).

In March 2007 lot 17 was purchased by Margot Nelson.

Historically, the property has always been rated on an unimproved valuation basis with the current valuation of land being \$1,559,000 UV as at the 1st July 2017. On the basis of the UV Rural category rate in the dollar the 2017/2018 rate levy equates to an amount of \$5,769.85.

On behalf of Margot Nelson, Mr Mark Nelson has previously sought an adjustment to the level of rating both in 2010 and 2015 both of which were denied. The current application again seeks an adjustment to the basis of rates and primarily seeks to have the property amended from that of an Unimproved Valuation (UV) to that of a Gross Rental Valuation (GRV).

STATUTORY ENVIRONMENT

In accordance with Section 6.28 of the Local Government act 1995 the Minister is to determine the method of valuation to be used by the local government as a basis for a rate. The Minister is to have regard to the general principle that the basis for a rate on any land is:

Where the land is used predominantly for rural purposes, the unimproved valuation of the land; and
Where the land is used predominantly for non-rural purposes, the gross rental valuation of the land.

Should the Council resolve to amend the basis of rating for lot 17 Whittle Rd Yallingup a request shall be sent to the Minister for subsequent approval and gazettal.

RELEVANT PLANS AND POLICIES

The Department of Local Government and Communities provides its Rating Policy – Valuation of Land (November 2016) document for references purposes.

FINANCIAL IMPLICATIONS

Should the application be supported by Council and subject to final Ministerial approval a change to the basis of rating could see an estimated reduction in rates of \$4000.00. The final amount would be determined upon the new property valuation to be issued by Landgate – Valuation Services.

Long-term Financial Plan Implications

As above

STRATEGIC COMMUNITY OBJECTIVES

This matter principally aligns with Key Goal Area 6 – ‘Open and Collaborative Leadership’ and more specifically Community Objective 6.2 – Governance systems that deliver responsible, ethical and accountable decision making’.

RISK ASSESSMENT

By approving the request for a change to the basis of rating the City may create a precedent whereby any broad acre rural property could seek to reduce rates by moving to a GRV basis. This could have a negative flow on effect with respect to the overall rates being raised within rural areas currently rated on a UV basis. Likewise such a change would also represent a loss of ‘consistency’ in the rating of broad acre rural properties and produce anomalies within both the urban and rural sectors.

CONSULTATION

As the request was ‘owner generated’ there is no further need for community consultation.

OFFICER COMMENT

The principal determining factors details by the Rating Policy – Valuation of Land document are Objectivity and Consistency.

In the first instance, Objectivity, consideration should be given to the predominant land use, and in the second instance, Consistency, similar properties that are used in the same purpose are treated in the same way.

The property is clearly restricted in terms of its usage. At the time of subdivision it was subjected to restrictive covenant requirements details of which are included in attachment (B).

As a result of these restrictions the case is put to Council by the current owner that the property should be rated on a GRV basis rather than a UV basis.

As a counterpoint it could be argued that the primary usage of the property is as a 'conservation' lot and this may be considered part of overall value of the property. Indeed by their nature the vast majority of properties identified for conservation status are located in rural areas.

With respect to the residential usage of a property it should be noted of course that many properties located within the UV area are in fact under residential usage. This would include most of the properties with the Commonage Rd area, the Dunbarton Estate/Peppermint Park (Rendezvous Rd) areas and both the Reinscourt/Wonnerup areas to name a few of the more consolidated occupied rural districts.

It is estimated there would be some 1500-2000 properties that are of a rural residential usage in nature that are presently rated on a UV basis. The average lot size would be 2 Hectares although substantial variation does occur within each of the named areas.

As such it is demonstrable that the residential usage of a property is applicable within the GRV area(s) as well as an Unimproved Valuation area(s) and that the implied use of a property as residential is not the sole basis for making a change to the Basis of Rating.

The second criteria relates to 'consistency' and this aims to identify 'like for like' within the property database. It has already been identified that a residential usage is typical of both UV or GRV rated properties, including whether as a sole use or a combined use of a UV property. What remains therefore is to determine as to which valuation type is better suited to achieve consistency on a like for like basis.

Physically, the property contains a single residence located on a 20 hectare lot of bushland and is subject to the requirements of the restrictive covenant detailed on the property title which preserve the important conservation value of the property. Whilst limited by the covenant created at the time of subdivision, the claim that the property should be rated as per a GRV residential property on a 1000 metre (or smaller) lot is difficult to substantiate on a 'like for like' basis.

Typically and at a very base level of definition an unimproved valuation is used for rating purposes where the land component is the major comparable attribute when determining a like for like situation between properties. Similarly, a GRV is used where the buildings (and other improvements to the land) become the major comparable attribute when determining a like for like situation between properties.

The City can, and has, applied GRV valuations to 'commercial' activities in the rural area such as Wineries with restaurants/cellar door sales etc together with other commercial/industrial activities that would be better compared to their 'urban' GRV counterparts.

In this instance the direct comparison of a rural 20 hectare 'residential' property to that of a standard urban 1000 metre (or less) residential property cannot be considered as a 'like for like' comparable purpose. The property is more suited to the comparison of 'similar' rural-residential lots already contained within the UV rated rural areas where the land component remains the major comparable attribute.

As a final note a query lodged with Landgate – Valuations Services has suggested that a reduction to the valuation may be possible as a result of the covenants being in place. The seeking of a valuation amendment was suggested in earlier correspondence in 2015 to the ratepayer and again in recent emails although it is understood that the ratepayer has not followed up on this course of action to date.

CONCLUSION

The property is 20 hectares of conservation bushland with a single residence and, whilst the use of the property is for all intents and purposes limited to that of a residential use, the comparability of the property to that of an urban residence on a far smaller lot is not considered valid on a like for like basis. The application for amendment of the property from a UV to a GRV basis for rating is not therefore supported.

OPTIONS

The City may choose to support the request for a change to the basis of rating from that of UV to that of GRV, and may write to the Minister seeking such amendment. Such an approach may both create an anomaly and set a precedent in the rates database affecting future considerations. That said, the ratepayer, whilst seeking an amendment to the valuation basis of the property, is concerned with the high level of rates being levied each year as a result of the high property valuation. Apart from changing the property' basis of rating the City may also look to offering a rating concession (Section 6.47 Local Government Act 1995) to reduce the amount of rates paid.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should the Council adopt the recommendation contained in this report then no further action need be taken.

COUNCIL DECISION/ COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1711/268 Moved Councillor C Tarbotton, seconded Councillor R Reekie

That the Council decline the request for lot 17 (216) Whittle Road Yallingup to be amended from that of a Unimproved Valuation to that of a Gross Rental Valuation basis and that the owner be encouraged to lodge a valuation objection with Landgate – valuation Services.

CARRIED 8/0

EN BLOC

10.2 Finance Committee - 5/10/2017 - REQUEST TO CHANGE THE BASIS OF RATING FROM GROSS RENTAL VALUATION TO UNIMPROVED VALUATION

SUBJECT INDEX:	Rating Operations - GRV Conversion
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Financial Services
ACTIVITY UNIT:	Rates
REPORTING OFFICER:	Rates Coordinator - David Whitfield
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Farm Break Developments (Lot 203)⇒

This item was considered by the Finance Committee at its meeting on 5 October 2017, the recommendations from which have been included in this report.

PRÉCIS

A request to amend the Basis of Rating has been received Parmelia Partners (Accountants) acting on behalf of Farm Break Developments P/L who own three properties in the Naturaliste locality. Two of the properties are rated on an Unimproved Valuation (UV) whilst the third property is rated on a Gross Rental Valuation (GRV) basis. As all of the lots are farmed as one rural holding the request asks for Lot 203 (1074) Cape Naturaliste Rd, Naturaliste to be changed from Gross Rental Valuation back to that of an Unimproved Valuation.

This report and subsequent recommendation supports the request.

BACKGROUND

The request relates to lot 203 which is a 23.56 hectare lot farmed in conjunction with Lots 50 and 683 on Cape Naturalist Rd, Naturaliste.

In the period leading up to 2006/2007 the previous owners of Lot 203 (1074) Cape Naturaliste Rd, Naturaliste being MR Carpenter Properties & Griffin Coal Mining Co P/L had been seeking approval for a possible tourist development to occur on this property. As a result of these proposals Lot 203 had been amended to a GRV basis from 1st July 2006.

No further development had occurred when the property was sold to Farm Break Developments P/L in March 2010. However, a subsequent letter of enquiry in 2013 again raised the prospect of tourism development but likewise nothing further has progressed and the property continues to be used for agricultural purposes.

The Town Planning Scheme zoning also remains as "Agriculture".

A map showing all three lots is included as attachment (A) for reference purposes.

STATUTORY ENVIRONMENT

In accordance with Section 6.28 of the Local Government act 1995 the Minister is to determine the method of valuation to be used by the local government as a basis for a rate. The Minister is to have regard to the general principle that the basis for a rate on any land is:

- Where the land is used predominantly for rural purposes, the unimproved valuation of the land; and

- Where the land is used predominantly for non-rural purposes, the gross rental valuation of the land.

Should the Council resolve to amend the basis of rating for lot 203 Cape Naturaliste Rd, Naturaliste a request shall be sent to the minister for subsequent approval and gazettal.

RELEVANT PLANS AND POLICIES

The Department of Local Government and Communities provides its Rating Policy – Valuation of Land (November 2016) document for references purposes.

FINANCIAL IMPLICATIONS

An estimate Unimproved Valuation reveals that supporting the change would result in a decrease in rates on lot 203 of approximately \$4,345 per annum.

Long-term Financial Plan Implications

As above

STRATEGIC COMMUNITY OBJECTIVES

This matter principally aligns with Key Goal Area 6 – ‘Open and Collaborative Leadership’ and more specifically Community Objective 6.2 – Governance systems that deliver responsible, ethical and accountable decision making’.

RISK ASSESSMENT

By not approving the recommendation the City allows an anomaly to exist in the rates database and reduces the overall consistency in terms of the application and use of appropriate valuations for individual properties. This may lead increased appeals by ratepayers for changes in the future and create ‘instability’ within the various rating categories.

CONSULTATION

Not Required.

OFFICER COMMENT

Whilst the property owners, both previous and current, have shown interest in the possible development of the land there has not been any decisive change to the current TPS zoning or usage of lot 203 other than its current agricultural use.

There has been no further action on the property since the 2013 enquiry and as such there is no immediate reason to keep the property on a GRV basis of rating.

Should any further action be commenced in this regard the property can once again be converted back to a GRV basis as needed.

The request will see all three landholdings rated on the same uniform basis and maintain the overall ‘consistency’ within the UV rating base.

CONCLUSION

The application for amendment of lot 203 Cape Naturaliste Rd, Naturaliste to a UV basis of rating is supported as lot 203 continues to be used as part of a larger rural (agricultural) holding and has not been developed to where a GRV valuation would be normally be applied.

OPTIONS

The Council may choose not to support the recommendation however this would allow an anomaly to continue to exist in the property database, and would most likely see further requests for amendment by the ratepayer.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Subject to adoption of the recommendation by Council a request would be forwarded to the Minister seeking approval of the request. This process normally takes between 3-4 weeks and would normally be expected to be finalised by 30 November at the latest.

