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## CITY OF BUSSELTION

### MINUTES FOR THE COUNCIL MEETING HELD ON 11 OCTOBER 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 11 OCTOBER 2017 AT 5.30PM.

### 1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 5.32pm.

### 2. ATTENDANCE

#### Presiding Member:

Cr Grant Henley    Mayor

#### Members:

Cr Coralie Tarbotton  
Cr Ross Paine  
Cr Terry Best  
Cr John McCallum  
Cr Rob Bennett  
Cr Paul Carter  
Cr Robert Reekie  
Cr Gordon Bleechmore

#### Officers:

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

#### Apologies

Nil

#### Approved Leave of Absence

Nil

#### Media:

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

#### Public:

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### 3. PRAYER

The Prayer was delivered by Reverend Melusi Sibanda of Dunsborough Anglican Church.

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

Nil

**Public Question Time**

Nil

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

The Presiding Member acknowledged the recent awarding of two new honorary freeman of the City, the Hon Barry House and Mr Ian Stubbs OAM. A civic function will be held in November 2017 to formally recognise their achievements.

The Presiding Member Acknowledged Cr Bleechmore on his retirement after his service to the City of Busselton Council for 8 years. The Presiding Member commended Cr Bleechmore on his volunteer roles within the community along with his involvement in Council and on Committees.

**Announcements by other Members at the invitation of the Presiding Member**

Cr Carter, Cr Bennett and Cr McCallum extended the acknowledgement of Cr Bleechmore's contribution to the City and congratulated him on his efforts over the last 8 years on Council, his involvement in Committees - particularly his work on the Airport Advisory Committee and wished him a happy retirement.

**6. APPLICATION FOR LEAVE OF ABSENCE**

A late application for leave of absence was received at item 18.

**7. PETITIONS AND PRESENTATIONS**

Mrs Cecily Hancock of Bay Village Resort & Spa Dunsborough presented to Council as a Party with an interest on item 11.2. Mrs Hancock was generally in support of the application but still had a number of concerns with the general conditions of the recommendation.

Mr Peter Tyrrell presented to Council as a Party with an interest on item 11.2 as the applicant of the development. Mr Tyrrell was in general agreement with the officers amended recommendation. Mr Tyrrell did raise concerns over the amended recommendation from Cr Bennett to decrease the lease from 10 years to 5 years.

**8. DISCLOSURE OF INTERESTS**

Nil

**9. CONFIRMATION AND RECEIPT OF MINUTES****Previous Council Meetings****9.1 Minutes of the Council Meeting held 27 September 2017****COUNCIL DECISION**

**C1710/237** Moved Councillor T Best, seconded Councillor R Reekie

That the Minutes of the Council Meeting held 27 September 2017 be confirmed as a true and correct record.

**CARRIED 9/0**

**9.2 Minutes of the Special Council Meeting held on 8 September 2017****COUNCIL DECISION**

**C1710/238** Moved Councillor G Bleechmore, seconded Councillor J McCallum

That the Minutes of the Special Council Meeting held 8 September 2017 be confirmed as a true and correct record.

**CARRIED 9/0**

**Committee Meetings****9.3 Minutes of the Policy and Legislation Committee held 21 September 2017****COUNCIL DECISION**

**C1710/239** Moved Councillor J McCallum, seconded Councillor R Reekie

That the Minutes of the Policy and Legislation Committee held 21 September 2017 be confirmed as a true and correct record.

**CARRIED 9/0**

**ITEMS BROUGHT FORWARD AND ADOPTION BY EXCEPTION RESOLUTION**

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

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

**C1710/240** Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

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

- 10.1 Policy and Legislation Committee - 21/09/2017 - REVIEW OF POLICY 024 VOLUNTARY CONTRIBUTIONS, DONATIONS AND SPONSORSHIP
- 10.2 Policy and Legislation Committee - 21/09/2017 - REPEAL OF POLICIES: COMMERCIAL HIRE SITES (#008) AND TRADING IN PUBLIC PLACES (#020)
- 10.4 Policy and Legislation Committee - 21/09/2017 - COUNCIL POLICY 016 RANGER & EMERGENCY SERVICES APPROACH TO REGULATORY FUNCTIONS
- 10.5 Policy and Legislation Committee - 21/09/2017 - REVIEW OF LOCAL PLANNING POLICY 6B PERCENT FOR ART
- 11.1 LOCAL EMERGENCY MANAGEMENT ARRANGEMENTS
- 15.1 COUNCILLORS' INFORMATION BULLETIN

**EN BLOC**

**CARRIED 9/0**

## **10. REPORTS OF COMMITTEE**

### **10.1 Policy and Legislation Committee - 21/09/2017 - REVIEW OF POLICY 024 VOLUNTARY CONTRIBUTIONS, DONATIONS AND SPONSORSHIP**

<b>SUBJECT INDEX:</b>	Policy Budget Administration
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Financial Services
<b>REPORTING OFFICER:</b>	Manager Financial Services - Kim Dolzadelli
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Policy 024 Voluntary Contributions, Donations and Sponsorship⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 21 September 2017, the recommendations from which have been included in this report.**

#### **PRÉCIS**

As part of the ongoing policy review process a review of the existing Voluntary Contributions, Donations and Sponsorship Policy 024 has been conducted. The current policy was originally adopted in 2010 and reviewed in July 2012 with minor amendments made.

#### **BACKGROUND**

The existing Policy deals with offers of voluntary contributions, donations or sponsorship proposals made by external parties in favour of the City of Busselton.

#### **STATUTORY ENVIRONMENT**

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

#### **RELEVANT PLANS AND POLICIES**

This report proposes to cancel the existing Voluntary Contributions, Donations and Sponsorship Policy as the policy currently duplicates the requirement for any amendments to the City's Annual Budget to be considered by Council.

#### **FINANCIAL IMPLICATIONS**

There are no financial implications with respect to the Officers recommendation.

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

There are no financial implications with respect to the Officers recommendation.

#### **STRATEGIC COMMUNITY OBJECTIVES**

Cancellation of 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 is no associated risk with the cancellation of the Voluntary Contributions, Donations and Sponsorship Policy.

**CONSULTATION**

Consultation has occurred with relevant City Officers.

**OFFICER COMMENT**

The existing Voluntary Contributions, Donations and Sponsorship Policy duplicates the requirement for any amendments to the City's Annual Budget to be considered by Council.

**CONCLUSION**

The author believes that the existing Policy should be cancelled and that any offers of voluntary contributions, donations or sponsorship proposals made by external parties in favour of the City of Busselton be the subject of the required Budget Amendment process.

**OPTIONS**

The Council could:

1. Choose not to cancel the existing Voluntary Contributions, Donations and Sponsorship Policy and allow the policy to remain in place, or
2. Choose to seek further review and/or amendment to the existing Voluntary Contributions, Donations and Sponsorship Policy for presentation to Council at a later date.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The cancellation of the existing Voluntary Contributions, Donations and Sponsorship Policy would be effective immediately upon the adoption of the Officer's recommendation.

**COUNCIL DECISION/COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION****C1710/241**

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

That the Council revokes Policy 024 Voluntary Contributions, Donations and Sponsorship Policy and remove it from the City's Policy Manual.

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



10.2 Policy and Legislation Committee - 21/09/2017 - REPEAL OF POLICIES: COMMERCIAL HIRE SITES (#008) AND TRADING IN PUBLIC PLACES (#020)

<b>SUBJECT INDEX:</b>	Commercial opportunities
<b>STRATEGIC OBJECTIVE:</b>	Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities.
<b>BUSINESS UNIT:</b>	Commercial Services
<b>ACTIVITY UNIT:</b>	Property and Business Development
<b>REPORTING OFFICER:</b>	Economic and Business Development Coordinator - Jon Berry
<b>AUTHORISING OFFICER:</b>	Director, Community and Commercial Services - Naomi Searle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Commercial Hire Sites (Policy #008) - (For repeal)⇒ Attachment B Trading in Public Places Standard Conditions of Approval (Policy #20) - (For repeal)⇒ Attachment C Non-Exclusive Use of Commercial Land (Policy #249)⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 21 September 2017, the recommendations from which have been included in this report.**

**PRÉCIS**

In November 2016, Council adopted a new policy 'Non-exclusive Use of Commercial Land' (#249). This report recommends Council repeals two related policies that have guided non-exclusive commercial use of City owned and/or controlled land on a seasonal basis, namely, the Commercial Hire Sites Policy (#008) and the Trading in Public Places Policy (#020).

**BACKGROUND**

Council has previously administered commercial use of public land through a permit system guided by two separate Council policies and in accordance with the City's Property Local Law and the Activities in Thoroughfares and Public Places and Trading Local Law. The two policies are:

1. Commercial Hire Sites (Policy #008). This policy deals with recreational activities aimed at activating public land by issuing permits to tourist orientated seasonal businesses (e.g. climbing walls, water sports, bike hire etc.) (see Attachment A); and,
2. Trading in Public Places Standard Conditions of Approval (Policy #20). This policy dealt principally with the administration of mobile food and beverage vendors using public land. (see Attachment B).

On 9 November 2016, Council resolved (C1611/123) to adopt a new policy titled Non-Exclusive Commercial Use of City Land (Policy #249), which is in Attachment C. The objective of the policy was to provide a more uniform framework for commercial activities being undertaken or proposed to be undertaken on public land on a non-exclusive use basis. Council also supported Officers developing guidelines and procedures for certain types of seasonal commercial activities that align with the broad principles embodied in the new umbrella policy.

The new policy does not deal with exclusive use of public land such as leasehold tenure; events or markets; or with the short-term hiring of City property for functions or similar, which are the subject of other policies and guidelines. Rather, the policy relates to the following kinds of activities using City owned or controlled land:

- Mobile food/beverage traders;
- Itinerant food/beverage traders;
- Al fresco dining (other than where this is facilitated via a lease);

- Recreational activities of some kinds (i.e. 'exercise permits'), but not general sporting use of ovals or similar;
- Tours or similar;
- Traders engaged in the short-term hiring of recreational equipment; and
- Some trading that operates from more or less temporary premises and/or from fixed premises, but on the basis of relatively short-term arrangements, such as trading from a converted/adapted sea container, or from some other relocatable and/or low cost structure.

The need for the development of a new umbrella policy reflected increasing interest from businesses in commercial use of public land and a need to develop a coherent, fair and workable approach to managing current and future activities. It aimed to apply consistent principles to different kinds of activities and situations; be administratively simple and comprehensible; and achieve positive outcomes for the wider community.