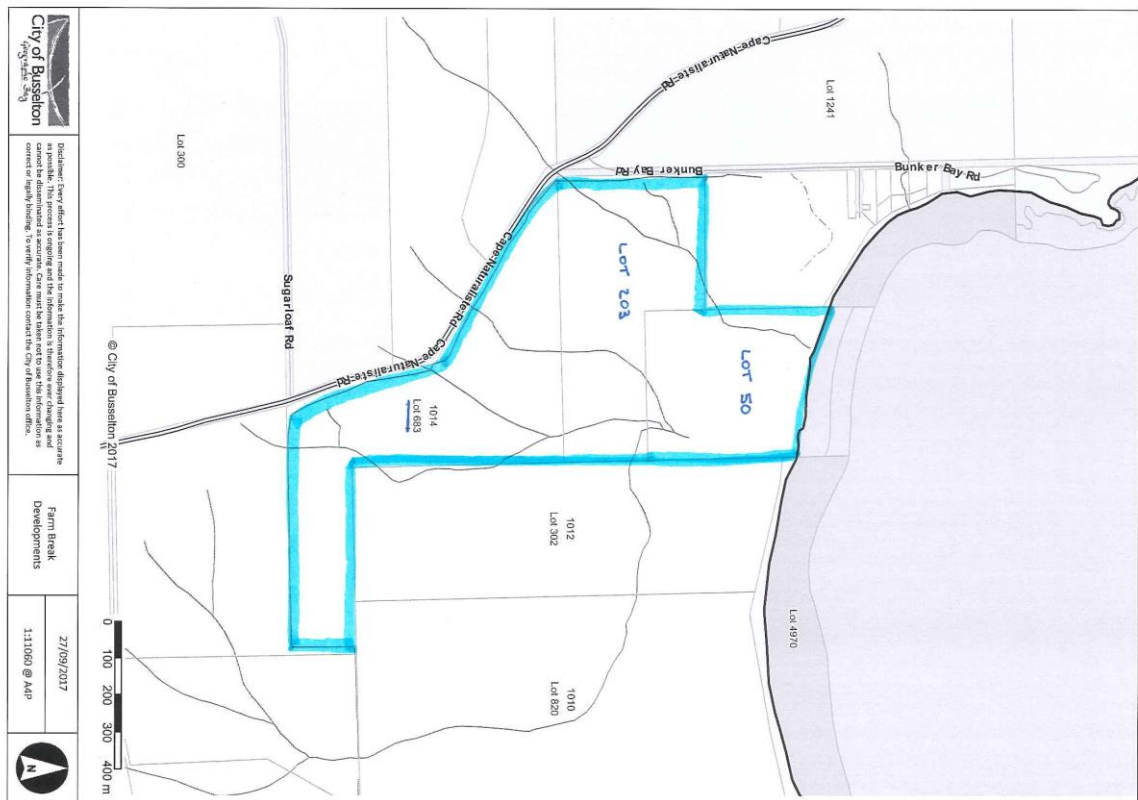
COUNCIL DECISION/ COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**C1711/269**

Moved Councillor C Tarbotton, seconded Councillor R Reekie

That the Council seeks Ministers approval to have the method of valuation for lot 203 (1074) Cape Naturaliste Rd, Naturaliste as depicted in attachment (A) amended to an Unimproved Valuation basis effective from the date of the Ministers approval.

CARRIED 8/0**EN BLOC**

Attachment A



10.3 Finance Committee - 5/10/2017 - REQUEST FOR EXEMPTION FROM RATES - LOCKE ESTATE

SUBJECT INDEX:	Exemptions and Appeals (Rates)
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Financial Services
ACTIVITY UNIT:	Rates
REPORTING OFFICER:	Rates Coordinator - David Whitfield
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

This item was considered by the Finance Committee at its meeting on 5 October 2017, the recommendations from which have been included in this report.

PRÉCIS

At its meeting of 28th July 2010, and in considering the Locke Estate lease project, the Council resolved (C1007/271), inter alia, that “as of the commencement of the new lease, each site is to be subject to the payment of shire rates unless an application from the lease is received by the Shire and the Council determines that the leased site is to be exempted from rates.”

During May 2013, the above determination was reaffirmed with the lessees, at which time they were also requested to submit an application for the rating exemption, should they believe they met the associated criteria.

This report details an application received by the Uniting Church in Australia Western Australia as received on the 16 August 2017 and, on the basis of the application details, recommends that the request for exemption be granted.

BACKGROUND

The Uniting Church in Australia (WA) is both a religious and a not for profit organisation and has occupied a leased site within the Locke Estate for many years, signing a further 21 year lease for site 13 in November 2016 effective from 1 December 2011.

The site is described as a recreational campsite in the application and is utilised by short stay school, cultural religious and recreation groups.

The campsite is a breakeven operation with user charged a nominal fee only to cover operational costs of the facility.

Documentation provided in support of the application includes:

- Completed City of Busselton Application for Exemption Form
- Statutory Declaration covering the property usage
- An extract of the Uniting Church in Australia Act 1976
- ATO endorsement of Income Tax Exemption
- Australia Charities and NFP Commission Registration Summary
- Copy of the lease document dated November 2016.
- Financial Statements to December 2016.

STATUTORY ENVIRONMENT

Section 6.26 of the Local Government Act provides broad definitions for rateable and non-rateable land. Moreover, Section 6.26 (2) (g) states that land is not rateable if it is “used exclusively for charitable purposes”.

RELEVANT PLANS AND POLICIES

Nil

FINANCIAL IMPLICATIONS

Should the application for rate exemption be approved the current rates amount of \$1,665.45 would be forgone.

Long-term Financial Plan Implications

Should the application for rate exemption be approved the current rates amount of \$1,665.45 would be forgone on an annual basis

STRATEGIC COMMUNITY OBJECTIVES

This matter principally aligns with Key Goal Area 6 – ‘Open and Collaborative Leadership’ and more specifically Community Objective 6.2 – Governance systems that deliver responsible, ethical and accountable decision making’.

RISK ASSESSMENT

That Council by not approving the application for rate exemption may be required to defend its decision if the matter were to be appealed by the applicant to the State Administrative Tribunal and that legal costs may be incurred as a result.

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Legal costs may be incurred in defending Council’s decision if the application is declined.	Applicant may lodge a further application with Council or may appeal the decision via the State Administrative Tribunal	Insignificant	Likely	Medium

CONSULTATION

NA

OFFICER COMMENT

In accordance with Section 6.26 (2) (g) of the Local Government Act, which states that land is not rateable if it is land used exclusively for charitable purposes, the application need only be considered in two parts – these being firstly; is the use itself “charitable”?, and secondly if the use is considered to indeed be charitable then; is the property being used exclusively for such use?

In considering the first part i.e. is the operations of Uniting Church in Australia (WA), legal opinions have been consistent in defining a charitable purpose; as follows:

“The expression “charitable purposes” may be satisfied if the land is exclusively for one of the following purposes:

1. The relief of poverty;
2. The advancement of education;
3. The advancement of religion; and
4. Other purposes beneficial to the community.”

At this point attention is drawn to the findings of a 2002 Land Valuation Tribunal hearing (Southern Cross Aged Care Inc v The City of Fremantle) in which the following was stated:

“11. The statutory provision (Section 6.26 (2) (g) - Local Government Act 1995) does not make it necessary to decide by whom the use of the land is made. The question is for what purpose is the land used.

12. Accordingly the correct approach when determining exemption applications is to focus upon the actual use of the land. In other words whether a use is charitable will depend on essentially upon the nature of the activities that are being conducted upon the land in question.”

Reference is also drawn to the lease agreement between the applicant and the City which states:

“Use:

- (1) The primary use of the Lease is for the Lessee to use the premises for temporary accommodation for:
 - (a) Groups participating in organised education, cultural, religious or recreational activities;
 - (b) Financially disadvantaged persons who are otherwise not able to afford a holiday; and
 - (c) Individuals or families requiring respite.”

The above uses could be considered charitable uses in light of the above mentioned definition of charitable purposes, albeit primary use does not necessarily extend to exclusive use.

In this instance it is recognised that the site is being leased by the Uniting Church in Australia from the City of Busselton. The site is then being hired to third parties who, on the basis of the information supplied in the application, may then be providing services to their members/clientele that could meet any of the 4 charitable purposes listed above.

It would therefore appear that, if taken on face value, the current usage of the sites would be considered charitable.

The second part in the consideration of the application is the question of the property’s “exclusive use” as a charitable purpose.

Under the terms of the lease with Council the usage of the property is primarily restricted to purposes that could, in a legal context, be considered charitable.

The lease agreements do allow for short stay accommodation to the general public to be made available upon written approval of the Council however such approval has not been requested by the Uniting Church in Australia (WA). Provided such use was minimal it could be considered ancillary to the primary use and not necessarily jeopardise the rate exemption status.

In terms of the current usage of the property there are no known compliance issues.

Should this application for exemption from rating be successful, the applicant will subsequently be advised that if the usage of the property should alter such that the requirements for eligibility for rate exemption are no longer met, then the rate exemption will be cancelled and rates and charges will become applicable from the date of such change.

CONCLUSION

In light of the details provided by Uniting Church in Australia (WA), referencing the application to previous applications for rate exemption both within the City of Busselton and other municipalities, and by taking into account the property use requirements of the signed lease agreement it is considered that the applicants are providing a charitable purpose to the community and that the provision of such services from site 13 (Locke Estate) being 140 Caves Rd, Siesta Park is considered to be an exclusive use.

OPTIONS

The Council may decline the application for rate exemption on the basis that it considers Uniting Church in Australia (WA) is not providing a charitable purpose to the community or that such charitable use relating to the property is not considered an exclusive use.

Should the application be declined for either of the above reasons the Uniting Church in Australia (WA) has the option to appeal the matter via the State Administrative Tribunal. This action as a result will require the Council to defend its position and may incur further legal costs.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The application for exemption from rating was received following the issue and receipt of the 2017/2018 rate notice and it is proposed that the exemption from rating, if approved, be granted from the 1st July 2017.

COUNCIL DECISION/ COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1711/270

Moved Councillor C Tarbotton, seconded Councillor R Reekie

That the Council in accordance with Section 6.26(2) (g) of the Local Government Act 1995 declare Site 13 (Locke Estate as leased by Uniting Church in Australia (WA) be declared exempt from rating on the basis that the property is being used exclusively for a charitable purpose, with the effective date being the commencement of the 2017/2018 financial year, namely, the 1st July 2017.

CARRIED 8/0

EN BLOC

10.4 Finance Committee - 5/10/2017 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 AUGUST 2017

SUBJECT INDEX:	Budget Planning and Reporting
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Financial Services
REPORTING OFFICER:	Manager Financial Services - Kim Dolzadelli
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Financial Activity Statement Period Ending 31 August 2017⇒ Attachment B Investment Report Period Ending 31 August 2017⇒

This item was considered by the Finance Committee at its meeting on 5 October 2017, the recommendations from which have been included in this report.

PRÉCIS

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

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

BACKGROUND

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

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

Additionally, and pursuant to Regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year. At its meeting of 26 July 2017, the Council adopted (C1707/163) the following material variance reporting threshold for the 2017/18 financial year:

“That pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations, the Council adopts a material variance reporting threshold with respect to financial activity statement reporting for the 2017/18 financial year as follows:

- *Variances equal to or greater than 10% of the year to date budget amount as detailed in the Income Statement by Nature and Type/ Statement of Financial Activity report, however variances due to timing differences and/or seasonal adjustments are to be reported on a quarterly basis; and*
- *Reporting of variances only applies for amounts greater than \$25,000.”*

STATUTORY ENVIRONMENT

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

RELEVANT PLANS AND POLICIES

Not applicable.

FINANCIAL IMPLICATIONS

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

Long-term Financial Plan Implications

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

STRATEGIC COMMUNITY OBJECTIVES

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

RISK ASSESSMENT

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

CONSULTATION

Not applicable

OFFICER COMMENT

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

▪ Statement of Financial Activity

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

▪ Net Current Position

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

▪ Capital Acquisition Report

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

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

▪ Reserve Movements Report

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

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

COMMENTS ON FINANCIAL ACTIVITY TO 31 AUGUST 2017

The Statement of Financial Activity for the period ending 31 August 2017 shows a better than expect Net Current Position (Surplus) of \$42.67M being \$5.9M more than Year to Date Budget.

The following summarises the major variances that collectively make up the above difference:

Description	2017/2018 Actual	2017/2018 Amended Budget YTD	2017/2018 Amended Budget	2017/18 YTD Bud Variance	2017/18 YTD Bud Variance
	\$	\$	\$	%	\$
Operating Activities					
Revenue	52,692,928	52,894,182	66,157,856	-0.38%	(201,254)
Expenses	(10,724,607)	(12,597,412)	(68,534,423)	14.87%	1,872,805
Non-Operating Grants, Subsidies and Contributions	1,009,173	4,124,214	42,079,630	-75.53%	(3,115,041)
Capital Revenue & (Expenditure)					
Land & Buildings	(1,463,152)	(3,405,132)	(16,531,693)	57.03%	1,941,980
Plant & Equipment	(548,553)	(408,884)	(4,029,400)	-34.16%	(139,669)
Furniture & Equipment	(99,999)	(178,944)	(830,212)	44.12%	78,945
Infrastructure	(4,898,053)	(9,850,640)	(59,905,821)	50.28%	4,952,587
Proceeds from Sale of Assets	109,884	55,000	635,150	99.79%	54,884
Total Loan Repayments - Principal	(85,895)	(28,943)	(2,780,982)	-196.77%	(56,952)
Transfer to Restricted Assets	(552,924)	(104,334)	(625,751)	-429.96%	(448,590)
Transfer from Restricted Assets	2,581,727	2,000,000	27,808,739	29.09%	581,727
Transfer to Reserves	(1,735,380)	(1,811,152)	(16,285,572)	4.18%	75,772

Operating Revenue:

Revenue from ordinary activities is less than expected when compared to Year to Date (YTD) Budget with the following items meeting the material variance reporting threshold set by Council for the 2017/2018 Financial Year

Description	2017/2018 Actual	2017/2018 Amended Budget YTD	2017/2018 Amended Budget	2017/18 YTD Bud Variance	2017/18 YTD Bud Variance
	\$	\$	\$	%	\$
Revenue from Ordinary Activities					
Operating Grants, Subsidies and Contributions	440,971	559,445	3,454,904	-21.18%	(118,474)
Interest Earnings	288,899	377,166	2,262,996	-23.40%	(88,267)