## **STATUTORY ENVIRONMENT**

The following legislation provides legal parameters for commercial use of public land:

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

## **RELEVANT PLANS AND POLICIES**

The following plans and policies reference commercial use of public land:

- Busselton Foreshore Master Plan
- Busselton City Centre Conceptual Plan
- Dunsborough Town Centre Conceptual Plan
- Mobile Vendors on the Busselton Jetty Policy – Reference No. 006
- Community Facilities Bookings Policy – Reference No. 027
- Markets Policy – Reference No. 074
- Events Policy – Reference No. 231
- Leases of City Land and Buildings Policy – Reference No. 248
- *Commercial Hire Site Policy – Reference No. 008\**
- *Trading in Public Places Policy – Reference No. 020\**
- Non-Exclusive Use of Commercial Land (Policy #249)

*\* the Officer recommendation in this report recommends these two policies be repealed and replaced with the single policy 'Non-Exclusive Use of Commercial Land (Policy #249)'.*

## **FINANCIAL IMPLICATIONS**

There are no financial implications arising from the Officer recommendation. Relevant elements of the schedule of fees and charges have been updated in the preparation of the City's 2017/18 budget to reflect a more uniform approach to the striking of fees of charges for mobile vendors and commercial hire sites.

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

There is no impact on the Long Term Financial Plan arising from the Officer recommendation.

## **STRATEGIC COMMUNITY OBJECTIVES**

This report aligns with the following City of Busselton Key Goal Areas identified in the City's 2017 Strategic Community Plan:

### **Key Goal Area 4: Economy**

- 4.1 An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.
- 4.2 A community where local business is supported and in turn drives our economy.
- 4.3 Events and unique tourism experiences that attract visitors and investment.

## **RISK ASSESSMENT**

There are no risks rated medium or high associated with the Officer recommendation.

## **CONSULTATION**

In the lead up to preparation of an Agenda report to Council on 9 November 2016, recommending a new policy framework for non-exclusive commercial use of City land, consultation was undertaken with mobile vendors and commercial hire site operators. Feedback from the consultation was considered in the development of the umbrella policy subsequently adopted by Council (C1611/123) and is in Attachment C.

No further consultation has been required relating to the Officer recommendation outlined in this report.

## **OFFICER COMMENT**

As a result of Council adopting a new policy relating to non-exclusive use of city controlled land in November 2016, there is no longer a need for separate policies to facilitate trading in public places.

This report recommends Council repeals two existing policies that were used to facilitate specific commercial activities being mobile vendors and seasonal recreation hire sites.

Since the introduction of the new single policy, the City has administered mobile vendors and recreational hire sites using a uniform process. This process designates specific sites for these activities and seeks expressions of interest, with evaluation criteria being used to rate submissions, with the CEO issuing permits under delegated authority.

Uniform permit fees were set in the 2017/18 budget and each location is also subject to a licence fee based on the area of the land being used by the commercial business. These principles were embodied in the new policy Non-Exclusive Use of Commercial Land (#249), which is in Attachment C.

Specific governance to deal with nuances relating to food/beverage vendors and commercial hire sites are outlined in the permits recently issued.

## **CONCLUSION**

On 9 November 2016 Council resolved to adopt an umbrella policy to guide processes related to non-exclusive use of City land for seasonal and/or temporary businesses providing goods and services on public land. The policy was prepared with the aim of providing a more uniform approach to issuing permits and licenses which historically were inconsistent, inequitable with regard to fees and charges, used different business recruitment processes and had inconsistent frameworks for control.

Officers recommend Council repeals two existing policies that have previously been used to facilitate non-exclusive commercial use of City land. These are the Commercial Hire Sites Policy (#008) in Attachment A and the Trading in Public Places Policy (#020) in Attachment B.

The new policy entitled Non-Exclusive Commercial Use of City Land (Policy #249) is in Attachment C and has been used by Officers as a framework to guide recruitment and selection of mobile food/beverage and seasonal recreational businesses seeking to trade on City land from 2017/18. Separate guidelines and control mechanisms are integrated into permits that have since been issued.

## **OPTIONS**

Council may elect not to repeal the policies as recommended by Officers and request a further review of the policy framework for non-exclusive use of City land.

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

Should Council adopt the Officer recommendation, the two policies will be repealed immediately.

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

**C1710/242**

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

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

1. Repeals the 'Commercial Hire Sites Policy (#008)', which deals with recreational activities aimed at activating public land by issuing permits to tourist orientated seasonal businesses (see Attachment A);
2. Repeals the 'Trading in Public Places Standard Conditions of Approval Policy (#20)' which deals principally with the administration of mobile food and beverage vendors (see Attachment B); and,
3. Notes that the 'Non-Exclusive Use of Commercial Land Policy (#249)' (see Attachment C), supersedes the above policies and is the principal framework for administering permits and licenses relating to mobile food/beverage and tourist orientated seasonal businesses on City land.

**CARRIED 9/0**

**EN BLOC**

## Attachment C

Implemented 09/11/2016

249	NON-EXCLUSIVE COMMERCIAL USE OF CITY LAND	V1 Current
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**PURPOSE**

This Policy provides a consistent framework and methodology to facilitate, control and regulate the non-exclusive commercial use of City owned and managed land across the District.

**BACKGROUND**

Prior to development of this Policy, the City had been managing a significant amount of non-exclusive of commercial land, but without an overarching or integrated policy framework. Because of the level of interest in the subject, the potential implications of such activity, both positive and negative, and the need to provide for administrative fairness, consistency, efficiency and robust decision-making, this policy was developed. Further background to the development of this Policy can be found in the report to the Council that supported the Policy's consideration and adoption by the Council.

**SCOPE**

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

- Mobile traders (i.e. traders that operate from particular locations for certain periods of time);
- Itinerant traders (i.e. traders that offer goods and services by travelling around the District, stopping only for as long as it takes to serve customers in a particular location);
- *Al fresco* dining on footpaths or other City land adjacent or close to a permanent, fixed business (other than where this is facilitated via a lease);
- Recreational activities of various kinds (including fitness classes or similar - i.e. 'exercise permits' - and things like mobile climbing walls or water playgrounds);
- The running of tours or similar, which wholly or partly take place on City land and/or using City infrastructure;
- Businesses involved in the short-term hiring of recreational equipment, such as bikes, kayaks or jet skis; and
- Trading that operates from more or less temporary premises and/or from fixed premises, but on the basis of relatively short-term arrangements, such as trading from a converted/adapted sea container, or from some other relocatable and/or relatively low cost structure (although note that once there is a significant degree of 'permanence' associated with a business and/or structure in this kind of example, it becomes indistinguishable from a more conventional leasehold situation, and is therefore not subject of this policy).

Implemented 09/11/2016

The Policy does not relate to the following kinds of activities –

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

#### STATUTORY/POLICY ENVIRONMENT

- *Land Administration Act 1997* and associated regulations
- *Local Government Act 1995* and associated regulations
- *Planning and Development Act 2005* and associated regulations
- *Building Act 2012* and associated regulations
- *Health Act 1911* and associated regulations
- *Public Health Act 2016*
- *Food Act 2008* and associated regulations
- *Local Planning Scheme 21* and associated structure plans and policies
- *Activities in Thoroughfares and Public Places and Trading Local Law*
- *Property Local Law*
- *Jetties Local Law*
- *Airport Local Law*
- *Busselton Foreshore Master Plan*
- *Busselton City Centre Conceptual Plan*
- *Dunsborough Town Centre Conceptual Plan*
- *Commercial Hire Site Policy* – Reference No. 008\*
- *Trading in Public Places Policy* – Reference No. 020\*
- *Mobile Vendors on the Busselton Jetty Policy* – Reference No. 006\*
- *Community Facilities Bookings Policy* – Reference No. 027
- *Markets Policy* – Reference No. 074
- *Events Policy* – Reference No. 231
- *Leases of City Land and Buildings Policy* – Reference No. 248

Implemented 09/11/2016

#### **OBJECTIVES**

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

#### **GUIDING PRINCIPLES FOR IMPLEMENTATION**

1. Where there is competition for space/sites (including with other kinds of uses, such as general public recreation or public car parking requirements) and/or concerns that activity should be managed carefully and/or not be supported in certain locations, applications will only be considered as part of an expression-of-interest process and not as a result of *ad hoc* applications;
2. Expression-of-interest sites and assessment criteria will be periodically reviewed and updated, including through appropriate Council consultation/consideration and industry/community consultation;
3. Novel proposals or *ad hoc* proposals may, however, be considered where it is clear they are supportable, given the broader policy direction, and/or to trial a new kind of activity and/or location;
4. Where there is more than one regulatory option, once it is clear that a particular activity or proposal is broadly supported, the most administratively simple option, or combination of options, will be used; and
5. Where there is identified to be a need to ensure a return on the value of City land and/or infrastructure, there will be a requirement for an 'agreement' and/or 'licence', in addition to a 'permit', with a 'licence' only being required where there is a need for a registerable interest in land.

#### **ADMINISTRATION OF THIS POLICY**

The Chief Executive Officer (CEO) has the authority (including through necessary delegations and/or authorisations) to administer the requirements of the Non-Exclusive Commercial Use of City Owned or Vested Land Policy on behalf of Council.

Implemented 09/11/2016

### Policy Background

Policy Reference No – 249

Owner Unit – Environmental Health

Originator – Manager Environmental Services

Policy considered by Policy and Legislation Committee and approved by – Council

Date Approved – 9 November 2016

Review Frequency – As required

Related Documents –

- Activities in Thoroughfares and Public Places and Trading Local Law 2015
- Properties Local Law
- Jetties Local Law
- Busselton Foreshore Master Plan
- *Busselton City Centre Conceptual Plan*
- *Dunsborough Town Centre Conceptual Plan*
- *Commercial Hire Site Policy* – Reference No. 008
- *Trading in Public Places Policy* – Reference No. 020
- *Mobile Vendors on the Busselton Jetty Policy* – Reference No. 006
- *Community Facilities Bookings Policy* – Reference No. 027
- *Markets Policy* – Reference No. 074
- *Events Policy* – Reference No. 231
- *Leases of City Land and Buildings Policy* – Reference No. 248

Background/History –

Implementation of new policy to facilitate, control and regulate the non-exclusive commercial use of City owned and managed land across the District.

### History

Council Resolution	Date	Information
C1611/123	9 November 2016	Date of Implementation Version 1



10.4 Policy and Legislation Committee - 21/09/2017 - COUNCIL POLICY 016 RANGER & EMERGENCY SERVICES APPROACH TO REGULATORY FUNCTIONS

<b>SUBJECT INDEX:</b>	Policy, Procedures and Manuals
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Environmental Services
<b>ACTIVITY UNIT:</b>	Ranger & Emergency Services
<b>REPORTING OFFICER:</b>	Ranger & Emergency Services Coordinator - Ian McDowell
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A CP016 Ranger & Emergency Services Approach to Regulatory Functions Version 1 (with track changes)⇒ Attachment B CP016 Ranger & Emergency Services Approach to Regulatory Functions Version 2⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 21 September 2017, the recommendations from which have been included in this report.**

## **PRÉCIS**

A review of Council Policy 016 Ranger and Emergency Services Approach to Regulatory Functions has been completed. Recommended changes to the policy are minor in nature and do not alter the intent of the original policy. The purpose of this report is to seek the Council's adoption of the revised policy.

## **BACKGROUND**

Council Policy 016 Ranger and Emergency Services Approach to Regulatory Functions was adopted by Council on 26 June 2013. As the name suggests the policy sets out the City's approach to regulatory functions exercised by Ranger and Emergency Services.

The Policy and Legislation Committee has endorsed an ongoing policy review process, whereby individual policies are reviewed with a view to determining their ongoing applicability along with standardisation and reduction. This report presents the review of Council Policy 016.

## **STATUTORY ENVIRONMENT**

In accordance with section 27(2)(b) of the Local Government Act 1995 (the Act), it is the role of the Council to determine the local government's policies. The Council does this on the recommendation of a Committee it has established, the Policy and Legislation Committee, in accordance with section 5.8 of the Act.

## **RELEVANT PLANS AND POLICIES**

This policy supplements and supports Council's *Enforcement and Prosecutions* Policy (015) as adopted by Council on 9 August 2017.

## **FINANCIAL IMPLICATIONS**

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

**Long-term Financial Plan Implications**

There are no Long Term Financial Plan implications associated with the adoption of this policy.

**STRATEGIC COMMUNITY OBJECTIVES**

Key Goal Area

6 Leadership: visionary, collaborative and accountable.

Community Objective

6.1: governance systems, processes and practices are responsible, ethical and transparent.

**RISK ASSESSMENT**

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

**CONSULTATION**

The review of the policy is a routine administrative process to ensure it remains applicable and relevant which it does. Changes to the original policy are minor in nature and do not alter the intent of the original policy. A copy of the version 1 of the policy showing track changes for version 2 is attached (Attachment A).

**OFFICER COMMENT**

It is seen as appropriate that the Council adopts and maintains a policy that sets out the City's objectives and intent with respect to its regulatory functions. These are important functions for the City, our residents and visitors to the District. If these functions were not undertaken in a professional manner, or at all, there may be negative consequences.

It is important that the City sets out how and why these functions are being exercised, and communicates that to the community as a whole, as well as individual members of the public. Adoption of the policy would play a significant part in doing that.

**CONCLUSION**

The policy would provide for the continuation of a transparent, consistent, accountable and respectful approach to the exercising of regulatory functions by Rangers and Emergency Services, and it is recommended that the Council formally adopts the policy as attached to this report (Attachment B).

**OPTIONS**

Council may amend or reject the new draft policy.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

If adopted by the Council, version 2 of Council Policy 016 Rangers and Emergency Services Approach to Regulatory Functions would come into immediate effect.

**COUNCIL DECISION/COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION****C1710/243**

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

That the Council adopts version 2 of Council Policy 016 Ranger and Emergency Services Approach to Regulatory Functions as attached (Attachment B)

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

## Attachment B

016	Ranger & Emergency Services Approach to Regulatory Functions	V2 Draft
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**1.0 PURPOSE**

The purpose of this policy is to –

- 1.1 Outline the City's approach to the implementation of the regulatory framework controlling parking, dog/cats/animals, fire management, litter, unauthorised camping and related matters (all of which are primarily handled by the City's Ranger and Emergency Services).
- 1.2 Supplement relevant requirements, direction and advice already set out in the City's *Prosecutions Policy* and relevant Acts, Regulations, Local Laws and/or other relevant documents.
- 1.3 Support transparent, consistent, accountable and respectful guidance and processes associated with implementing the relevant regulatory framework, including decisions to issue work orders and infringements, pursue prosecution and respond to requests for withdrawal/cessation of work orders, infringements and prosecutions.

**2.0 GENERAL PRINCIPLES**

- 2.1 The CEO will prepare more detailed internal procedures/protocols to supplement this Policy and to guide operational staff in the exercise of these functions. The CEO will consult with Councillors as appropriate in the development of those procedures/protocols.
- 2.2 The City will enforce the regulatory framework relating to parking, dogs/cats/animals, fire management, litter, unauthorised camping and related matters in a consistent, fair and objective manner, whilst at the same time, promoting positive resident and customer relations, and providing a conscientious and respectful service.
- 2.3 Officers are expected to use their reasonable judgement and discretions whilst enforcing the regulatory framework relating to parking, dogs/cats/animals, fire management, litter, unauthorised camping and related matters.
- 2.4 Once there has been a decision to prosecute, or an infringement notice or work order has been issued, it will only be withdrawn following the submission and consideration of a written request for withdrawal as set out in more detailed protocols/procedures developed by the CEO.
- 2.5 'Mutual respect' is one of the City's values. That value is of particular importance to the exercising of regulatory functions and applies to both the City itself and the community. Respect is due to both a person who may have been issued an infringement or similar, as well as to the people who have complied with the relevant legislation, or may have been affected by the failure of someone else to do so. Behaviour disrespectful to the City, its employees or the community as a whole is inappropriate and will not be tolerated.

**3.0 PARKING – OBJECTIVES/STATEMENT OF INTENT**

The following sets out the key objectives/statement of intent in relation to the City's enforcement of parking controls –

- 3.1 The aim of parking controls and their enforcement is to ensure the efficient and equitable use and management of parking in the City, especially in the Busselton City Centre and Dunsborough Town Centre.
- 3.2 The City will aim to provide consistent enforcement of parking controls, but available staffing resources and workload demands may affect the City's capacity to enforce parking controls from time-to-time. Notwithstanding this, residents and visitors are responsible for ensuring they are complying with parking controls at all times.
- 3.3 The City will review parking controls periodically and adjust parking controls as appropriate and following completion of appropriate consultation and applicable legal/administrative processes. The City will be conscious of available resources and the need to provide for consistent enforcement in determining when, where and what parking controls should be applied.
- 3.4 The City's parking local law provides for control of both public car parking (on-street and public car parks) and, where requested by the landowners, private car parking (e.g. some shopping centre car parks). The City encourages landowners to request that the City manage private car parking areas in and around the Busselton City Centre and Dunsborough Town Centre, and will generally support requests to manage private parking areas where the controls are to be applied are consistent with the approach to managing public parking and the City's capacity to consistently enforce those controls. If the landowner wishes to have parking controls that are not considered to be appropriate or enforceable by the City, then the City will not agree to manage the relevant parking area. The City also does not have the capacity to manage private car parking outside the Busselton City Centre and the Dunsborough Town Centre.
- 3.5 The City will engage in community education and provision of information as appropriate and as resources allow, assisting residents and visitors to determine what and where parking is available to meet their needs.

#### **4.0 ANIMALS – OBJECTIVES/STATEMENT OF INTENT**

The following sets out the key objectives/statement of intent in relation to the City's enforcement of dog, cat and other animal controls –

- 4.1 The City promotes responsible pet ownership and recognises that pets can substantially add to the wellbeing and quality of life of their owners.
- 4.2 The aim of dog, cat and other animal controls is to promote responsible pet ownership, avoid nuisance being created for members of the community and visitors, limit damage to and loss of wildlife, and protect the welfare and safety of dogs, cats and other animals.
- 4.3 The City will aim to provide consistent enforcement of dog, cat and other animal controls, but available staffing resources and workload demands may affect the City's capacity to enforce these controls from time-to-time. Notwithstanding that, residents and visitors are responsible for ensuring they are complying with relevant regulations at all times.
- 4.4 The City will review dog, cat and other animal controls periodically and adjust these controls as appropriate and following completion of appropriate consultation and applicable legal/administrative processes. The City will be conscious of available resources and the need to provide for consistent enforcement in determining when, where and what controls should be applied.
- 4.5 The City will respond to reasonable requests for assistance with protecting the welfare of dogs, cats and other animals by the public and other agencies and investigate as necessary. When the matter

is found to be of a serious nature it will be handed over to the RSPCA or Parks and Wildlife Services (Department of Biodiversity, Conservation and Attractions) for their further action.

- 4.6 The City will engage in community education as appropriate and as resources allow, promoting responsible pet ownership, whilst ensuring that the primary responsibility always rests with pet and other animal owners.

#### **5.0 FIRE MANAGEMENT – OBJECTIVES/STATEMENT OF INTENT**

The following sets out the key objectives/statement of intent in relation to the City's enforcement of fire management controls –

- 5.1 The City recognises that bush fire safety is a shared and collective responsibility involving the whole of the community. Bush fires do not respect property boundaries and an elevated bush fire risk on one property does not just affect the property in question, it increases risk for the whole of the community.
- 5.2 The City promotes individual, landowner and community management for the management of bush fire risk and, in particular, strongly encourages all residents in bush fire prone areas to have their own bush fire response plan, join their local Bushfire Ready Action Group (BRAG) and/or become an emergency services volunteer with a Fire & Rescue Service or Bush Fire Brigade.
- 5.3 The City supports and works with the Department of Fire and Emergency Services, Department of Biodiversity, Conservation and Attractions, Fire and Rescue Service and Bush Fire Brigades as well as many others, to ensure that our community is adequately resourced and prepared to fight fires, but recognises that a major component of protecting our community is through mitigation of bush fire risk, especially through the creation and maintenance of fire breaks and low fuel areas on both public and private land.
- 5.4 The aim of fire management controls and their enforcement is to reduce the risks of and from bush fires to both life and property, including the lives of emergency services volunteers and others involved in fire fighting.
- 5.5 The City will aim to provide consistent enforcement of fire management controls, but available staffing resources and workload demands may affect the City's capacity to enforce fire management controls from time-to-time. Notwithstanding this, residents and visitors are responsible for ensuring they are complying with fire management controls at all times.
- 5.6 During the 'bush fire season' (generally 1 December to 12 May), enforcement of fire management controls will be the highest priority for the City's Ranger and Emergency Services, other than responding to emergencies that may occur from time-to-time. The priority areas for enforcement of fire management controls are areas identified as being bush fire prone.
- 5.7 The City will review fire management controls periodically and adjust controls as appropriate and following completion of appropriate consultation and applicable legal/administrative processes. The City will be conscious of available resources and the need to provide for consistent enforcement in determining when, where and what controls should be applied. The City will consider cost implications for landowners and potential environmental impacts as and when it is deemed necessary to review fire management controls, but will always place the greatest weight on the protection of human life.