Operating Grants, Subsidies and Contributions:

The main items affected are:

Cost Code Description	Natural Account Description	Variance YTD	Comments
YCAB (Youth Precinct Foreshore)	Reimbursement - Insurance Recovered	32,972.88	offset with costs
Records	Reimbursement - Workers Compensation	(14,783.23)	offset with reduced expense
Regional Centres Program	Operating Grants & Subsidies-Other	22,566.00	timing variance
Preventative Services - CLAG	Operating Grant-Health Dept of WA	(72,000.00)	timing variance
Strategic Planning	Operating Grants & Subsidies-Other	40,000.00	timing variance
Preventative Services - CLAG	Contributions - Operating Activities	(85,334.00)	timing variance
Fire Prevention DFES	Reimbursement - ESL Levy	(47,267.00)	timing variance
Railway House	Reimbursement - Utility Charges	14,576.22	timing variance

Interest Earnings:

The main items affected are:

Natural Account Description	Variance YTD	Comments
Instalment Plan Interest	(38,166.00)	timing variance
Interest on Municipal Fund	(45,999.44)	timing variance

Operating Expenditure:

Description	2017/2018 Actual	2017/2018 Amended Budget YTD	2017/2018 Amended Budget	2017/18 YTD Bud Variance	2017/18 YTD Bud Variance
	\$	\$	\$	%	\$

Expenses from Ordinary Activities

Materials & Contracts	(1,587,548)	(2,872,256)	(16,639,971)	44.73%	1,284,708
Utilities (Gas, Electricity, Water etc)	(343,927)	(439,562)	(2,580,822)	21.76%	95,635
Other Expenditure	(249,347)	(351,216)	(3,464,535)	29.00%	101,869

Materials and Contracts:

The main items affected are list below, at this stage these variance are considered to be that of a timing nature:

Cost Code Description / GL Activity	Variance YTD
Environmental Management Administration	(44,377)
Rural-Tree Pruning	(28,917)
Green Waste	(25,878)
Preventative Services - CLAG	25,000
Street Lighting Installations	25,000
Bsn Foreshore Precinct (not including Skate Park)	25,584
Busselton Transfer Station	27,103
Meelup Regional Park	27,634
Strategic Planning	35,262
Kookaburra Caravan Park	41,009
BTS External Restoration Works	43,684
Road Maintenance Bal Of Budget	61,669
Engineering Services Administration	63,709
Domestic Recycling Collections	74,647
Transport - Fleet Management	81,038
Business Systems	86,008
Busselton Jetty	93,460
Information & Communication Technology Services	192,918

Utilities:

With over 345 individual accounts at an average better than expected result of \$277a favourable position of \$95K is considered likely to be a timing difference at this early stage of the reporting year.

Other Expenditure:

The main items affected are list below, at this stage these variance are considered to be that of a timing nature:

Cost Code Description / GL Activity	Variance YTD
Community Services Administration	13,274
Human Resources & Payroll	14,839
Cinefest Oz	15,834
Office of the CEO	26,694
Iron Man	30,834

Non-Operating Grants, Subsidies and Contributions:

The main item impacting on the above result is the timing of the receipt of "Airport Development - Project Grant" with a current negative result of \$3.1M; this is a timing difference in nature only.

Capital Revenue & (Expenditure)

As at 31 August 2017, there is a variance of 56% or \$7.04M in total capital revenue with YTD Actual at \$5.5M against a YTD Budget of \$12.6M; the following categories exceeding the 10% material variance threshold:

The attachments to this report include detailed listings of the following capital expenditure (project) items, to assist in reviewing specific variances:

- Land and Buildings
 - Sub Categories:

Description	2017/18 YTD Variance \$
<u>Land & Buildings</u>	
Land	(95,445)
<u>Buildings</u>	
Major Project - Busselton Foreshore	(51,222)
Major Project - Administration Building	405,113
Buildings (Other) including Airport Terminal	1,683,534

- Plant and Equipment
- Furniture and Equipment
- Infrastructure
 - Sub Categories:

Description	2017/18 YTD Variance \$
<u>Infrastructure</u>	
Playgrounds General - Replacement of playground equipment	(148,205)
Beach Restoration	(59,322)
Cycleways Construction	38,801
Car Parking Construction	39,628
Bridges Construction	48,000
Drainage Construction - Street	71,638
Townscape Construction	117,858
Major Project - Administration Building	143,639
Footpaths Construction	154,753
Roads to Recovery	240,932
Sanitation Infrastructure	255,091
Council Roads Initiative	371,481
Main Roads	539,858
Major Project - Busselton Foreshore	760,652
Airport Development	2,375,742

All capital expenditure variances are considered to be a timing adjustment at this time, with no impact expected against the net current position.

Investment Report

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

As at 31 August 2017, the value of the City's invested funds totalled \$85.99M, increasing from \$80.24M as at 1st July. The increase is due to rate funds now flowing in.

During the month of June \$12.5M in term deposit funds matured. All deposits were renewed for an average of 145 days at an average rate of 2.44%.

The balance of the 11am account (an intermediary account which offers immediate access to the funds compared to the term deposits and a higher rate of return compared to the cheque account) increased by \$5.75M due to the inflow of rates funding. New term deposits will be opened in September subsequent to the rates due date. The balance of the Airport development ANZ cash account remained steady.

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

Chief Executive Officer – Corporate Credit Card

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

Date	Amount	Payee	Description
30-Jul-17	\$564.00	Lenton Brae	Wine For Elected Members Area
02-Aug-17	\$328.00	Sushia (Brookfield) Perth	Meal: LG Week (4 Crs + CEO)
02-Aug-17	\$92.00	The Trustee Bar	+ CEO Hospitality LG Week (Drinks)
03-Aug-17	\$23.00	SFS PCEC 6189 Perth	+ Tea/Coffee LG Week
03-Aug-17	\$14.21	Total BS & Co. Pty Ltd	+ CEO Hospitality LG Week (Drinks)
03-Aug-17	\$116.00	Durty Nelly's Perth	Food & Drinks LG Week
05-Aug-17	\$60.48	Wilson Parking, Perth	Parking - LG Week
18-Aug-17	\$430.66	AIRBNB	* Accom: LGCOG Conf. 22-24 Nov
18-Aug-17	\$671.00	Event Brite (LG)	* Rego: LGCOG Conf. 22-24 Nov
23-Aug-17	\$1,250.36	Naturaliste Travel	* Flights: LGCOG Conference 22-24 Nov

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

+ Allocated against CEO Hospitality Expenses Allowance

CONCLUSION

As at 31 August 2017, the City's financial performance is considered satisfactory noting the timing difference with respect to Rate Revenue.

COUNCIL DECISION/ COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**C1711/271** Moved Councillor C Tarbotton, seconded Councillor R Reekie

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

CARRIED 8/0**EN BLOC**

10.5 Policy and Legislation Committee - 19/10/2017 - NEW COUNCIL POLICY - PORTABLE ADVERTISING SIGNS IN PUBLIC PLACES

SUBJECT INDEX:	Activities in Thoroughfares and Public Places and Trading Local Law 2015
STRATEGIC OBJECTIVE:	Development is managed sustainably and our environment valued.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Ranger and Emergency Services
REPORTING OFFICER:	Ranger & Emergency Services Coordinator - Ian McDowell
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Council Policy 146/4 Signs Placed on Council Controlled Land ➡ Attachment B Draft Council Policy - Portable Advertising Signs in Public Places ➡

This item was considered by the Policy and Legislation Committee at its meeting on 19 October 2017, the recommendations from which have been included in this report.

PRÉCIS

This new Council Policy has been developed as a means of providing a regulatory framework for the design and placement of portable advertising signs within the City of Busselton. The policy, underpinned by the *Activities in Thoroughfares and Public Places and Trading Local Law 2015* (the Local Law), is intended to provide clear direction to local business as to where they can display portable advertising signs, the types of signs requiring a permit, and the restrictions with regard to the number of signs and the times they may be displayed.

This report recommends adoption of the new policy(Attachment B) and revocation of Council Policy 146/4 – Signs Placed on Council Land (see Attachment A).

A report on the draft Policy was presented to the Policy and Legislation Committee on 21 September 2017. Due to the nature of the report and the potential importance of the issue to local businesses, the Committee asked that the report be deferred pending a Council briefing session. The Council briefing was subsequently held on 11 October 2017.

As a result of that further consideration, some relatively minor changes have been made to the proposed interim approach (i.e. in terms of regulation between now and when the policy will be formally considered after consultation), but no changes have been made to the draft policy itself. It should be noted that the draft policy itself will not be implemented until after consultation has occurred, and the Council has then also considered the outcomes of the consultation process.

BACKGROUND

The proliferation of portable advertising signs on display throughout the district is sometimes unsightly, a distraction for motorists, and hazardous to pedestrians. Portable advertising signage is nevertheless important for many businesses and appropriate where properly managed.

The new policy replaces Council Policy 146/4 – Signs Placed on Council Controlled Land. The old policy covered both portable and fixed signs, and was focussed on the removal of signs placed on City land without approval. The new policy deals only with portable advertising signs, has a focus on which signs are permitted to be displayed on public land, and when and where they may be displayed.

Currently, the City removes or requests the removal of portable advertising signs under the following circumstances:

- Where the placement of the sign is considered a safety hazard (e.g. on major roundabouts); or
- In response to complaints from members of the public regarding an excessive number of signs in a given location.

The main issue that arises from this approach is the question from impacted business owners: “*if we can’t put our signs there, where can we put them*”? While the Local Law provides a broad framework for the management of portable signs, it does not provide any advice regarding that kind of question. For example, it states where signs cannot be displayed without a permit but does not specify where and when they may be displayed. The Local Law is also silent on the number of signs that may be displayed with a permit.

STATUTORY ENVIRONMENT

Pursuant to section 2.7(2)(b) of the *Local Government Act 1995*, a role of Council is to determine the local government’s policies.

Pursuant to clause 3.2 of the *Activities in Thoroughfares and Public Places and Trading Local Law 2015* (the Local Law):

- (1) *A person shall not without a permit, erect, place or maintain an advertising sign:*
 - (a) *on or above a thoroughfare;*
 - (b) *on a path;*
 - (c) *over any path where the resulting vertical clearance between the sign and the path is less than 2.5 metres (s.45B of the Building Regulations 2012 requires a vertical clearance of 2.75 metres and supercedes this clause of the Local Law);*
 - (d) *in any location where the sign is likely to obstruct line of sight along a thoroughfare or cause danger to the person using the thoroughfare; or*
 - (e) *on any natural feature including a rock or tree on a thoroughfare, or on any bridge or the structural approaches to a bridge;*
- (2) *Notwithstanding subclauses (1) and (2), a permit is not required in respect of a home open sign or garage sale sign provided that:*
 - (a) *the sign neither exceeds 500mm in height or 0.5m² in area;*
 - (b) *the sign is placed or erected on a thoroughfare no more than half an hour prior to the garage sale or home open and is removed within half an hour of the close of the garage sale or home open; and*
 - (c) *there is no more than one garage sale or home open sign at any road intersection and no more than six separate signs which delineate not more than 2 alternative routes to the home open or garage sale.*

Pursuant to section 29(1) of the Local Government (Functions and General) Regulations (the Regulations):

- (1) *A contravention of a regulation or local law made under the Act can lead to the impounding of goods involved in the contravention if:*
- (a) *it occurs in a public place; and*
 - (b) *either:*
 - i. *the presence of the goods presents a hazard to public safety, or obstructs the use of any place; or*
 - ii. *where the regulation or local law prohibits or regulates the placement of the goods, the goods are located in a place contrary to that regulation or local law.*

RELEVANT PLANS AND POLICIES

This report proposes adoption of a new Council Policy (Attachment B); and replaces the existing Council Policy 146/4 – Signs Placed on Council Controlled Land. Unlike the previous policy that dealt with fixed and portable signs, the focus of the new policy is solely portable advertising signs.

FINANCIAL IMPLICATIONS

There are two potential sources of income as a result of the implementation of this policy and enforcement of the Local Law.

The first relates to income generated as the result of the City impounding portable advertising signs displayed contrary to the Local Law. The impound fee, as prescribed in the Adopted Schedule of Fees and Charges for the 2017/18 financial year, is \$74 per sign. It is unlikely there would be any significant income as a result of the City impounding signs as, in many cases the cost to replace the sign would be less than the impound fee and as such, the owner of the sign is unlikely to claim it. Businesses may be more inclined to pay the impound fee if the City has cause to impound more costly “A” or “T” frame signs, or banner signs that are displayed without a permit following the implementation of this policy.

The second relates to the annual application fee for a permit to display a portable advertising sign, which is currently \$213.00 per application. This fee would be payable by all businesses who currently display the “A” or “T” frame signs that are prevalent in the Busselton and Dunsborough CBDs, and who wish to continue to display these signs.

It should be noted that these fees are not new fees. The sign impound fee dates back to the Adopted Schedule of Fees and Charges for the 2010/11 financial year, while the application fee was introduced as a new fee in 2015/16.

It is envisaged a new fee will be proposed in the Schedule of Fees and Charges for the 2018/19 financial year for the renewal of a permit to continue to display a portable advertising sign. The intent of the permit renewal will be to cover the administration required to renew the permit, which would generally be approved if the public liability insurance remains current and there has been no change to the quality, placement or design of the approved sign. The amount will be determined during development of the Schedule of Fees and Charges for the 2018/19 financial year and is envisaged to be less than the application fee for a new sign.

Long-term Financial Plan Implications

No significant implications.

STRATEGIC COMMUNITY OBJECTIVES

The draft policy aligns with and supports Council's Key Goal Area 3 – Environment: valued, conserved and enjoyed; and more specifically Community Objective 3.1 – development is managed sustainably and our environment valued.

This policy provides a regulatory framework for the design and placement of portable advertising signs within the City of Busselton. In doing so it provides a mechanism for reducing the proliferation of portable advertising signage in the natural and built environment.

RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer recommendations has been undertaken using the City's risk assessment framework.

The greatest risk associated with the implementation of this policy and enforcement of the Local Law is one of reputational harm to the City. One of the community objectives in key goal area 4 (Economy) of the City's Strategic Community Plan 2017 is "*a community where local business is supported and in turn drives our economy*". Enforcement of the Local Law through implementation of this policy may be seen by some local business as restricting their ability to use this type of advertising, thereby adversely affecting their business and contradictory to the community objective.

That being said, it is not the intent of the policy to stop the use of portable advertising signs altogether. The intent is to manage their use by ensuring the placement of signs does not restrict pedestrian and/or vehicular access, and to ensure the signs are constructed and placed in a manner that does not present a safety risk to the wider community. The policy will also ensure a 'level playing field' for businesses.

It is however, the intent to prevent the use of portable advertising signs as a means of remotely advertising a business and to manage the number and placement of signs used to advertise garage sales and homes open. In essence the policy will provide the City with clear guidance on how to ensure compliance with the Local Law.

CONSULTATION

No structured external community consultation has been undertaken prior to or following the development of the draft policy. It is a recommendation of this report that Council endorse the draft policy for consultation for a period of 28 days commencing at the end of January 2018. As part of the consultation process the City will write to the following regional business associations seeking their feedback:

- Busselton Chamber of Commerce and Industry
- Dunsborough Yallingup Chamber of Commerce
- Margaret River Wine Association
- Margaret River Busselton Tourist Association
- Real Estate Institute of Western Australia

OFFICER COMMENT

It is recommended that the Council adopt the draft policy for public consultation. Further, it is proposed that the consultation process commence in late January 2018. This timeframe is likely to cause continued uncertainty with businesses regarding the permitted use of portable advertising signs in a public place and as such, it is proposed that subject to Council's endorsement of this report, the City will commence enforcement (including removal by the City, where other options have been unsuccessful) of portable signs that would not otherwise be granted a permit under the existing provisions of the Local Law, generally using the guidance provided in the draft policy.

Enforcing the removal of signs that would not be granted a permit under the terms of the policy (e.g. portable advertising signs being used remotely as a means of advertising a business, and home open and other portable real estate signs that are displayed contrary to the Local Law and/or provisions of the policy) would begin immediately. Pending the proposed adoption of the new policy in April / May 2017, business proprietors will be contacted by Rangers and given 48 hours to remove the unauthorised sign or signs. There will be no penalty unless the business proprietor refuses to comply at which time a caution will be issued and the signs impounded. If the owner of the sign wishes to claim an impounded sign, a \$74 impound fee applies.

Business proprietors who are currently displaying signs that would be permitted under the Local Law and policy, or who would like to display a new sign pursuant to the Local Law and policy will have a six month grace period following the adoption of the new policy by Council to apply for a permit. After this period the City will enforce the removal of unauthorised signs under the authority of the Local Law and *Local Government Act 1995*.

CONCLUSION

Whilst the Local Law governing the use of portable advertising signs has been in place for some time (since February 2015 in its current form), there has been limited direction in how to apply the requirements with regard to the portable sign permit applications process, and the enforcement and removal of unauthorised signs. The new policy would provide this guidance and provide a clear framework for the management of portable advertising signs in our District.

OPTIONS

Council may amend or reject the new draft policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

1. It is intended that the draft Policy will be considered by the Policy and Legislation (P&L) Committee on 19 October 2017. At this time it will be recommended that the draft Policy be approved for consultation.
2. If endorsed by the P&L Committee, the draft Policy will then go to Council on 8 November 2017.
3. Subject to the approval of Council the draft Policy will be available for consultation in late January 2018 for a period of 28 days.
4. If supported by Council, the City would commence immediate enforcement for the removal of signs that would not otherwise be approved under the Local Law.
5. Officers will consider the results of the consultation and present a report to Council seeking adoption of the new policy in April/May 2018.
6. Subject to adoption of the new Policy, business owners will then have up to six months grace period to apply for a permit to display portable advertising signs in accordance with the Local Law and the new policy.

COUNCIL DECISION/ COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**C1711/272**

Moved Councillor C Tarbotton, seconded Councillor R Reekie

That the Council:

1. Endorses for consultation draft Council Policy – Portable Advertising Signs in Public Places as attached (Attachment B);
2. Notes the enforcement of signs that would not be granted a permit under the provisions of the *Activities in Thoroughfares and Public Places and Trading Local Law 2015* (the Local Law), and the new policy will begin immediately following adoption of the new policy; and
3. Cancel Council Policy 146/4 – Signs Placed on Council Land

CARRIED 8/0**EN BLOC**

Attachment B

Last Updated 08/11/2017

146/4	Portable Advertising Signs in Public Places	V1
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1.0 PURPOSE

- 1.1 The purpose of this policy is to provide a regulatory framework for the design and placement of portable advertising signs within the City of Busselton. Council supports the need for signage to promote tourism, business, public events and community groups and services but also supports the need for regulation so that signage does not adversely impact the amenity and streetscapes of the City.

2.0 SCOPE

- 2.1 This policy will guide the City, local business and the community on circumstances where portable advertising signs may be displayed in public places within the District; and also circumstances where signs may be removed from public places if displayed contrary to this policy and/or our Local Law.
- 2.2 This policy does not cover:
- a. fixed directional tourism signs or signs promoting public events;
 - b. signs and advertising devices on or in the vicinity of highways and main roads that come under the control of the Commissioner of Main Roads; or
 - c. signs, advertising or otherwise, that are covered under separate legislation (including election signage), local planning policies or the town planning scheme.

3.0 DEFINITIONS**General**

Advertising sign: a sign that is used for the purpose of advertisement or to draw attention to a product, business, person or event and includes a home open sign and garage sale sign. In the case of signs advertising a business or commercial venture they shall only display material which advertises the business or the products available from the business to which the sign relates.

Carriageway: a portion of a road that is improved, designed or ordinarily used for vehicular traffic and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and, where a road has two or more of these portions divided by a median strip, the expression means each of those portions separately.

Event: an occurrence proposed to be held within the City of Busselton on private or public land, either indoor or outdoor by a person(s)/group/organisation, where people assemble at a given time for entertainment, recreation, cultural or community purposes. This includes but is not limited to:

- a. concerts and music festivals;
- b. motorsport events, motor vehicle rallies and displays;
- c. sporting events;
- d. cultural and community events;
- e. shows and fairs;
- f. exhibitions, wine and food festivals; and
- g. surfing events.

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Footpath: an area that is open to the public that is designated for, or has as one of its main uses, as use by pedestrians and includes dual use or shared paths.

Local Law: the City of Busselton *Activities in Thoroughfares and Public Places and Trading Local Law 2015*.

Median strip: any physical provision, other than lines, dividing a road to separate vehicular traffic proceeding in opposing directions or to separate two one-way carriageways for vehicular traffic proceeding in opposing directions.

Portable sign: includes 'A' frame or inverted 'T' signs, garage sale signs, home open signs, horizontal and vertical banner signs, and variable message signs (including trailer mounted)

Public place: any thoroughfare or place the public is allowed to use, whether or not the thoroughfare is on private property, and includes local government land/property but does not include premises on private property from which trading is lawfully conducted.

Sporting and community sign: a portable advertising sign erected by not-for-profit sporting, or community groups or services for the purpose of advertising a sporting or community event (eg. cultural activities, sporting registration days, arts and craft fairs, market days or other events of public interest).

Thoroughfare: a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end.

Traffic controlled intersection: an intersection that has traffic control lights, stop signs, or give way signs directing traffic.

Traffic island: any physical provision, other than lines, marks or other indications on a carriageway, made at or near an intersection to guide vehicular traffic.

Sign Types

'A' frame or 'T' frame sign: a self-supporting sign of rigid, lightweight material that is capable of being easily moved by hand, in 'A' or 'T' frame configuration.

Garage sale sign: a sign made from cardboard/corflute, paper or other lightweight material that is used to direct persons to a garage sale at residential premises.

Home open sign: a sign made from cardboard/corflute or other lightweight material used to direct persons to a home for sale that is open for inspection and includes display homes.

Horizontal banner sign: a sign made of lightweight, non-rigid material such as cloth, canvas or similar attached by rope or similar material to poles or other vertical anchoring points.

City project sign: a sign made from cardboard/corflute or other lightweight material used to promote constructions projects being undertaken by the City.

Vertical banner sign: a fabric or similar material sign with a single mast constructed of carbon-fibre or similar flexible material attached to a weighted base or otherwise anchored to the ground. These are typically marketed as 'teardrop', 'feather' or 'blade wing' signs.

Variable message sign: an electronic sign that is capable of displaying a single message, or a series of messages.

4.0 LEGISLATION

4.1 Clause 3.2 of the Local Law:

(1) *A person shall not without a permit, erect, place or maintain an advertising sign:*

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- (a) *on or above a thoroughfare;*
 - (b) *on a path;*
 - (c) *over any path where the resulting vertical clearance between the sign and the path is less than 2.5 metres (Note: s.45B of the Building Regulations 2012 require a vertical clearance of 2.75 metres and would prevail over the Local Law);*
 - (d) *on or within 1 metre of a carriageway;*
 - (e) *in any other location where the sign is likely to obstruct line of sight along a thoroughfare or cause danger to the person using the thoroughfare; or*
 - (f) *on any natural feature including a rock or tree on a thoroughfare, or on any bridge or the structural approaches to a bridge.*
- (2) *Notwithstanding subclauses (1) and (2), a permit is not required in respect of a home open sign or garage sale sign provided that:*
- (a) *the sign neither exceeds 500mm in height or 0.5m² in area;*
 - (b) *the sign is placed or erected on a thoroughfare no more than half an hour prior to the garage sale or home open and is removed within half an hour of the close of the garage sale or home open; and*
 - (c) *there is no more than one garage sale or home open sign at any road intersection and no more than six separate signs which delineate not more than 2 alternative routes to the home open or garage sale.*

4.2 Under section 29(1) of the *Local Government (Functions and General) Regulations 1996* (the Regulations):

- (1) *A contravention of a regulation or Local Law made under the Act can lead to the impounding of goods involved in the contravention if:*
- (a) *it occurs in a public place; and*
 - (b) *either:*
 - i. *the presence of the goods presents a hazard to public safety, or obstructs the use of any place; or*
 - ii. *where the regulation or Local Law prohibits or regulates the placement of the goods, the goods are located in a place contrary to that regulation or Local Law.*

5.0 POLICY CONTENT

General

5.1 Portable advertising signs are not to be:

- a. erected, placed or maintained on roundabouts, traffic islands, median strips, or within 10m of traffic controlled intersections; or
- b. attached to existing signs, including other advertising signs, or on any road related infrastructure such as traffic sign supports, bus shelters, or on or between trees or other vegetation; or
- c. electronically illuminated or have an electronic or animated display; or
- d. placed on any footpath where the speed limit on the road abutting the footpath is 60 kilometres per hour or greater; or
- e. mounted to a vehicle and/or trailer.

5.2 Portable advertising signs in public places shall:

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- a. have no moving parts once the sign is in place;
- b. be placed on the property boundary and provide a minimum of 1.2 metres clearance from the abutting thoroughfare.
- c. be weighted or anchored to retain their position in all weather conditions other than the circumstance in (d) below;
- d. be removed by the owner during periods of severe weather warnings issued by the Bureau of Meteorology;
- e. be manufactured from high quality materials (metal, plastic, wood or fabric) and have professional sign writing and/or graphics (including blackboards that are professionally presented);
- f. be designed and supported in a manner that ensures there is no risk of injury to the public through sharp edges, projections, potential trip hazards or similar; and
- g. in the case of signs that advertise a business or other commercial venture, only be displayed during operating hours of the business or other commercial venture to which it relates.