- 5.8 The City will engage in community education as appropriate and as resources allow, promoting individual, and landowner and community responsibility for protecting our community from bush fire risk.

#### **6.0 LITTER – OBJECTIVES/STATEMENT OF INTENT**

The following sets out the key/objectives/statement of intent in relation to the City's enforcement of litter controls –

- 6.1 The aim of the enforcement of litter controls is to control the unlawful disposal of litter and to maintain an attractive and healthy environment and protect the safety of the community.
- 6.2 The City will aim to provide consistent enforcement of litter controls, but available staffing resources and workloads may affect the City's capacity to enforce controls from time-to-time. Notwithstanding this, residents and visitors are responsible for ensuring they comply with litter controls at all times.
- 6.3 The City will review litter controls periodically as appropriate and with appropriate consultation. The City will be conscious of available resources and the need to provide for consistent enforcement in determining when, where and what controls should be applied.

#### **7.0 UNAUTHORISED CAMPING (OTHER THAN AT A LICENCED CARAVAN PARK AND/OR CAMPING GROUND) – OBJECTIVES/STATEMENT OF INTENT**

The following sets out the key objectives/statement of intent in relation to the City's enforcement of unauthorised camping (other than at a licenced caravan park and/or camping ground) –

- 7.1 The aim of the enforcement of unauthorised camping controls is to ensure that people sleeping/camping in moveable dwellings, tents or their vehicles within the City comply with the relevant legislation, and to protect the health, the environment and community amenity.
- 7.2 The City will aim to provide consistent enforcement of unauthorised camping controls, but available staffing resources and workloads may affect the City's capacity to enforce controls from time-to-time. Notwithstanding this, residents and visitors are responsible for ensuring they comply with unauthorised camping controls at all times.
- 7.3 The City aims to promote responsible and sustainable caravanning and camping, reduce the impact on the natural environment and any nuisance to the community caused by irresponsible caravanning and camping.
- 7.4 The City will review relevant controls in relation to caravanning and camping periodically as appropriate and with appropriate consultation. The City will be conscious of available resources and the need to provide for consistent enforcement in determining when appropriate controls should be applied.

#### **History**

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
CXXX/XXX	TBA	Scheduled review Version 2
C1306/160	26 June 2013	Date of Implementation Version 1

10.5 Policy and Legislation Committee - 21/09/2017 - REVIEW OF LOCAL PLANNING POLICY 6B PERCENT FOR ART

<b>SUBJECT INDEX:</b>	Percent for Art - contributions
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Development Services and Policy
<b>ACTIVITY UNIT:</b>	Development Services and Policy
<b>REPORTING OFFICER:</b>	Manager, Development Services and Policy - Anthony Rowe
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Advertised: Percent for Art with marked changes⇒ Attachment B Summary of Submissions⇒ Attachment C Final draft: with post advertising changes highlighted⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 21 September 2017, the recommendations from which have been included in this report.**

**PRÉCIS**

Council at its meeting 10 May 2017 resolved:

1. Pursuant to clause 5 of Part 2 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, proceeds with the amendment to Local Planning Policy 6B Percent for Art Provisions as outlined in Attachment B of this report, further modified through the removal of clause 8.4 and the renumbering of subsequent clauses accordingly;
2. Pursuant to clause 4 of Part 2 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, advertises the amendment to Local Planning Policy 6B Percent for Art Provisions; and
3. In parallel with point 2 above, undertakes community consultation to assist in developing new themes/ideas/locations for projects which contributions collected under the Policy in the Busselton and Dunsborough Precincts shall be allocated towards in the future.

The Local Planning Policy 6B *Percent for Art Provisions* (LPP6B), has been circulated for community consultation. Two community responses were received and are addressed in the report. No change is recommended as a consequence of the submissions.

The Local Planning Policy 6B *Percent for Art Provisions* (LPP6B) has been modified to provide a framework for consultation, to maintain the purpose of item 3. The basis for the change is addressed in the report.

Council's approval is sought to adopt the City of Busselton Local Planning Policy 6B Percent for Art Provisions (LPP6B) as modified.

**BACKGROUND**

The City of Busselton Local Planning Policy 6B Provisions Provisions (LPP6B) originated in 2008 to enhance the amenity and identity of key public places such as town/village centres, commercial nodes, main streets, entry points, squares, foreshores and parks.

The current policy identifies two precincts, the Busselton Precinct and the Dunsborough Precinct, and these are the only project destinations that contributions earned for public art can be directed to.



Since then it has become apparent and desirable to also include the destinations of Yallingup and Vasse. Yallingup Foreshore is an important public place/area and the Vasse Village Centre is now developing into the third town centre in the District.

It was also recognised that given the funds derived in the Busselton Precinct were to be directed to the Settlement Art Project, now nearing completion, it is timely to now enable funds to be directed towards other projects, as identified in item 3 of Council's resolution 10 May 2017.

Further to the above considerations, an inconsistency in process was identified, principally the way the contribution is currently derived. Under the current Policy, proposals with a value greater than \$1M are required to make a public art contribution of 1% on the value/cost (which can be delivered either as cash or, more commonly, as on-site works). This includes multiple dwellings, grouped dwellings, mixed use developments, as forms of dwellings, and in addition to these, contributions are required from commercial, civic, institutional, and educational projects. Single houses, as one dwelling type, are exempt from making the contribution regardless of value.

This presents an unfairness across dwelling 'types' rather than on the nature of the land use. Even affordable housing units as a combined development, may often exceed a value of \$1M, and as such require the contribution. This is, in turn, passed onto the costs to purchaser.

The inconsistency also manifested itself in the structure of a development. This is highlighted when comparing a built residential complex (retirement village), with a park home concept (retirement village).

In the case of the park home development, the project value only includes creating the site, notwithstanding the resident may choose from a limited number of the developer's building types. Technically the new resident brings their own single house, and as such the value of the house is exempt from the public art contribution. Alternatively a retirement village complex, which constructed the dwelling that was then purchased, has to pass on the public art contribution into the value/purchase price of the dwelling.

## **STATUTORY ENVIRONMENT**

Part 2 - Local Planning Framework of Schedule 2 - Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* enables the City to make, amend and/or repeal a local planning policy.

The procedure of amending a local planning policy requires, if the amendment is not considered minor, advertising in accordance with the procedure described in clause 4 of Part 2. It requires advertising of the proposed policy (or amendment) for a period of not less than 21 days via notice in a newspaper circulating within the Scheme area.

At the conclusion of the advertising period the Council may resolve to -

- (i) proceed with the policy without modification; or
- (ii) proceed with the policy with modification; or
- (iii) not to proceed with the policy.

The amendment to the City of Busselton Local Planning Policy 6B Percent for Art Provision is not considered to be a minor amendment as it affects new locations and changes the eligibility requirements for certain development.

## **RELEVANT PLANS AND POLICIES**

### City of Busselton Local Cultural Planning Strategy 2011

The City of Busselton adopted a Local Cultural Planning Strategy (LCPS) on 24 August 2011, which was then noted by the Western Australian Planning Commission on 25 May 2012. The aim of the strategy is to conserve the key cultural elements of the City's towns and rural areas and to maintain these elements over time.

The LCPS forms a component of the City's local planning framework and is a strategic tool informing the development and interpretation of the Local Planning Strategy. Due regard to the Strategy's recommendations is to be given in making planning decisions as well as policy formulation and review.

The City of Busselton Local Planning Policy 6B Percent for Art Provisions is a practical mechanism that delivers, at the determination of a development application, the intent of the City of Busselton Local Cultural Planning Strategy 2011. The proposed amendment is consistent with the intent of the Strategy.

### State Planning Policy 3.6 Development Contributions for Infrastructure

The policy provides that local governments should have the capacity to recoup infrastructure costs by way of provisions in local planning schemes. It provides that local government must have a methodical approach based on determined catchments and allocation of costs to meet the needs of the catchment.

The City of Busselton Local Planning Policy 6B Percent for Art Provisions is not encompassed in the scope of the State Planning Policy; but it does reflect a consistent approach with its methodology, particularly, to identify catchments and return expenditure to those catchments, and in providing certainty for the purpose of the contribution. It should also be noted that the Percent for Art Provisions Policy provides the option of providing art on site or making a financial contribution to a project within the locality/catchment.

An important consideration about any local planning policy, and it is required to be acknowledged (cl. 4(1)(b)), is that it must not be in conflict or contravene a State planning policy. The City of Busselton Local Planning Policy 6B Percent for Art Provisions is not inconsistent with a State planning policy.

## **FINANCIAL IMPLICATIONS**

The proposed amendments to the Policy will result in changes to the manner in which the Percent for Art Provisions contributions are collected and distributed. It is considered that the changes to the eligible development are in keeping with previous decisions made by the Council in relation to similar applications and, therefore, the amount of contributions collected will not alter; however, the provisions within the Policy will provide clarity for developers.

### Long-term Financial Plan Implications

No significant implications.

## **STRATEGIC COMMUNITY OBJECTIVES**

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

## RISK ASSESSMENT

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

## CONSULTATION

The amendment to Local Planning Policy 6B Percent for Art Provisions was advertised from 24 May 2017 to 15 June 2017.

Advertisement was placed in a newspaper circulating the City of Busselton's Scheme area, which is the same as the City of Busselton municipal area.

Two submissions were received during this time, they have been summarised in Attachment B.

1. Yallingup Art Group - support
2. Toby's Inlet Estate Pty Ltd – in the situation of a retirement village, it is opposed to the calculation of the liability based upon the commercial component and associated works, but supports changes to not apply percent for art requirements to the residential component.

## OFFICER COMMENT

The key features of the amendment to the Local Planning Policy 6B *Percent for Art Provisions* are:

1. Changing the precinct boundary to include an area corresponding with the townships of Vasse and Yallingup – displayed on a map;

It is considered appropriate in allowing funds collected in Vasse to be spent on projects within the Village Centre. It is anticipated that would be done in partnership with the Vasse Joint Venture developers, and if a clear strategy were articulated, it may assist in encouraging the developers of individual sites to meet their Percent for Art Provisions obligations via the cash-in-lieu option, and deliver an integrated and high quality approach to public art in the Village Centre.

2. Clarifying the requirement for public arts contribution; and

All development greater than \$1M is subject to contribution except for, permanently occupied residential development extractive industry, and agriculture production. Commercial activities/service, associated with an exempted item will be required to make a contribution. The purpose is to treat all dwelling types equally.