Signs requiring a permit

- 5.3 The City of Busselton *Activities in Thoroughfares and Public Places and Trading Local Law 2015* establishes the need for a permit to display certain types of portable advertising signs.
- 5.4 Subject to clause 2.2, permits are required for 'A' or 'T' frame signs, horizontal and vertical banner signs; and variable message signs that:
 - a. promote or advertise a business or any other commercial venture; and
 - b. promote or advertise a sporting event, community event, community group or community service.
- 5.5 A permit application fee will be charged for signs that advertise a business or commercial venture, but will not be charged for signs promoting charitable not-for-profit sporting or community events or services. To not be charged a fee, an organisation or individual is required to be a not-for-profit organisation (with an incorporation certificate) or a charitable organisation. The permit application fee is prescribed in Council's adopted Schedule of Fees and Charges.
- 5.6 The owner of a portable advertising sign advertising a business or commercial venture will be required to provide evidence of current public liability insurance to the value of \$10,000,000, which indemnifies the City of Busselton against any claims for damages arising from the sign on the public land.
- 5.7 Portable advertising signs for which a permit is required and has been issued will be required to indelibly display, the current permit number at the top right hand corner on one external face of the sign. Permits will generally be issued for 3 years, unless the sign is only required for a short duration, or unless this policy requires otherwise; after which the permit holder will be required to apply for a permit renewal.
- 5.8 'A' or 'T' frame signs shall:
 - a. be limited to a maximum of one sign per business premises and placed directly in front of, or as near as is practically possible to the business to which it relates;
 - b. be placed with a set back from the carriageway of no less than 0.5m, and placed to maintain a clear thoroughfare (footpath) width of no less than 1.8m; and
 - c. have a maximum vertical or horizontal dimension of 1.2m and have an area allocated for advertising of no more than 0.9m² on either side.
- 5.9 Horizontal banner signs:
 - a. will only be approved when promoting or advertising sporting or community events or

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services;

- b. shall have a maximum height of 1.5m;
- c. shall have a maximum width of 2.5m; and
- d. may be displayed for a maximum period of 14 days before an event and removed by the owner no later than one day after the event.

5.10 Vertical banner signs shall:

- a. be a fabric sign with a single mast;
- b. have a maximum flag size of 2.8m by 1.0m with a maximum height, including the stand, of 3.5m (when placed on an open verge);
- c. have a maximum flag size of 2.0m by 1m with a maximum height, including the stand, of 2.5m (when placed on a footpath);
- d. be no more than 60cm wide below 2m high; and
- e. have no more than one vertical banner per 4m of street frontage (with a maximum of four banners per business) and excludes the use of an 'A' or 'T' frame sign (where more than one vertical banner is displayed, each banner shall display a different product or message).

5.11 The City will not approve the use of variable message signs in a public place for the purpose of advertising a business or commercial venture.

5.12 Owners of approved business or commercial ventures that have no fixed business location may apply to use up to two portable advertising signs ('A' or 'T' frame, or other lightweight signs but not including banner or variable message signs) to advertise the location from which the business is currently being undertaken. The first sign to be at the approved trading location, the second is to be located within 500 metres driving distance of that location and shall otherwise comply with the requirements of this policy and the Local Law.

Signs not requiring a permit

5.12 Permits are not required for garage sale signs or home open signs. The owner of the signs is responsible for their placement and removal in accordance with this policy and the Local Law. Removal of the signs includes all materials from which the sign is constructed, and all materials used to secure the signs in place.

5.13 Garage sale signs are to include the address details, street number and street name, of the premises in which the garage sale is being held.

5.14 Restrictions:

- a. no more than six separate signs shall be used to advertise or promote the same garage sale, or home open;
- b. signs are not to be displayed more than one kilometre from the garage sale or home open, within 250m of any other sign advertising or promoting the same garage sale or home open, or within 50m of any other portable advertising sign; and
- c. the signs should not delineate any more than two alternative routes to the garage sale, or home open.

5.15 Garage sale signs, and home open signs shall:

- a. be free standing and not affixed to any sign, post, power or streetlight pole, or similar structure (including trees and other vegetation);
- b. not exceed 500mm in height or 0.5m² in area;
- c. not be displayed any more than 30 minutes before, or 30 minutes after the event;

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- d. not obstruct the vision of a driver of a vehicle entering or leaving a street or other public place;
- e. not interfere with the safe and convenient passage of pedestrians; and
- f. not be placed in any public place contrary to this policy and/or the Local Law.

City project specific signs

- 5.16 City project specific signs have been developed by the City as a means of promoting public works and projects it is undertaking throughout the District. These signs will only be displayed during construction works when there are workers on site.
- 5.17 As the approving authority for portable advertising signs, the City will be deemed to have approval to display these signs without the need to apply for individual permits.

Refusal of Applications

- 5.18 Applications that do not comply with the requirements of the Local Law and this Policy will be refused by the City.

Removal of unauthorised signs

- 5.19 Portable advertising signs placed contrary to this policy and/or the Local Law may be impounded by the City.
- 5.20 Impounded signs may be claimed by the owner following payment of an impound fee as prescribed in Council's Schedule of Fees and Charges. In addition to the impound fee, owners of impounded signs may also receive a written caution and/or an infringement.

Policy Background

Policy Reference No – 146/4

Owner Unit – Ranger and Emergency Services

Originator – Ranger and Emergency Services Coordinator

Policy Approved by – Council

Date Approved – 8/11/2017

Review Frequency – as required

Related Documents – *Activities in Thoroughfares and Public Places and Trading Local Law 2015*

History

Council Resolution	Date	Information
C1711/272	8 November 2017	Version 1

10.6 Policy and Legislation Committee - 19/10/2017 - REVIEW OF COUNCIL POLICY 009/6 - BEACHES AND FORESHORE AREAS - ACCESS BY THE HOLDER OF A COMMERCIAL FISHING BOAT LICENCE

SUBJECT INDEX:	Local Government Property Local Law 2010
STRATEGIC OBJECTIVE:	Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Ranger and Emergency Services
REPORTING OFFICER:	Ranger & Emergency Services Coordinator - Ian McDowell
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A CP 009/6 Beaches and Foreshore Areas - Access by the Holder of a Commercial Fishing Boat Licence (V3 Draft)⇒ Attachment B CP 009/6 - Beaches and Foreshore Areas, Access by Licenced Professional Fishermen (V2 Current)⇒

This item was considered by the Policy and Legislation Committee at its meeting on 19 October 2017, the recommendations from which have been included in this report.

PRÉCIS

A review of Council Policy 009/6 has been undertaken. The revised draft policy has been reformatted to reflect existing corporate standards for Council policies, has been reworded to make it gender neutral and has been refined to exclude some beach locations where vehicle access is no longer practically possible. It also now includes information relating to the applications process and associated fees.

BACKGROUND

The policy was originally adopted in 2002, and was last reviewed in December 2004 at which time there were no changes.

Commercial fishers access beaches in the City in a professional capacity and, as a result, derive a financial income from their commercial fishing activities. In the recent past some commercial fishers have suggested they are exempt from the requirement to apply and pay for a permit. They believe the exemption has been a long standing arrangement between themselves and the City. Others acknowledge the requirement to apply and pay for a permit and comply accordingly.

The revised draft policy seeks to formalise the requirement for holders of a commercial fishing boat licence to apply for a permit to allow them to access the beach and foreshore areas (ie. local government property).

STATUTORY ENVIRONMENT

Pursuant to section 2.7(2)(b) of the Local Government Act 1995, a role of Council is to determine the local government's policies.

Pursuant to section 2.1(1) of the City of Busselton *Local Government Property Local Law 2010* (the Local Law):

"Unless under the authority of a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property".

Local government property means anything except a thoroughfare: which belongs to the City or in which the City has an interest; of which the City is the management body under the *Land Administration Act 1997* (the Act); or which is an otherwise unvested facility within s.3.53 of the Act.

Local government property includes most beaches and foreshores, other than where land is in private ownership, or is managed by the Department of Biodiversity, Conservation and Attractions (DBCA). When holders of a commercial fishing licence access beaches and foreshores in the City they are using land which is government property.

RELEVANT PLANS AND POLICIES

This report proposes adoption of the revised draft version 3 of Council Policy 009/6 as attached to this report (Attachment A).

A copy of version 2 of the Policy is also attached for reference (Attachment B). Note: this version has not been tracked changed as the revised draft Policy has been reformatted to meet existing corporate standards for council policies.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the adoption of the revised policy or this report.

Long-term Financial Plan Implications

There are no long-term financial plan implications associated with the adoption of the revised policy or this report.

STRATEGIC COMMUNITY OBJECTIVES

The draft policy aligns with and supports Council's Key Goal Area 3 – Environment: valued, conserved and enjoyed; and more specifically Community Objective 3.2 – natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.

Regulating the control of vehicles on beaches and foreshores helps to conserve and protect the natural environment.

RISK ASSESSMENT

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

CONSULTATION

An earlier version of this report was considered by the Policy and Legislation Committee on 17 August 2017. At that meeting, following representation from local commercial fishers, the City was asked to consult with local commercial fishers with regard to the revised draft policy.

The City subsequently wrote to a number of commercial fishers who were licenced to fish in waters off our District. Approximately 20 letters were sent out with only two written submissions received. The main points raised by the respondents were related to the practical aspects of accessing the beaches rather than the policy itself. However, both respondents made comment on the permit application fee. One asked if the fee was payable by all commercial fishers, the other asked if the fee could be waived.

On 14 September 2017, the Director Planning and Development, and the Ranger and Emergency Services Coordinator met with a delegation of local commercial fishers headed by the person who made the original representation to the City regarding the draft policy (this person also provided a written response as mentioned above). At this meeting it was agreed that changes to the draft policy would be made for the consideration of the Council, and that conditions, similar to those that had previously been in place, would be established as a requirement for a permit to be issued.

The recommended changes for Council to consider include:

1. That the permit be generally valid for a period of three years;
2. There will be a limit of three vehicles plus trailers per permit (rather than just one); and
3. Commercial Fisher's Beach Access permits will only be issued to the holder of a commercial fishing boat licence.

City officers support these changes as follows:

1. The fee charged for a permit is an administrative charge only; it is not a fee to access the beach as such. The only implication in establishing a three year permit is that the renewal fee, which is approximately two-thirds of the initial application fee, would reduce the income derived from administering the permit renewals in years two and three.
2. There are times (e.g. during the Salmon season) that commercial fishers need to access our beaches and foreshore areas with more than one vehicle and as such, it is proposed that a maximum of three vehicles plus trailers be approved for each permit. The existing policy is one vehicle per permit however, administratively there is no additional work required to allow up to three vehicles per permit.
3. Advice from local commercial fishers is that all members of a fishing crew are required to hold a commercial fishing licence. The commercial fishers have recommended that only the holder of a commercial fishing boat licence be eligible to apply for a Commercial Fisher's Beach Access Permit.

The delegation of commercial fishers who met with City staff indicated they would be prepared to pay the Permit Application fee for a three year permit allowing a maximum of three vehicles access to the City's beaches.

The delegation had input into the development of, and support for the following permit conditions:

1. Only holders of a valid commercial boat licence, as issued by Fisheries (Department of Primary Industries and Regional Development), will be eligible for a Commercial Fisher's Beach Access Permit.
2. There is a maximum of three vehicles per permit (these vehicles may have a trailer attached).
3. All vehicles, including trailers if attached, are to be registered with the Department of Transport; all drivers are to hold a current valid drivers' licence (permanent or temporary changes to the approved vehicles are to be advised to the City via email quoting the applicable Commercial Fishing Boat Licence number.
4. All vehicles are to display the Commercial Fishing Boat Licence on both sides of the vehicle (black characters not less than 100mm x 25mm in size on a yellow background).

5. Vehicles are only permitted on the beaches listed in Council Policy 009/6 Beaches and Foreshore Areas – Access by the Holder of a Commercial Fishing Boat Licence.
6. Vehicles are only permitted on the beach when the permit holder is engaged in commercial fishing activities.
7. Vehicles must enter onto, and exit from the beach only at the approved beach access points (vehicles are not to be driven on the primary sand dunes or any other place that is likely to cause environmental damage or erosion).
8. Vehicles are to be driven safely and in such a manner that is not likely to affect the enjoyment of other beach users.
9. Beaches and beach access points to be left clean at all times.
10. 2017/18 permits will remain valid until 30 June 2021 (permit renewals will be for three years).

Condition 10 will be changed at the beginning of each financial year so that any new permit applications will generally be valid for three years.

OFFICER COMMENT

The name of the policy has been changed from “Beaches and Foreshore Areas – Access by Licenced Professional Fishermen” to “Beaches and Foreshore Areas – Access by the Holder of a Commercial Fishing Boat Licence”. This has been changed to remove the gender bias that references “fishermen”, and reflects the Department of Fisheries terminology regarding commercial fishing licences (Fisheries are the statutory body responsible for issuing these licences).

Since the original policy was adopted access to some of the beaches within the City has changed. As a result some of the beaches and foreshore areas listed in the original policy are no longer accessible by vehicles and have been removed from the current policy. They are:

- Quindalup Boat Ramp end of Elmore Road
- Point Piquet Beach
- Wonnerup Beach east of boat ramp near bridge over inlet
- Sail Rock Bay

Other changes include:

- Formatting of the policy has been changed to reflect the existing corporate standards for Council policies; and
- The policy now references the requirements for holders of commercial fishing boat licences to apply for a temporary beach access permit which remains valid for 12 months, and for them to pay the associated application fee as per Council’s Adopted Schedule of Fees and Charges (currently \$157.50).

CONCLUSION

An internal review of Council Policy 009/6 – Beaches and Foreshore Areas, Access by Licenced Professional Fishermen has been completed. It has been reformatted to meet existing corporate standards, and now includes information relating to the need for holders of commercial fishing licences to apply for temporary beach access permits and to pay the associated application fee.

OPTIONS

Council may amend or not endorse the revised draft policy.

Note that not requiring a permit would require amendment of the Local Law, but not requiring payment of a fee could be done by the Council amending its Schedule of Fees and Charges.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The revised draft policy would take effect immediately following its adoption by Council

COUNCIL DECISION/ COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1711/273 Moved Councillor C Tarbotton, seconded Councillor R Reekie

That the Council adopts revised Council Policy 009/6 – Beaches and Foreshore Areas, Access by the Holder of a Commercial Fishing Boat Licence as attached to this report (Attachment A).

CARRIED 8/0

EN BLOC

Attachment A

Last Updated 08/11/2017

009/6	Beaches and Foreshore Areas – Access by the Holder of a Commercial Fishing Boat Licence	V3
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PURPOSE

The purpose of this policy is to establish a framework for the management of beach and foreshore access by the holder of a Commercial Fishing Boat Licence.

SCOPE

This policy will guide the community and staff in the process for allowing holders of a commercial fishing boat licence to access the City's beaches and foreshore in a vehicle.

DEFINITIONS

Commercial Fishing: means fishing for a commercial purpose.

Commercial Fishing Boat Licence: means a licence granted under the *Fish Resources Management Regulation 1995* authorising an individual to engage in commercial fishing (issued by the Department of Fisheries Western Australia).

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

Vehicle: means every conveyance and every object capable of being propelled on wheels, tracks or otherwise but does not include a trailer.

POLICY CONTENT

Pursuant to clause 2.1 (1) of the *City of Busselton Local Government Property Local Law 2010* (the Local Law):

"Unless under the authority of a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property".

Beach Access

Beach and foreshore areas and all adjoining reserves are to be left clean at all times.

Vehicles may only enter and exit beaches via the established formal access points at the following locations:

- Abbey Beach (eastern side of car park)
- Bunkers Bay Beach
- Castle Rock
- Dolphin Boat Ramp
- Eagle Bay Beach (eastern end)
- Eagle Bay Beach (western end)
- Eagle Bay Beach (middle, locked gate)
- Meelup Beach
- Siesta Park
- Smiths Beach (southern end)
- Quindalup Professional Fisher's Boat Ramp
- Quindalup Public Boat Ramp
- Wonnerup Beach Access

Temporary Beach Access Permit

Prior to accessing the City's beach and foreshore areas in a vehicle, holders of a Commercial Fishing Boat Licence are required to apply for a 'Commercial Fisher's Beach Access' permit from the City.

There is a limit of three vehicles plus trailers per permit. Permits are not transferable between vehicles without written approval from the City.

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Permits are subject to the application fee as set out in Council's Adopted Schedule of Fees and Charges. Beach access permits for holders of a commercial fishing boat licence will generally be valid for a period of three years.

Vehicles

Only vehicles licenced/registered with the Department of Transport are permitted on the City's beaches and foreshore.

Policy Background

Policy Reference No – 009/6

Owner Unit – Ranger and Emergency Services

Originator – Ranger and Emergency Services Coordinator

Policy Approved by – Council

Date Approved – 08/11/2017

Review Frequency – as required

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

History

Council Resolution	Date	Information
C1711/273	8 November 2017	Policy reformatted to City standard Definitions included to provide clarity Terminology change from 'Licenced Professional Fishermen' to 'Holder of a Commercial Fishing Boat Licence' Information relating to the payment of an application fee included Permit period extended to three years Version 3
C0412/435	8 December 2004	Resolved as a continuing policy of the Council – no change Version 2
C0211/504	13 November 2002	Amendment to include Siesta Park as an approved access point. Version 2
		Version 1

10.7 Policy and Legislation Committee - 19/10/2017 - REVIEW OF POLICY 049 – REGIONAL PRICE PREFERENCE

SUBJECT INDEX:

STRATEGIC OBJECTIVE: Governance systems, process and practices are responsible, ethical and transparent.

BUSINESS UNIT: Finance and Corporate Services

ACTIVITY UNIT: Governance Services

REPORTING OFFICER: Director, Finance and Corporate Services - Cliff Frewing

AUTHORISING OFFICER: Director, Finance and Corporate Services - Cliff Frewing

VOTING REQUIREMENT: Simple Majority

ATTACHMENTS: Attachment A Chamber of Commerce Letter ➡
Attachment B Proposed Policy 049 - Regional Price Preference ➡

This item was considered by the Policy and Legislation Committee at its meeting on 19 October 2017, the recommendations from which have been included in this report.

PRÉCIS

The purpose of this report is to consider responses to a public invitation to comment on a draft policy (049 – Regional Price Preference) which was adopted for public comment at the Council meeting held on 9 August 2017. Having considered the response, it is recommended that Council adopt the Policy without any changes.

BACKGROUND

Council considered a report at item 14.2 of the Council agenda held on 9 August 2107 (and previously at the Policy & Legislation Committee held on 20 July 2017) which proposed amendments to the policy to bring the contents into line with the relevant Regulations and resolved as follows:

COUNCIL DECISION / COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION C1708/192

That the Council:

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

The proposed policy was advertised for public comment and correspondence was sent to the Busselton Chamber of Commerce for their information and response if thought necessary.

On 25 September the Chamber provided the only response and as a consequence, Council is now required to consider that response when adopting the proposed Policy.

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the Local Government Act 1995 it is the role of the Council to determine the Local Government's policies.

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

RELEVANT PLANS AND POLICIES

Existing Policy 049 – Regional Price Preference

FINANCIAL IMPLICATIONS

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

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

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

RISK ASSESSMENT

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

CONSULTATION

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

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

The officers recommendation was to adopt the policy for the purpose of advertising for public comment which was supported by the Committee and the Council.

In accordance with Section 24E of the Local Government (Functions and General) Regulations, the City gave notice that it intends to consider adopting a new Regional Price Preference Policy and further advised that the proposed policy closely follows the Regulations. The advertisement was placed both in The West Australian on Wednesday, 23 August 2017 and The Council for the Community Pages on Wednesday, 30 August 2017. The advertisements also included a direct link to the proposed draft policy located on the City of Busselton's public website.

The submission period closed on Friday 22 September 2107 and a submission from the Busselton Chamber of Commerce was received on Monday 25 September 2107 (Attachment A). Council is now required to consider the contents of the submission.

As a submission was received, the matter has been referred to Council for further consideration.

OFFICER COMMENT

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

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

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

The submission whilst in response to the invitation to comment on the proposed draft policy does not reflect on the content of the policy, rather it proposed a review of all relevant purchasing policies involving the following:

- Tender Selection policy 031;
- Regional Price Preference Policy 049; and
- Purchasing Policy 239.

The bulk of the submission deals with information relating to the proposed inclusion in 'Local Selection Criteria weightings' in future revisions of policy 031 – Tender Selection Policy and as a consequence the comments are not related to Regional Price Preference Policy 049.

As the Regional Price Preference Policy 049 now very closely follows the provisions of the Functions & General Regulations, it is considered that there is little if any room to vary the policy with any meaningful result.

The City is committed to work with the Chamber in relation to all of the City's purchasing policies and work in this regards has already commenced. The liaison will likely result in changes being made to other related policies in the future.

In relation to this policy however - Regional Price Preference Policy 049 – no changes are proposed and it is now placed before Council for adoption.

CONCLUSION

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

OPTIONS

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

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The proposed policy will become effectively upon being adopted.

COUNCIL DECISION/ COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**C1711/274**

Moved Councillor C Tarbotton, seconded Councillor R Reekie

That the Council

1. Adopt the proposed Policy 049 - Regional Price Preference as shown in attachment B; and
2. The Busselton Chamber of Commerce be thanked for their submission and confirm that the City is currently working in conjunction with the Chamber in reviewing the City's purchasing practices.

CARRIED 8/0**EN BLOC**

Attachment B

Last updated 08/11/2017

049	Regional Price Preference	V4
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1. PURPOSE

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

2. SCOPE

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

3. POLICY CONTENT

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

Part 1 Goods and Services

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

Part 2 Construction (building) Services

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

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

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

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

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

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

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

Last updated 08/11/2017

Policy Background

Policy Reference No. - 049

Owner Unit – Contracts and Tendering

Originator – Director, Finance and Corporate Services

Policy approved by – Council

Date Approved – 08/11/2017

Review Frequency – As required

Related Documents –

Local Government (Functions and General) Regulations 1996

History

Council Resolution	Date	Information
C1708/192	9 August, 2017	
C1504/081	8 April, 2015	Version 3 Changes to reflect City of Busselton structure only
C1012/415	8 December, 2010	Policy re-adopted in new standard format Version 2
		Version 1

11. FINANCE AND CORPORATE SERVICES REPORT

14.2 WORKFORCE PLAN 2017/2018 - 2020/21

SUBJECT INDEX:	Employee Relations
STRATEGIC OBJECTIVE:	Accountable leadership that is supported by a skilled and professional workforce.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Employee Services
REPORTING OFFICER:	Manager Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Workforce Plan ⇒

PRÉCIS

This report presents for Council's information the attached Workforce Plan 2017/2018 – 2020/2021 (Workforce Plan), with the plan having been endorsed by the Chief Executive Officer. The Workforce Plan is a key component of the Department of Local Government's Integrated Planning and Reporting Framework, with the requirement being that all local governments have a workforce plan in place.

BACKGROUND

The *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* set out requirements for local governments with respect to having a 'plan for the future'. All Local Government Authorities are required to have a strategic community plan spanning a minimum ten year period and a corporate business plan, spanning a four year period. Local governments are also required to develop a number of informing documents, namely asset management plans for key asset classes, a four (4) year workforce plan and a ten (10) year long term financial plan. This set of plans and their integration with each other is commonly referred to as the integrated planning and reporting framework.

Workforce planning is a key component of the integrated planning and reporting framework. As a key informing plan it assists the City to ensure it has the skills mix to deliver on its strategic direction and the flexibility to adjust to internal or external influences as required.

STATUTORY ENVIRONMENT

Section 5.56 of the *Local Government Act 1995* (the Act) requires a local government to plan for the future of the district and to ensure that any such plans are in accordance with regulatory requirements.

Regulation 19C of the *Local Government Administration Regulations 1996* requires the creation of a strategic community plan to have regard to the capacity of its current resources and the anticipated capacity of its future resources.

Regulation 19DA requires the creation of a corporate business plan which develops and integrates matters relating to resources, including asset management, workforce planning and long-term financial planning.

The Integrated Planning and Reporting Guideline requires (at minimum) the following:

- (i) Council has a current workforce plan
- (ii) The Workforce Plan identifies the current workforce profile and organisational structure;
- (iii) The Workforce Plan identifies gaps between the current profile and the organisational requirements
- (iv) The Workforce Plan identifies organisational activities to foster and develop workforce
- (v) The Workforce Plan is budgeted for in the Corporate Business Plan and Long Term Financial Plan.

RELEVANT PLANS AND POLICIES

The Workforce Plan links directly to the City's Strategic Community Plan 2017 and Corporate Business Plan 2017/18 -2020/21, being a resourcing and an informing document. It forms one aspect of the City's overall resourcing strategy with linkages to the other key resourcing documents, the Asset Management Plan/s and the Long Term Financial Plan.

FINANCIAL IMPLICATIONS

The Workforce Plan projects Full Time Equivalent (FTE) staff numbers to grow to 327.9 by 2020/21, as shown in the table below.