3. Clarifying the requirement for retirement villages.

The Public Art Contribution Rate is now to be based on the overall development value excluding the cost of the dwellings as a building. All costs attributed to providing the lot or site for the dwelling to be placed or constructed upon is included

A concern was expressed by Toby's Inlet Estate Pty Ltd on this aspect and in particular that the associated works and infrastructure, was complicated to calculate and would deter the provision of high standard works that may contribute to the overall amenity. It has requested that the provision be narrowed to remove the reference to the calculation being based on supporting infrastructure works.

The intent of this provision is to treat, equally, a park home type retirement village with that of a constructed retirement village. With a park home retirement village, the capital cost is the communal facilities and the infrastructure to create the lots for the park home to be located upon. A constructed retirement village instead has the communal facilities, infrastructure to create the sites plus the construction cost of the dwellings. The policy response, in this amendment, is to discount the value of the dwelling and the infrastructure that supports its placement; to place all dwellings on the same obligation.

Whilst it is agreed that the policy will be difficult to calculate, this difficulty nonetheless does not outweigh the merit of treating all retirement villages, and all dwellings, evenly.

4. A framework for identifying future projects for contributions to be allocated.

The Council resolution 10 May 2017 identified at item 3

*“In parallel with point 2 above, undertakes community consultation to assist in developing new themes/ideas/locations for projects which contributions collected under the Policy in the Busselton and Dunsborough Precincts shall be allocated towards in the future.”*

A concurrent identification of specific themes through community consultation has not been undertaken at this time.

The process of determining the themes and canvassing the community will be iterative and take time. The Local Planning Policy 6B Percent for Art Provisions has been separated to proceed, ahead of nominating specific themes and projects, because of the immediate need to provide clarification to the development industry on the requirement for contribution.

To maintain the purpose of Council’s resolution, 10 May 2017, the provisions addressing the allocation of contributions has been clarified. It now includes the ability for the City to nominate specific themes and projects from time to time following consultation with the community. Attachment C, Final draft, includes the changes made post Advertising, in highlighted text. The changes maintain the Council’s intent for the policy.

## **CONCLUSION**

The proposed changes will improve consistency and fairness in the manner in which the contributions are applied.

It establishes an arrangement for community involvement prioritising public artwork and it recognises the value of placing art in the City’s town centres, to include Vasse and Yallingup.

## **OPTIONS**

The Council may choose to:

1. Proceed with the policy without modification; or
2. Proceed with the policy with modification; or
3. Not proceed with the policy.

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

A notice of the amendment will be published within four weeks of Council’s decision to proceed with the amendment. No further notifications are required.

The amendment will be made available the day following Councils resolution and will be published on the website within two weeks of the resolution.

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

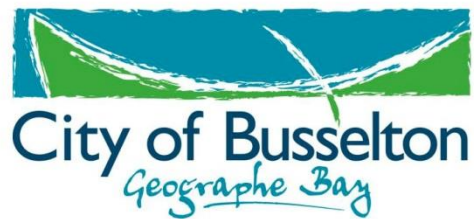
**C1710/244** Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

That the Council –

1. Pursuant to clause 4(1)(b) is of the opinion that the amendment to Local Planning Policy 6B Percent for Art Provisions is not inconsistent with a State planning policy.
2. Pursuant to clause 4(3) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, having considered the submissions received, (Attachment B) resolves to proceed with the amendment to Local Planning Policy 6B Percent for Art Provisions, as provided in Attachment C of this report;
3. Pursuant to clause 4(4) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to publish a notice of the amendment to Local Planning Policy 6B Percent for Art Provisions, in a newspaper circulating in City of Busselton Scheme area; and
4. Pursuant to 4(6) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to make a copy available for public inspection during business hours, and publish it on its website.

**CARRIED 9/0**

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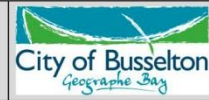


Local Planning Scheme No. 21

Local Planning Policy

## **6 - Development Contributions Policy**

Adopted Date:  
Operative Date:

**LOCAL PLANNING POLICY  
DEVELOPMENT CONTRIBUTION POLICY****6B PERCENT FOR ART PROVISIONS****1.0 Preliminary****1.1 Purpose**

The City of Busselton Cultural Plan 2005 identified the need to develop a Percent for Art Policy. The City of Busselton Local Cultural Planning Strategy 2011 (LCPS) builds on the relevant recommendations of the Cultural Plan and states the following objectives for the Percent for Art Provisions:

- a) promotion of civic, community and cultural identity by introducing public art which makes streets, open spaces and buildings more locally distinctive;
- b) enhancing a sense of place by encouraging public art forms which reinforce and highlight European and indigenous history, cultural heritage and contemporary traditions;
- c) promotion of community reflection, inspiration, celebration and wellbeing;
- d) improving visual amenity by use of public art to screen unattractive views and improve the appearance of places; and
- e) improving the functionality of the public domain through the use of public art to provide appropriate street furniture functions.

These Percent for Art Provisions were originally adopted in 2008 and respond to the City's desire to protect and enhance the utility, amenity and identity of the public domain of places such as town/village centres, commercial nodes, main streets, entry points, squares, foreshores and parks within its municipality.

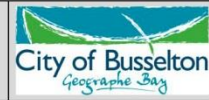
**2.0 Definitions****2.1 Public Art**

For the purposes of these provisions 'Public Art' is defined as being site-related and place-responsive art in the public domain. It includes the process of engaging artists' ideas, enhances the built and natural environments and adds value to character and cultural identity through the use of a diverse range of art forms and design applications.

**2.1.1 Exclusions to Public Art**

Art projects ineligible for consideration include:

- commercial promotions in any form;
- directional elements such as supergraphics, signage or colour coding;

**LOCAL PLANNING POLICY  
DEVELOPMENT CONTRIBUTION POLICY**

- 'art objects' which are mass produced such as fountains, statuary or playground equipment;
- most art reproductions;
- landscaping or generic hardscaping elements which would normally be associated with the project; and
- services or utilities necessary to operate or maintain artworks.

**2.2 Professional Artist**

Only professional artists will be eligible to carry out public art commissions. As the term 'artist' is self-referencing, for the purposes of these provisions a professional visual artist can be defined as a person who fits into at least two of the following categories:

- a person who has a university degree or minimum 3 year full time TAFE Diploma in visual arts, or when the brief calls for it, other art forms such as multimedia;
- a person who has a track record of exhibiting their artwork at reputable art galleries that sell the work of professional artists;
- a person who has had work purchased by major public collections, including (but not limited to) the Art Gallery of Western Australia, any of the university collections or Artbank;
- a person who earns more than 50% of their income from arts related activities, such as teaching, selling artwork or undertaking public art commissions;
- an artist who is a member of Artsource and / or holds public liability and professional indemnity insurance.

Sometimes it will be appropriate to be more flexible and seek people other than professional artists to carry out artwork commissions. In addition to the above, the City supports art teachers and students from recognised educational institutions taking on and fulfilling the obligations, subject to meeting general criteria.

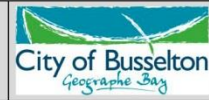
**3.0 Application****3.1 Public Art to be Required**

The City of Busselton shall require eligible proposals to provide public art in accordance with the described method for determining Public Art contributions described hereunder.

**3.2 Proposals Eligible for Public Art Contributions****3.2.1 Proposals Eligible**

All development proposals with a value greater than \$1,000,000 excluding:



**LOCAL PLANNING POLICY  
DEVELOPMENT CONTRIBUTION POLICY**

- Permanently occupied (i.e. lawfully able to be permanently occupied) residential development, including single house, grouped dwellings, aged persons dwellings and multiple dwellings;
- Extractive Industry; and
- Agricultural development, excluding wineries, cellar doors, restaurants or similar development on rural land that is not directly associated with agricultural pursuits (i.e. the actual growing of crops or rearing of livestock).

**3.2.2 Prescribed Zones**

These provisions apply to those development proposals listed in 3.2.1 above where they are situated within the municipality of the City of Busselton.

**3.2.3 Proponents**

These provisions shall apply to all proponents, except those exempt from obtaining local authority planning approval under other legislation. Those proponents so exempted should utilise these provisions as a guide for the implementation of their respective percent for art obligations where applicable.

**4.0 Method of Determining Public Art Contribution****4.1 Public Art Contribution Rate**

The cost of any Public Art provided under these provisions shall be no less than one percent of the value of the eligible proposal.

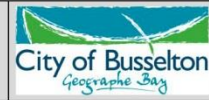
For any eligible proposals comprising a permanently occupied residential component, including but not limited to, mixed use development, aged persons dwellings and/or retirement villages, the Public Art Contribution Rate is to be based only on the value of the non-residential component, central/communal facilities, and the proportionate value of supporting infrastructure works, such as the costs of fill, drainage, wastewater, water, electricity, telecommunications, pedestrian and vehicular access ways, parking and landscaping.

**4.2 Form of Public Art Contribution**

Public Art required pursuant to these provisions shall be provided on site by the proponent. Alternatively, the proponent may choose to satisfy the contribution through a cash in lieu payment towards precinct public artwork.

In cases where the proponent chooses a cash in lieu payment as their preferred method of satisfying their obligation, the funds collected from their contribution shall be expended by the City on public artwork in the Precinct in which the funds were collected. Cash-in-lieu contributions

**LOCAL PLANNING POLICY  
DEVELOPMENT CONTRIBUTION POLICY**



in the Busselton (east) Precinct may be paid directly into the charitable trust established for the Settlement Artwork Project.

#### 4.3 Precincts

There are four Percent for Art Precincts; Busselton (east), Yallingup, Vasse and Dunsborough (west). The precinct map is attached as Appendix A.

Funds collected within the Busselton Precinct will be expended on the Settlement Artwork project **until completion and then after within the Town Centre and / or Foreshore.**

Funds collected within the Dunsborough, Yallingup and Vasse Precincts will be expended on an artwork within their respective precinct Town Centre and / or Foreshore.

**The City may from time to time, in consultation with the community, determine a specific theme or project, towards which the cash in lieu contributions for public artwork is directed, or otherwise the cash in lieu contributions for public artwork shall be collected and expended in the manner set out above.**

### 5.0 Implementation of Percent for Art Policy Provisions

#### 5.1 Location of Public Art

Public Art provided pursuant to these provisions shall be provided on site, or on crown land immediately adjacent to the site, in a location approved by the City.

#### 5.2 Separate approval generally not required for Public Art

Public Art provided under these provisions, in fulfilment of a condition of Planning Approval, shall not require a further Development Application.

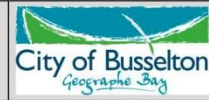
#### 5.3 Cash In Lieu

Although it is desirable that the proponent fulfil their Percent for Art obligations through on-site artwork, their obligation may be satisfied by a cash-in-lieu contribution based on the rate described in these provisions. Such cash-in-lieu payments are to be paid to the City of Busselton Public Arts Fund (Percent for Public Art) and expended in accordance with sections 4.2 and 4.3 above.

##### 5.3.1 Eligible Costs

Costs associated with the production of an art project may include:

- professional artist's budget, including artist fees, Request for Proposal, material, assistants' labour costs, insurance, permits, taxes, business and legal expenses, operating costs, and art consultant's fees if these are necessary and reasonable;

**LOCAL PLANNING POLICY  
DEVELOPMENT CONTRIBUTION POLICY**

- fabrication and installation of artwork;
- site preparation;
- structures enabling the artist to display the artwork;
- documentation of the artwork; and
- acknowledgment plaque identifying the artist, artwork and development(s) from which funding was obtained.

**5.4 Equity, Safety and Universal Access**

Public art should be made accessible to all members of the community, irrespective of their age and abilities. While art in public spaces might be considered primarily a visual experience, it can provide a range of sensory experiences for people with disabilities – artwork can be tactile, aural and give off pleasant smells as well as being visual. Artwork need not be monumental, but can be at heights suitable for people in wheelchairs to touch, move through and explore. Artwork can be interactive play objects for family groups and children. Interpretive signage in an easy to read format, including Braille, will ensure that artworks are inclusive of all members of the community. Where feasible and appropriate to the site and community, the City of Busselton will commission artworks that can be enjoyed as an interactive experience, irrespective of age, mobility or ability. Issues of public safety will be considered and addressed during design and installation of the artworks.

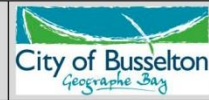
**5.5 Design Documentation**

The artist will be required to prepare detailed documentation of the artwork at various stages of the commission, design, fabrication and implementation processes. Such documentation shall demonstrate the structural viability and suitability of the materials and fabrication processes for the proposed location. Depending upon the project, the documentation may include concept drawings, maquettes, structural and other engineering drawings, photographic images of works in progress, photographic images of completed and installed work and a maintenance schedule.

**5.6 Clearance Process**

The approval of the City shall be required prior to the creation and installation of the Public Art. For this purpose, the Council may delegate authority to grant approval to the Public Art to an appropriate Officer, or duly appointed panel.

Details of works shall be submitted to and approved by the City of Busselton prior to issue of a building permit. The detail submitted shall be assessed against the requirements of these provisions and associated *Step by Step Guide for Developers*. The public artwork must be completed and installed prior to occupation of the development and/or issue of a Permit to Use, and maintained thereafter by the owner(s). It is recommended that the artist be contracted

**LOCAL PLANNING POLICY  
DEVELOPMENT CONTRIBUTION POLICY**

early in the design process to avoid any delays to final clearance. Alternatively, the City may accept a suitable agreement, prepared at the applicant's expense, binding the proponent to complete the works within a specified time frame and indicating that the works will be maintained by the owner for the life of the artwork.

Where agreement has been reached for the contribution to be met by way of a cash in lieu payment, this shall be satisfied prior to issue of a building permit.

**6.0 Following Completion of Artwork****6.1 Maintenance Schedule**

Artworks that are low maintenance, robust, durable and resistant to vandalism will be encouraged and this will form part of the assessment of all proposals. Proponents will be required to present the City with a maintenance schedule at the completion of the commission.

**6.2 Decommissioning**

In the case of artworks located on Crown Land, the City may decide to remove an artwork because it is in an advanced state of disrepair or damage, because the artwork is no longer considered suitable for the location or for other reasons such as safety risk. In such cases, the City will consult with the artist, where possible, prior to making a decision to remove and prepare a documented archival record of the artwork prior to its removal.

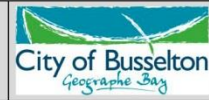
In the case of artworks located on private property, the developer must contact the City and the artist at least 28 days ahead of any relocation, sale, alteration or removal of an artwork. In the case that an artist has moved and the developer cannot find them, evidence that a reasonable attempt to find the artist must be provided on request.

**7.0 Creative Development Process****7.1 Creative Design Process**

The proponent (or City where the public art is situated on City managed land) will consult with the City's Cultural Development Officer to identify appropriate locations, themes and materials from which the proponent will develop an Artists' Brief. This document will be used to select and commission a professional artist to design, fabricate and install the artwork. The proponent may, at their discretion, coordinate and manage the process by which the artist works as part of the design team, alongside architects, landscape architects, planners and engineers. Alternatively, they may engage the services of a specialist art consultant whose fees may be considered as part of the public art contribution within the general intent of these provisions and on application by the proponent

**7.2 Consultation with the Community**



**LOCAL PLANNING POLICY  
DEVELOPMENT CONTRIBUTION POLICY**

Where appropriate, an invitation should be extended to community members to participate in the artwork process. This can be facilitated through, but not limited to, drawing sessions, cultural mapping processes to identify themes, or representation on a selection panel.

Some groups in the community are not comfortable with the expression of interest and tender processes, and will not enter into them without assistance. While artists from these groups will be encouraged to apply for all publicly advertised commissions, there may be opportunities for designating specific commissions for them. In such cases, the selection processes outlined above may be modified and more assistance given to the artists submitting Expressions of Interest or Requests for Proposals.

### 7.3 Collaboration

There is an expectation that commissioned artists will work in collaboration with other consultants engaged by the proponent (most commonly, but not exclusively, landscape architects, urban planners and engineers) and that the conceptual and technical requirements of these professionals will be duly regarded by the artist when designing and installing the artwork.

There is an equal expectation that the artists' aesthetic judgement will be respected by other consultants engaged by the proponent. Changes to an artwork, even at concept stage, can only be made with the full knowledge and approval of the artist.

## 8.0 Artists Rights

### 8.1 Artist Contract

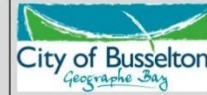
The proponent will be required to forward copies of the artist's contract, maintenance schedule and artist contact details to the City at the commencement of the project. In the case where the proponent is the City, it shall satisfy itself that these requisites have been met.

The artist's contract or letter of agreement should, in general, follow the provisions of the ArtsLaw Centre of Australia pro forma Design and Commission Agreement or other similar contractual document such as the WA State Government Percent for Art Agreement.

### 8.2 Moral Rights

Since 2000, moral rights legislation has protected artists. In brief, an artist's moral rights are infringed if:

- their work is not attributed or credited;
- their work is falsely attributed to someone else; or

**LOCAL PLANNING POLICY  
DEVELOPMENT CONTRIBUTION POLICY**

- their work is treated in a derogatory way by distorting, modifying or removing it without their knowledge or consent.

In practical terms this means that all artworks should have the artist's name on or attached it, that the City cannot change an artwork in any way without seeking the artist's permission; likewise, cannot remove or re-locate the artwork without seeking the artist's permission. In the case that an artist has moved and the City cannot find them, evidence that a reasonable attempt to find the artist must be provided on request.

The City will take special care to ensure that acts of restoration or preservation (of artworks) will be conducted in a sensitive manner with prior consultation with the artists. Wherever possible, preservation or restorative works should be carried out by professional conservators. Special care will also be taken with the moral rights associated with works created by more than one artist, in that it is acknowledged that collaborators on artistic creations can take different views on issues such as relocation and restoration.

### 8.3 Acknowledgement of Artwork

In line with moral rights legislation, the proponent (or City where the artwork is situated on Crown Land) will install a plaque or plate near each artwork, acknowledging the name of the artist, and the name of the person, agency or company who funded the artwork.

### 8.4 Fees to Artists

A fee may be paid to artists invited to submit a Request for Proposal (RFP) and this may be credited to the value of the Public Art required under the Policy. The amount will be at the discretion of the proponent and in proportion to the overall artwork budget. The fee will be paid after the proposal had been submitted, deemed to comply with the requirements and the artist has attended their interview.

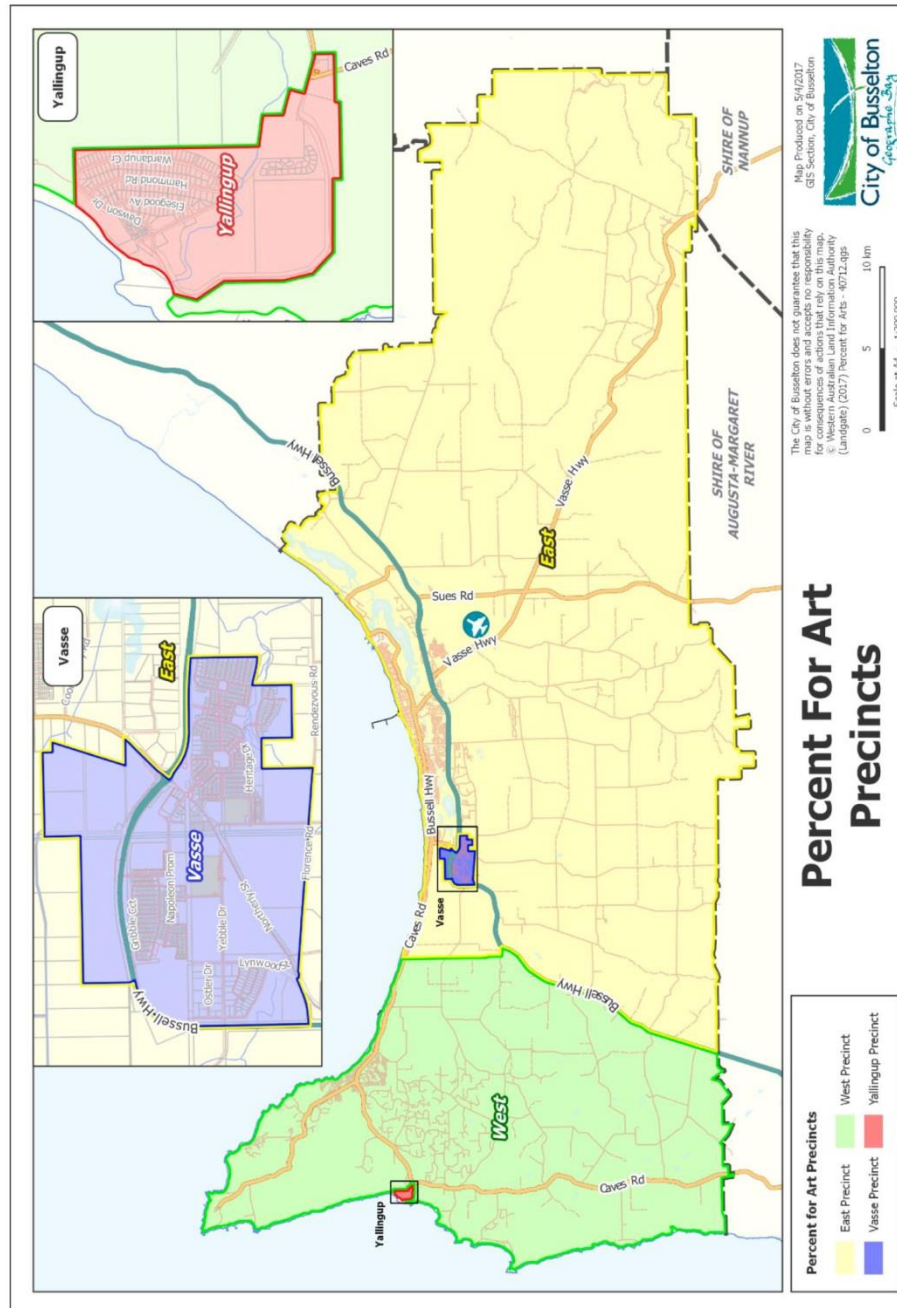
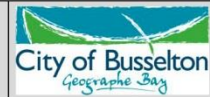
## 9.0 Reference Documentation