Year	FTE	Growth
2017/18	313	
2018/19	318.6	5.6
2019/20	324.2	5.6
2020/21	327.9	3.7

The projections are guided by the City's Long Term Financial Plan and its financial capacity to provide for workforce growth. In return workforce planning undertaken annually informs future reviews of the Long Term Financial Plan.

The projections are underpinned by the following assumptions:

- the City continuing to provide its current range of services to the community, as per the Corporate Business Plan,
- with the exception of growth in airport services associated with expansion, there being no other significant changes in the number or type of services provided by Council,
- population growth continuing at its current rate, and
- a level of efficiency gain being achieved through economies of scale and organisational continuous improvement strategies

The Workforce Plan proposes a number of actions designed to facilitate the building of a skilled, engaged, flexible and diverse workforce that can deliver the required levels of service now and into the future. It is anticipated that the majority of the actions identified in the plan will be delivered within organisational resources allocated in the long term financial plan. In the event that additional resourcing requirements are identified for an action/s, a project proposal will be presented as part of the ongoing review of the long term financial plan and annual budgeting processes.

Long-term Financial Plan Implications

The table below shows the annual allocation for workforce growth contained within the City's current Long Term Financial Plan.

Year	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
\$	250,000	391,651	405,697	417,868	430,404	443,316	456,616	470,314	484,423	498,956

The Long Term Financial Plan is reviewed regularly with workforce planning activities informing this review.

STRATEGIC COMMUNITY OBJECTIVES

The Officers recommendation aligns with and supports the Council's Strategic Community Plan 2017, specifically Key Goal Area 6 – Leadership which is visionary, collaborative and accountable, and Community Objective 6.3 – Accountable leadership that is supported by a skilled and professional workforce.

RISK ASSESSMENT

Given the Workforce Plan has been integrated into the City's overall corporate business and financial planning, it is not considered to present any risks of a medium or greater level.

CONSULTATION

N/A

OFFICER COMMENT

The ability for the City of Busselton to attract and retain a skilled workforce is critical to ensuring the delivery of quality services and to achieving the goals and objectives of Council's Strategic Community Plan and Corporate Business Plan. Workforce planning is an important tool enabling a structured approach by which the City can better understand its workforce profile, consider factors likely to influence workforce supply and demand, and look at human resource management strategies which facilitate the effective provision of required services now and into the future.

The attached Workforce Plan outlines the City's current workforce profile, its future workforce needs, and the challenges and opportunities facing the City in meeting those needs. The vision of this plan is to have a skilled, engaged, flexible and diverse workforce committed to achieving organisational objectives and delivering high performance outcomes.

The plan outlines key human resource management strategies and actions for the next four years split into three goals; to attract and retain a capable workforce, to develop and grow a skilled workforce and to ensure the building of a performance based culture. The implementation of the actions will aid in achievement of the plan's vision through facilitating the attraction and retention of required staff, providing opportunities for personal and professional growth, ensuring continuous improvement in employment related systems, and building a safe, healthy, high performing work environment.

The Workforce Plan will be reviewed on a regular basis to ensure it remains relevant in a changing environment and to incorporate feedback from stakeholders.

CONCLUSION

Workforce planning is a key component of the integrated planning and reporting framework. The implementation of the City's Workforce Plan will facilitate the achievement of our vision to have a skilled, engaged, flexible and diverse workforce committed to achieving organisational objectives and delivering high performance outcomes.

While not required under the integrated planning and reporting framework to adopt the Workforce Plan, Council's noting and endorsement of the plan is sought.

OPTIONS

The Workforce Plan is not required to be adopted by Council. Council could however request that the Chief Executive Officer further review and make amendments to the plan.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Immediate as the Workforce Plan is currently operational.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1711/275 Moved Councillor C Tarbotton, seconded Councillor R Reekie

That the Council receives and notes the City's Workforce Plan.

CARRIED 8/0

EN BLOC

12. CHIEF EXECUTIVE OFFICER'S REPORT

15.1 COUNCILLORS' INFORMATION BULLETIN

SUBJECT INDEX:	Councillors Information
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Administration Officer - Governance - Katie Dudley
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Planning Applications received by the City between 16 September, 2017 and 15 October, 2017 ⇒ Attachment B Planning Applications determined by the City between 16 September, 2017 and 15 October, 2017 ⇒

PRÉCIS

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

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

INFORMATION BULLETIN

15.1.1 Planning and Development Services Statistics

Planning Applications

Attachment A is a report detailing all Planning Applications received by the City between 16 September, 2017 and 15 October, 2017. A total of 104 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 16 September, 2017 and 15 October, 2017. A total of 77 applications (including subdivision referrals) were determined by the City during this period with 75 approved / supported and 2 refused / not supported.

15.1.2 Current Active Tenders

2017 TENDERS

RFT15/17 SUPPLY OF WASTE STATIONARY COMPACTION SYSTEM AND SEMI TRAILER

The City of Busselton invited tenders for the installation of a compaction system at the Busselton Waste Transfer and Recycling Station. The tender was advertised on 2 September 2017, with a closing date of 21 September 2017. A total of 3 tenders were received. The evaluation has been completed and the contract awarded by the CEO under delegated authority to Wastech Engineering Pty Ltd.

RFT17/17 DESIGN, CONSTRUCTION AND INSTALLATION OF TWO HOLIDAYS CABINS FOR BUSSELTON JETTY TOURIST PARK (FORMERLY KOOKABURRA CARAVAN PARK)

The City of Busselton invited tenders for the design, construction and installation of two holiday cabins for the Busselton Jetty Tourist Park (formerly known as Kookaburra Caravan Park). The tender was advertised on 7 October 2017, with a closing date of 27 October 2017. The value of the contract is not anticipated to exceed the CEO's delegated authority.

RFT18/17 SUPPLY AND DELIVERY OF DRAINAGE PRODUCTS

The City of Busselton invited tenders for the manufacture, testing, supply and delivery of drainage products within the City of Busselton. The tender was advertised on 14 October 2017, with a closing date of 31 October 2017. The value of the contract is anticipated to exceed the CEO's delegated authority and a recommendation report will be presented to Council in November 2017.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1711/276 Moved Councillor C Tarbotton, seconded Councillor R Reekie

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

- 15.1.1 Planning and Development Services Statistics
- 15.1.2 Current Active Tenders

CARRIED 8/0

EN BLOC

13. PLANNING AND DEVELOPMENT SERVICES REPORT

Nil

14. ENGINEERING AND WORKS SERVICES REPORT

Nil

15. COMMUNITY AND COMMERCIAL SERVICES REPORT

Nil

16. REPORTS OF COMMITTEE

10.8 Airport Advisory Committee - 18/10/2017 - AIR BP LEASE - FUEL FACILITY

SUBJECT INDEX:	Busselton Margaret River Airport
STRATEGIC OBJECTIVE:	Public transport services that meet the needs of the community.
BUSINESS UNIT:	Commercial Services
ACTIVITY UNIT:	Commercial Services
REPORTING OFFICER:	Project Officer Contracts and Tendering - Ben Whitehill
AUTHORISING OFFICER:	Director, Community and Commercial Services - Naomi Searle
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

This item was considered by the Airport Advisory Committee at its meeting on 18 October 2017, the recommendations from which have been included in this report.

PRÉCIS

This report recommends Council give local public notice of a proposed disposition of property (section 3.58 Local Government Act 1995) and to delegate authority to the CEO to finalise terms and conditions and execute a ground lease between the City of Busselton and BP Australia Pty Ltd, for a portion of Lot 1974 on Deposited Plan 411016 (Certificate of Title Volume 2931 Folio 507). The purpose of the proposed lease is to facilitate a commercial aviation fuel facility (Jet A1 and Avgas).

BACKGROUND

The Busselton-Margaret River Airport (BMRA) is located 6.5km from the Busselton town center and is at the gateway to the internationally renowned Margaret River Wine region. It is located wholly on land owned by the City of Busselton.

In June 2015, the State Government committed to delivering an upgrade to the then Busselton Regional Airport to enable domestic interstate services directly into 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 funding the redevelopment.

Since the funding commitment the City of Busselton, as the Project Manager, has completed a Project Definition Plan for the BMRA Development Project, and has received subsequent approval from the Project Governance Committee. As part of the project planning there was an identified need for jet fuel for both future interstate RPT services and existing users. There has been no provision of Jet Fuel at the BMRA to date.

In 2012 the City of Busselton was successfully awarded funding from the Regional Airport Development Scheme (RADS) for the installation of a Jet (A1) Fuel facility at BRA, to the value of \$350,000 with a total project value of \$700,000 (with the City to match the RADS Funding). Further approval was granted to the City for the rolling forward of a revised amount of \$264,659 of the RADS grant through to the 2016/2017 financial year, with a project completion date set for 30 April 2017. In May 2016 the City again sought approval from the Minister of Transport to roll forward the RADS Grant to the 2018/2019 financial year to enable the commissioning of the Jet Fuel Facility at the BMRA to coincide with the introduction of Regular Passenger Transport (RPT) interstate services directly to Melbourne and Sydney.

In 2013 the City conducted an expression of interest process to seek interest in developing the jet fuel facility. Since then the City has been negotiating with its preferred proponent BP Australia Pty Ltd.

In addition to the new jet fuel facility, the City of Busselton owns and maintains an existing Avgas facility located at the BMRA. The supply of Avgas fuel is distributed to recreational and general aviation aircraft with refueling managed by the locally based Busselton Aero Club under license. It is proposed that the Avgas Facility will be transferred to BP Australia Pty Ltd.

This report documents the negotiations between City Officers and the proponents and seeks a Council resolution to dispose of Crown land property by means of a 20 year lease in accordance with statutory requirements of s3.58 of the Local Government Act 1995.

Negotiations have progressed to the point where the City has agreed the terms of an Agreement for Lease (a conditional memorandum of understanding between the parties) and now requires Council endorsement.

STATUTORY ENVIRONMENT

Local Government Act 1995

- In accordance with s9.49B of the Local Government Act 1995, 'Contract Formalities', the Council is required to give authority to make, vary or discharge a contract, effectively binding the local government and other parties to the contract. This report identifies the proposed parties to a future contract and recommends the CEO be authorised to negotiate and enter a Lease with BP Australia Pty Ltd (ACN 004 085 616).
- Section 3.58(3) of the Local Government Act 1995, states that before agreeing to dispose of property, the local government is required to:
 - (a) give local public notice of the proposed disposition by:
 - describing the property concerned;
 - giving details of the proposed disposition (including names of the parties concerned; the consideration to be received by the local government and the market value of the disposition); and,
 - inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given
 - (b) consider any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

Market Valuation

A market valuation was sought from an independent valuer on 9 August 2017 and indicated a market ground rent of \$12.00-\$12.50 per square meter per annum. The area valued included the land designated for the jet fuel facility and the existing avgas depot, including the avgas infrastructure. The avgas infrastructure is considered to be fully depreciated, requiring renewal to bring it up to BP Australia's standards and hence has a market value of nil dollars.

The City proposes to advertise in a local newspaper circulating throughout the district inviting submissions to be made, as follows:

1. Description of Property

- (a) **Property – proposed lease premises:** A portion (approximately 1,336m²) of Lot 1974 on Deposited Plan 411016 and located on Busselton Margaret River Airport, Neville Hyder Drive, Yalyalup WA 6280. As part of the proposed lease, ownership of the existing Avgas Facility located at the lease premises will be transferred to the Lessee.
- (b) **Permitted Use:** Installation and operation of an aviation fuel depot including storage, handling and sales of fuels, lubricant and related products.
- (c) **Background:** The City of Busselton's principle objective is to achieve the supply of Jet (A1) Fuel at the Busselton Regional Airport. Following an expression of interest process and subsequent negotiations agreement has been reached with BP Australia Pty Ltd (proposed lessee) to provide this service from the proposed lease premises. The proposed lease is consistent with the uses identified in the Busselton-Margaret River Airport Master Plan 2016 dated 10 February 2016.

2. Details of Disposition

- (a) **Names of Parties:** City of Busselton as Lessor and BP Australia Pty Ltd (ACN 004 085 616) as Lessee.

(b) **Consideration:**

The ground rent to be paid by the Lessee is \$12.50 per square metre (excluding GST and outgoings). The following rent concessions apply:

- no rent is payable during construction of the jet fuel facility; and
- 50% reduction in rent applies from the Date of Practical Completion until the earlier of:
 - i. the commencement of interstate Regular Public Transport operations; and
 - ii. the first month that jet fuel sales from the jet fuel facility exceed 50 kilolitres.

The ground rent will be subject to rent reviews on each anniversary of the commencement date. Market reviews will be conducted on the 5th, 10th and 15th anniversary with all other years being subject to CPI rent reviews. A nominal annual licence fee of \$100 is payable for the access and use of the aprons and an Airport Infrastructure Fee of \$0.015 per litre will be applied to all jet fuel sales.