Relevant documents to be referenced by these provisions include but are not limited to:

- City of Busselton Local Cultural Planning Strategy 2012
- Busselton Town Centre Guide Plan 2004
- City of Busselton Cultural Plan 2005
- Dunsborough Townscape Plan 2002
- Liveable Neighbourhoods WAPC 2009

## 10.0 Review

**LOCAL PLANNING POLICY  
DEVELOPMENT CONTRIBUTION POLICY**



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

### **11.1 LOCAL EMERGENCY MANAGEMENT ARRANGEMENTS**

<b>SUBJECT INDEX:</b>	Emergency Management
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Environmental Services
<b>ACTIVITY UNIT:</b>	Ranger & Emergency Services
<b>REPORTING OFFICER:</b>	Ranger & Emergency Services Coordinator - Ian McDowell
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Local Emergency Management Arrangements (September 2017)⇒ Attachment B Appendix 3 Special Needs Groups, City Events, & Critical Infrastructure Lists (Redacted Copy)⇒ Attachment C Appendix 4 Emergency Contacts & Resources Directory (Redacted Copy)⇒ Attachment D Appendix 6 Local Evacuation Plan⇒

#### **PRÉCIS**

It is a requirement of the *Emergency Management Act 2005* for a local government to ensure that effective local emergency management arrangements are prepared and maintained for its district.

The City has reviewed its local emergency management arrangements and is now proposing Council endorsement of the following documents:

- a. Local Emergency Management Arrangements (LEMA) (Attachment A);
- b. Special Needs Groups, City Events & Critical Infrastructure Lists (Appendix 3 of the LEMA) (Attachment B);
- c. Emergency Contacts & Resources Directory (Appendix 4 of the LEMA) (Attachment C); and
- d. Local Evacuation Plan (Appendix 6 of the LEMA) (Attachment D).

#### **BACKGROUND**

The term local emergency management arrangements (LEMA) refers to the collection of all of the emergency management documentation, systems, processes, agreements and memorandums of understanding which affect the local government district. The LEMA are the overarching document and associated plans that the local government is responsible for developing, maintaining and testing.

The previous version of the City's LEMA was endorsed by the Council in June 2007 and was last amended in May 2010. It is recommended that a full review of the LEMA is carried out every five years. The City has completed its review of the LEMA for its District and is now seeking Council endorsement of the revised LEMA and associated Appendices.

#### **STATUTORY ENVIRONMENT**

Pursuant to section 36(a) of the *Emergency Management Act 2005* (the Act), it is a function of local government, subject to the Act, to ensure that effective local emergency management arrangements are prepared and maintained for its district.



Pursuant to section 38(1) of the Act, a local government is to establish one or more local emergency management committees for the local government's district.

Pursuant to section 39 of the Act, the functions of a local emergency management committee are, in relation to its district:

- a. to advise and assist the local government in ensuring local emergency management arrangements are established for its district; and
- b. to liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements.

### RELEVANT PLANS AND POLICIES

The City of Busselton LEMA have been reviewed and revised in accordance with the State Emergency Management Local Emergency Management Arrangements Guideline and Model (the Guideline).

The Guideline suggests the following design for a modular LEMA:



### FINANCIAL IMPLICATIONS

There are no financial implications associated with the Officer Recommendations of this report or with the LEMA.

### Long-term Financial Plan Implications

There are no Long Term Financial Plan implications associated with the Officer Recommendations of this report or with the LEMA.

## STRATEGIC COMMUNITY OBJECTIVES

### Key Goal Area

6 Leadership: visionary, collaborative and accountable.

### Community Objective

6.1: governance systems, processes and practices are responsible, ethical and transparent.

## RISK ASSESSMENT

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

The only risk is if the City does not have current LEMA in which case it would be non-compliant with its statutory obligations under the Act, and may suffer reputational harm should a major incident occur within its district.

## CONSULTATION

The LEMA have been developed by the City in consultation with the Local Emergency Management Committee (LEMC). The LEMC endorsed the LEMA at its meeting dated 5 September 2017.

The LEMC membership comprises:

- Two elected members of the Council (currently Cr Grant Henley, and Cr Robert Reekie)
- The Local Emergency Coordinator (WAPOL) as appointed by the State Emergency Coordinator (the Commissioner of Police)
- The Local Recovery Coordinator as appointed by the City
- The following representatives as appointed by the City:
  - Manager Environmental Services
  - Environmental Health Coordinator
  - Airport Operations Coordinator
  - Chief Bush Fire Control Officer
- Representatives from the following emergency management agencies, welfare support agencies or non-government organisations, and other industry agencies and organisations:
  - Department of Fire and Emergency Services (DFES) – Fire and Rescue Service
  - DFES – State Emergency Services (SES)
  - DFES – Volunteer Marine Rescue (VMR)
  - St John Ambulance
  - Agriculture and Food (Department of Primary Industries and Regional Development)
  - Child Protection and Family Support (Department of Communities)
  - Department of Transport
  - Parks and Wildlife Services (Department of Biodiversity, Conservation and Attractions)
  - WA Country Health Service – South West
  - ATCO Gas
  - Busselton Water
  - NBN Co
  - Telstra
  - Water Corporation
  - Western Power

All of the agencies listed above were provided with copies of the draft LEMA and associated appendices and those agencies were provided with an opportunity to provide feedback. Draft copies were also provided to the Office of Emergency Management – District Emergency Management Advisor, South West.

Where appropriate, agency feedback has been incorporated into the draft documents as attached to this report. Consultation with the agencies and organisations listed above satisfies the requirements of the Act (s.39(b)).

## **OFFICER COMMENT**

### Composition of the LEMA

The format of the draft LEMA is based on the model recommended by the State Emergency Management Local Emergency Management Arrangements Guideline and is considered industry best practice. The City's LEMA comprises the following:

1. Local Emergency Management Arrangements (September 2017): this is the overarching document and is attached to this report (Attachment A) and is proposed for endorsement by the Council.
2. City of Busselton Localities Map: Appendix 1 of the LEMA and included in the main body of the LEMA.
3. Local Emergency Management Structure: Appendix 2 of the LEMA and included in the main body of the LEMA.
4. Special Needs Groups, Events and Critical Infrastructure Lists: Appendix 3 of the LEMA and attached to this report (Attachment B) and is proposed for endorsement by the Council. Parts of this document contain confidential contact details including mobile numbers that are not available for public distribution. The attached copy has been redacted to remove those confidential details.
5. Emergency Contacts and Resources Directory: Appendix 4 of the LEMA and attached to this report (Attachment C) and is proposed for endorsement by the Council. The attached copy is also a redacted copy for the same reasons as those listed above.
6. Local Emergency Management Plan for the Provision of Welfare Support: Appendix 5 of the LEMA. This report is owned and maintained by Child Protection and Family Support within the Department of Communities. It was adopted by the LEMC in September 2010 and last updated in May 2015. This appendix is not attached to this report as it does not require Council's endorsement.
7. Local Evacuation Plan: Appendix 6 of the LEMA and attached to this report (Attachment D) and is proposed for endorsement by the Council.
8. Emergency Management Recovery Plan: Appendix 7 of the LEMA and dated April 2014. This appendix is not attached to this report as it was endorsed by Council in April 2014 and will be and is next due for review, and subsequent endorsement by Council, in 2018.

The City also intends to develop an Animal Welfare Plan that will form Appendix 8 of the LEMA. The intent of the Animal Welfare Plan is to provide guidance to City staff, Hazard Management Agencies, and Combat and Support Agencies to assist the community with the care and management of domestic animals and wildlife during an emergency within our District. The development of an Animal Welfare Plan is optional and as such, its development should not delay the proposed endorsement of the LEMA and associated Appendices.

### The Approvals Process

The suite of documents (LEMA) must be endorsed by the LEMC and the Council, and then noted by the District Emergency Management Committee (DEMC) and State Emergency Management Committee (SEMC), before the City is deemed compliant with the requirements of the EM Act and Policy.

The LEMC endorsed the LEMA at its meeting on 5 September 2017. The next meeting of the DEMC will be on 25 October 2017. The City is proposing endorsement of the LEMA and associated appendices by the Council at this meeting to enable the documents to be presented to the DEMC on 25 October 2017.

### **CONCLUSION**

It is a statutory requirement for the City to ensure effective local emergency management plans are prepared and maintained for its District. In accordance with State Emergency Management Procedure 8, LEMA (including Recovery Plans) are to be reviewed in their entirety every five years.

In consultation with the LEMC, the City has conducted a complete review of the LEMA for its District and has developed a revised draft document in accordance with the format recommended by the State Emergency Management Guidelines. The review has included the development of the Special Needs Groups, City Events and Critical Infrastructure Lists (Appendix 3); the Emergency Contacts and Resources Directory (Appendix 4); and the Local Evacuation Plan (Appendix 6).

This report proposes endorsement of the LEMA (including Appendices 1 and 2 which are incorporated in the main document) and Appendices 3, 4 and 6 of the LEMA.

### **OPTIONS**

The Council may amend or not support the Officer Recommendation. Council may also recommend changes to the LEMA and its associated Appendices as long as those changes do not result in the City failing to meet its statutory obligations under the Act or State Emergency Management Policy and Procedures.

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

Following endorsement by the Council, it is proposed to present the LEMA to the DEMC for noting on 25 October 2017. If the LEMA is not presented to the DEMC on 25 October 2017, the next DEMC meeting is not scheduled until early 2018.