- (c) **Lease Term:** 20 years (an initial period of 10 years with an option to renew for a further 10 years)
- (d) **Market Value:** As determined by a valuation dated 9 August 2017 - rent of \$12.50 per square metre per annum (exclusive of GST and outgoings). The existing Avgas Facility has been valued as fully depreciated and will be transferred to the Lessee at nil dollar value as part of the proposed transaction.

RELEVANT PLANS AND POLICIES

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

FINANCIAL IMPLICATIONS

The fuel facility will be partly publicly funded as follows:

- \$335,413.00 City contribution;
- funding received from the Department of Transport Regional Airports Development Scheme of \$264,659.

The installation of the fuel facility is not necessarily expected to be a significant revenue generator for the City, with direct revenue generated from the ground rent (initially set at \$12.50 per square metre excluding GST and outgoings), licence fee (nominal \$100.00 per annum) and airport infrastructure fee (\$0.015 per litre of jet fuel sales). The ground rent and licence fee totalling \$16,800 (excluding GST) and an estimated infrastructure fee of less than \$2000 in the first lease year is expected to be receipted by the City as revenue. Indirectly, increases in airport traffic will result in increased revenue from landing fees and potentially passenger fees.

There is also the opportunity for the City of Busselton to be contracted as BP Australia's Airfield Representative, responsible for all refuelling of jet fuel and Avgas. This would involve the City entering into a contract with BP Australia for the services of refuelling, for an amount to be finalised. The remuneration paid to the City would cover City staffing costs to perform the refuelling services.

Long-term Financial Plan Implications

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

The Long Term Financial Plan (LTFP) is currently based on the current operations, and will require updating to reflect the Development Project, including ongoing operational and capital revenue and expenditure based on the funded project. This work has commenced.

STRATEGIC COMMUNITY OBJECTIVES

This report is consistent with the City of Busselton's Strategic Community Plan (2017) community goals and objectives.

Key Goal Area 5 - Transport:

- 5.1 Public transport services that meet the needs of the community.

RISK ASSESSMENT

Should Council adopt the Officer Recommendation, there are no residual risks rated as medium or high as these risks have been mitigated through provisions within the Lease. These include, for example:

- A Benchmark Contamination Report is required to determine the level of contamination at commencement so this can be compared at expiry;
- Public Liability Insurance is required to protect against claims of personal injury or property damage as a result of business activities;
- Maintenance: all maintenance of the jet fuel and avgas facility is the responsibility of the Lessee.

CONSULTATION

Council will give local public notice of the proposed disposition and invite public submissions in accordance with the Local Government Act 1995.

In determining the requirements for the fuel facility Officers have consulted with airport users (including a survey conducted in 2016) and the airport master planner.

The City will formally notify the Busselton Aero Club of its intention to close out the licence agreement for the Avgas refuelling which is currently on monthly renewal basis.

OFFICER COMMENT

The Airport Development Project seeks to upgrade the existing airport to accommodate interstate and international flights from destinations including Melbourne and Sydney. Subsequently jet fuel is essential for the domestic and future international operations.

Officers have been negotiating with a 'preferred proponent' BP Australia Pty Ltd to develop a jet fuel facility adjacent to the existing Avgas facility. Those negotiations have progressed to the point where the City has agreed the terms of an Agreement for Lease (a conditional memorandum of understanding between the parties). There are many conditions precedent including the City entering into an agreement with the Minister for Transport for the RADS funding and compliance with the requirement of s3.58 of the Local Government Act 1995.

The key terms of the Lease are set out below:

- Initial term of 10 years with one 10 year option;
- Lease area of approximately 1336m²;
- RADS Funding of \$264,659.00 and City Funding of \$335,413.00 to go toward civils works and site installation;
- Initial market ground rent of \$12.50 per square metre (rent to be adjusted annually by CPI with market rent reviews every five years) plus all outgoings;
- Rent concessions will apply during construction and before the first interstate RPT service commences;
- Licence over apron areas with an annual licence fee of \$100;
- An airport infrastructure levy which is payable on all jet fuel sales at a rate of \$0.015 per litre for the term and any further term of the lease;
- Maintenance of the fuel depot is the responsibility of BP Australia Pty Ltd;
- BP Australia Pty Ltd will retain ownership of the Jet A-1 fuel infrastructure and will be entitled to remove it from the site upon expiry.

The existing Avgas Facility will also be transferred to BP Australia Pty Ltd for \$1 as part of the lease and the Avgas Facility will form part of the lease area. The Avgas facility was previously transferred to the City for a nominal amount. It also requires a new bowser and additional works to bring it up to current specifications. Those works will be funded by BP Australia Pty Ltd.

The final lease is subject to the City complying with its obligations under section 3.58 of the Local Government Act

CONCLUSION

This report recommends Council dispose of property in accordance with s3.58 of the Local Government Act 1995, by entering into a lease for a portion of Lot 1974 on Deposited Plan 411016 (Certificate of Title Volume 2931 Folio 507) to facilitate the proposed aviation fuel facility.

The Officer recommendation seeks a decision to advertise the proposed disposition of property and to authorise the CEO to finalise negotiations with BP Australia Pty Ltd and to execute a Lease with BP Australia Pty Ltd.

OPTIONS

Council may elect to not proceed with the proposed new lease and/or amend the draft terms and conditions negotiated by Officers.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

It is anticipated that advertising will be conducted soon after council approval is obtained. Should Council support the Officer recommendation, the Lease will be entered into once all conditions precedent are finalised (including entering into an agreement with the Minister for Transport for the State Government funding).

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1711/277

Moved Deputy Mayor J McCallum, seconded Councillor P Carter

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

- 1) Resolves to give local public notice to Lease 1,336m² portion of Lot 1974 (Deposited Plan 411016) located on Busselton Margaret River Airport, Neville Hyder Drive, Yalyalup, including the existing Avgas Facility and invite public submissions in accordance with Section 3.58(3) of the Local Government Act 1995; and
- 2) Subject to not receiving any adverse submissions, delegates to the Chief Executive Officer to negotiate and authorises the Chief Executive Officer to enter into the Lease on the further terms and conditions as outlined in this report.

CARRIED 8/0

17. FINANCE AND CORPORATE SERVICES REPORT

14.1 COUNCIL ENDORSEMENT OF THE 2016-2017 CITY OF BUSSELTON ANNUAL REPORT

SUBJECT INDEX:	Corporate Reporting
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Finance and Corporate Services
REPORTING OFFICER:	Public Relations Coordinator - Meredith Dixon
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

PRÉCIS

The Local Government Act 1995 requires council to accept the Annual Report for the financial year. This report seeks Council's acceptance of the printed City of Busselton Annual Report 2016-2017 and the proposed dates for the Annual General Electors' Meeting.

BACKGROUND

The City produces an Annual Report at the end of each financial year. This report is presented to Council for endorsement. The Draft Annual Report (exclusive of financials) was provided to Councillors on 20 September 2017. Councillors were asked to provide feedback to the Public Relations Coordinator by Wednesday 27 September 2017. Council feedback / corrections were incorporated into the final draft of the report prior to the print run.

Fifty full colour copies of the City's Annual Report have been printed. The 2016-2017 Auditor's Report is contained in the body of the Annual Report (Part Four Financials). A copy of the 2016-2017 Financial Statement is included as a detachable document at the back on the Annual Report. Once endorsed by Council, the Annual Report will be posted to key stakeholders and made available in electronic format on the City of Busselton website. In line with State Government direction, an electronic copy of the report (inclusive of financial statements) will be forwarded to the Department of Local Government.

STATUTORY ENVIRONMENT

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

RELEVANT PLANS AND POLICIES

The Annual Report details Council's progress against six key goal areas outlined in the Strategic Community Plan 2013 (Review 2015). The Annual Report provides summary updates on the actions undertaken to meet the objectives of the Corporate Business Plan 2013/2014 – 2017/2018. The Annual Report demonstrates the City's adherence to regulatory requirements outlined in Section 5.53 of the Local Government Act 1995. The Annual Report provides full financial statements for the City of Busselton.

FINANCIAL IMPLICATIONS

Associated production and printing costs are included in Council's 2017-2018 budget.

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

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

RISK ASSESSMENT

If the Annual Report is not accepted at this meeting, it must be done prior to 31 December 2017 to ensure compliance with the Local Government Act.

CONSULTATION

In preparing the Annual Report 2016-2017, consultation has been undertaken with City of Busselton Council; the Chief Executive Officer; the Senior Manager Group and Officers from the City's Corporate Planning and Governance teams.

OFFICER COMMENT

The City of Busselton Annual Report 2016-2017 has been undertaken according to a timeline developed to enable the Annual General Electors' Meeting to be held before the end of the 2017 calendar year.

CONCLUSION

The City of Busselton Annual Report 2016-2017 requires Council endorsement prior to public distribution.

OPTIONS

Another date for the Annual General Electors' Meeting may be preferred by Council.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

- Council Meeting for the formal acceptance of the Annual Report and setting of the date for the Annual General Electors' Meeting: 8 November 2017.
- Two week statutory advertising period of the Annual General Electors' Meeting: 10 November - 24 November 2017.
- Annual General Electors' Meeting held in the City of Busselton Council Chambers: Monday 27 November 2017.

COUNCIL DECISION AND OFFICER RECOMMENDATION**C1711/278**

Moved Deputy Mayor J McCallum, seconded Councillor C Tarbotton

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Accepts the 2016-2017 Annual Report;
2. Endorses public notification regarding the availability of the Annual Report 2016-2017; and
3. Sets Monday 27 November 2017 for the Annual General Electors' Meeting to be held in the Council Chambers at 2 Southern Drive Busselton.

CARRIED 8/0

14.3 REVIEW OF MEMBERSHIP OF ECONOMIC DEVELOPMENT TASKFORCE

SUBJECT INDEX:	Council and Committee Meetings
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

PRÉCIS

The purpose of this report is to enable Council to appoint Councillors for the position of Member and Deputy member to *City of Busselton Economic Development Taskforce*. Councillor nominations were not considered at the Special Council meeting held on 23 October and the appointments are necessary because retired Councillor Gordon Bleechmore was formally the Deputy member.

BACKGROUND

Council resolved at its meeting on 9 November 2106 to create an Economic Development Taskforce in the following form :

That the Council:

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

In accordance with established practice, Council is invited to consider appointments to this Committee for the two year period ending October 2019. At the very least, as Councillor Bleechmore has now retired, a replacement Deputy Member is now required.

STATUTORY ENVIRONMENT

Subdivision 2 of Division 5 of the Local Government Act deals with appointments to Committees and their meetings.

In accordance with Council Policy 001, Fees, Allowances and Expenses for Elected Members, Councillors are entitled to be paid a travelling allowance for attending meetings of community groups or other external organisations of which the elected member has been appointed the Council's representative by Council resolution.

RELEVANT PLANS AND POLICIES

The Economic Development Taskforce has been formed in accordance with the City of Busselton Economic Development Strategy.

FINANCIAL IMPLICATIONS

Negligible – travel costs potentially claimed if required to attend Taskforce meetings.

STRATEGIC COMMUNITY OBJECTIVES

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

RISK ASSESSMENT

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

CONSULTATION

No consultation is necessary for Council to appoint members to a Committee formed by Council.

OFFICER COMMENT

Current members of the Economic Development Strategy Taskforce are as follows:

- Councillor Henley as a delegate and Chairperson
- Councillor McCallum as a delegate
- Councillor Carter as a delegate

As the Deputy delegate was Cr Councillor Bleechmore is no longer an elected member, a replacement nomination is required to be made by Council.

The Economic Development Taskforce consists of the following members:

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

The Taskforce typically meets every 4th Thursday of every second month at 10.00 am.

The term of the appointment will be until October 2019 when fresh nominations will be called.

CONCLUSION

Council is requested to consider naming 3 members and 1 Deputy Member to this Committee.

OPTIONS

The Council may decide to elect the same Members to the Committee or alternative Members noting that a replacement Councillor is required for Councillor Bleechmore.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The appointments will apply immediately from the date of the Council resolution.

COUNCIL DECISION**C1711/279**

Moved Councillor P Carter, seconded Deputy Mayor J McCallum

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council appoint Councillors Grant Henley (Mayor), John McCallum (Deputy Mayor), and Paul Carter to the position of Member of the Economic Development Taskforce; and appoint Councillor Coralie Tarbotton, as Deputy member on the Economic Development Taskforce.

CARRIED 8/0

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. CONFIDENTIAL REPORTS

Nil

20. QUESTIONS FROM MEMBERS

Nil

21. PUBLIC QUESTION TIME

Nil

22. NEXT MEETING DATE

Wednesday, 22 November 2017

23. CLOSURE

The meeting closed at 5.41pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 72 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 22 NOVEMBER 2017.

DATE: _____

PRESIDING MEMBER: _____