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

**C1710/245**

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

That the Council endorses the following documents:

1. Endorses the draft Local Emergency Management Arrangements (September 2017) as attached to this report (Attachment A);
2. Endorses the draft Special Needs Groups, City Events and Critical Infrastructure Lists as attached to this report (Appendix 3 of the LEMA) (Attachment B);
3. Endorses the draft Emergency Contacts and Resources Directory as attached to this report (Appendix 4 of the LEMA) (Attachment C);
4. Endorses the draft Local Evacuation Plan as attached to this report (Appendix 6 of the LEMA) (Attachment D); and
5. Notes copies of the draft Special Needs Groups, City Events and Critical Infrastructure Lists (Attachment B), and the draft Emergency Contacts and Resources Directory (Attachment C) are redacted copies following the removal of confidential contact information.

**CARRIED 9/0**

**EN BLOC**

## **15. CHIEF EXECUTIVE OFFICER'S REPORT**

### **15.1 COUNCILLORS' INFORMATION BULLETIN**

<b>SUBJECT INDEX:</b>	Councillors Information
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Executive Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Reporting Officers - Various
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Planning Applications Received ➡ Attachment B Planning Applications Determined ➡ Attachment C State Administrative Tribunal Appeals ➡ Attachment D WALGA August/September Summary ➡

### **PRÉCIS**

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

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

### **INFORMATION BULLETIN**

#### **15.1.1 Planning and Development Statistics**

##### **Planning Application**

Attachment A is a report detailing all Planning Applications received by the City between 1 September, 2017 and 15 September, 2017. 32 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 1 September, 2017 and 15 September, 2017. A total of 29 applications (including subdivision referrals) were determined by the City during this period with 29 approved / supported and 0 refused / not supported.

Attachment C is a list showing the current status of State Administrative Tribunal Appeals involving the City of Busselton as at 15 September, 2017.

##### **Scheme Amendments**

##### **Scheme Amendment No. 10**

The above scheme was published in the Western Australian Government Gazette on 1st September 2017.

The purpose of this amendment is to amend the Scheme Text introduce a requirement to obtain development approval for development comprising Re-purposed dwellings and Second-hand dwellings.

**Scheme Amendment No. 23**

The above scheme was published in the Western Australian Government Gazette on 1st September 2017.

The purpose of this amendment is to Rezoning of Lot 9507 Layman Road, Geographe.

**15.1.2 WALGA August/September Summary**

Attachment D shows the WALGA State Council and Zone Agenda Summary and Recommendations.

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1710/246** Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

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

- 15.1.1 Planning and Development Statistics
- 15.1.2 WALGA August/September Summary

**CARRIED 9/0**

**EN BLOC**

**12.     ENGINEERING AND WORKS SERVICES REPORT**

Nil

**13.     COMMUNITY AND COMMERCIAL SERVICES REPORT**

Nil

**14.     FINANCE AND CORPORATE SERVICES REPORT**

Nil

10.6 Policy and Legislation Committee - 21/09/2017 - MEELUP REGIONAL MANAGEMENT COMMITTEE GOVERNANCE ARRANGEMENTS

<b>SUBJECT INDEX:</b>	Council and Committee Meetings
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Meelup Regional Park Management Committee Governance arrangements and terms of reference - Tracked Changes⇒ Attachment B Meelup Regional Park Management Committee Governance arrangements and terms of reference⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 21 September 2017, the recommendations from which have been included in this report.**

## **PRÉCIS**

The purpose of this report is to further review the Governance Arrangements of the Meelup Regional Park Management Committee that were last reviewed by Council on 28 June 2017. At this time, the Council reviewed the Terms of Reference of the Committee as well as the Governance Arrangements in place for this Committee.

The Governance Arrangements need to be further reviewed as it has been established that the Council cannot delegate the function of appointing a Committee member as it conflicts with the Local Government Act 1995 - Delegations cannot be made where a decision is required to be made by Council by an Absolute Majority which is the case for appointing members of a Committee. The opportunity has also been taken to further review the level of staff involvement in the selection process.

## **BACKGROUND**

The purpose of the Meelup Regional Park Management Committee is to :

- 2.1 Purpose
- 2.2 To assist the Council in managing and promoting Meelup Regional Park.
- 2.3 To ensure that the full range of issues relevant to the making of decisions about the management and promotion of the Park are considered, including environmental, amenity, recreational, community, social, economic and financial considerations.
- 2.4 To build and maintain productive working relationships between the Council, City officers, volunteers and users of the Park, as well as other stakeholders.

The Policy & Legislation Committee at its meeting on 17 August 2017 considered revised Governance Arrangements for the Meelup Regional Park Management Committee but felt that further changes were necessary and as a consequence deferred the matter for further consideration.



In accordance with normal practice, Council recently reviewed the Terms of Reference of Council's Standing Committees established under the Local Government Act 1995. In addition, Council also reviewed the Governance Arrangements for the Meelup Regional Park Management Committee.

At the Council meeting held on 28 June 2107, Council resolved (in part) as follows:

Resolution: C1706/152

That the Council:

Adopts the revised Governance Arrangements for the Meelup Regional Park Management Committee as shown in Attachment K;

The contents of the Governance Arrangements were reviewed with a view to making the contents more streamlined. One particular change made at the June 2017 meeting relating to appointment of members of the community to the committee and stated at paragraph 5 & 6:

5. The Mayor, the Presiding Member of the Committee and the Chief Executive Officer or Chief Executive Officer's nominee shall meet again to assess the expressions-of- interest that have been received, identify and agree the preferred candidates to fill one or more of the positions that are vacant at that time and are authorised to make the appointment to the Committee.
6. If there are still vacant positions following the completion of the process set out above, the Mayor, the Presiding Member of the Committee and the Chief Executive Officer or Chief Executive Officer's nominee are authorised to identify suitable members of the community with relevant qualifications and / or interest and invite them to submit an expression of interest and if acceptable, make the appointment to the Committee.  
It was subsequently ascertained that as a Standing Committee of Council, Council was required to make the appointment - hence the need to change the Governance Arrangements back to the way they previously were worded.

Attachment K referred to above in the Council resolution is now provided as Attachment B to this report and which is subject to tracked changes.

The August report proposed to modify the Governance Arrangements (to revert back to the original position regarding member appointments and staff involvement in the process) noting that the Council must make the appointment of members to this committee as this action cannot be delegated. Other changes to the Governance Arrangements are consistent with the Act.

In acknowledging the above, the Committee at it August meeting also thought that the Mayor should not be involved in the early part of the selection process as the Mayor would by necessity, be involved in the final decision making process as part of a Council decision.

## **STATUTORY ENVIRONMENT**

Under Section 5.8 of the Local Government Act 1995 (LG Act), a local government, by absolute majority, may establish Committees of three or more persons to assist the Council, and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

Separately, Section 5.10 and 5.11A of the LG Act relates to the appointment of Committee members and Deputy Committee members.

Part 2 of the Standing Orders Local Law relates to the establishment and membership of Committees. Specifically, a Council resolution to establish a committee under section 5.8 of the Act is to include –

- (a) the terms of reference of the committee;
- (b) either –
  - the names or titles of the members, employees and any other persons to be appointed to the committee; or
  - the number of members, officers and any other persons to be appointed to the committee and a provision that they be appointed under a separate resolution; and
- (c) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

The Terms of Reference of the Meelup Regional Park Management Committee were modified at the June 2017 Council meeting and no further changes are proposed.

#### **RELEVANT PLANS AND POLICIES**

Appointing members of the Council to Committees is subject to the provisions of the Local Government Act as detailed above.

#### **FINANCIAL IMPLICATIONS**

Nil

#### **STRATEGIC COMMUNITY OBJECTIVES**

Strategic Plan Key Goal Area 6

6.1 Governance systems, processes and practices are responsible, ethical and transparent.

#### **RISK ASSESSMENT**

No risks have been identified with the contents this report.

#### **CONSULTATION**

No consultation is required as the Council needs to comply with the requirements of the Local Government Act.

#### **OFFICER COMMENT**

A review of the Terms of Reference of the Meelup Regional Park Management Committee was conducted in June 2107. At the same time, changes were proposed to be made to the Governance Arrangements of the Management Committee.

One of the changes made to the Governance Arrangements was the way in which community members are appointed to the Committee. On further review the change was found not to be consistent with the Act and needed to be reversed to be compliant with the requirements of the Act.

The need for the change was accepted by the Committee but the Committee agreed that further changes were necessary to reduce the involvement of the Mayor in the early part of the selection process as the Mayor would by necessity, be involved in the final decision making process as part of a Council decision.

Proposed changes to the Governance Arrangements have reflected in the “tracked changes” version of the document – see Attachment B.

## **CONCLUSION**

Consistent with best practice, it is beneficial to review the operation of the City’s main Committees in order to maximise efficiencies and ensure best outcomes. A further review of the Governance Arrangements of the Meelup Regional Park Management Committee has been conducted and proposed changes are presented to Council for consideration.

## **OPTIONS**

The Committee may resolve to not accept the proposed changes to the Governance Arrangements or make other changes.

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

The decision will become effective immediately after it has been adopted by Council.

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

**C1710/247** Moved Councillor T Best, seconded Councillor P Carter

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

That the Council adopts the revised Governance Arrangements for the Meelup Regional Park Management Committee as shown in Attachment B.

**CARRIED 9/0**

## Attachment B

## Meelup Regional Park Management Committee

## Governance arrangements and terms of reference

**Process associated with appointing community members to the Committee**

The process associated with appointing community members to the Committee shall be generally as follows -

1. The Presiding Member of the Committee and Chief Executive Officer or Chief Executive Officer's nominee shall meet to discuss and agree the aims/objectives in terms of the skills, background or interests, or mix of skills, background and interests, of the person(s) that it would be most appropriate and desirable to include on the Committee at that time, and the agreed direction in that regard shall be reflected in the process associated with the attraction and assessment of potential community members;
2. City officers shall arrange to publicly advertise community member vacancies, seeking expressions-of-interest from suitable members of the community;
3. Interested members of the community shall be required to submit an expression-of-interest (1-2 pages long only) setting out what value they believe they would bring to the Committee and why they are interested in becoming a member;
4. If the vacancy is not for a deputy community member, in addition to considering those persons that have submitted expressions-of-interest, shall identify whether any existing deputy community member is interested in becoming a community member, and shall generally give priority to filling a community member vacancy with an existing deputy community member.
5. The Presiding Member of the Committee and the Chief Executive Officer or Chief Executive Officer's nominee shall meet again to assess the expressions-of-interest that have been received, identify and agree the preferred candidates to fill one or more of the positions that are vacant at that time following which City officers will present a report to the Council reflecting the assessment and the preferred candidates.
6. If there are still vacant positions following the completion of the process set out above, the Presiding Member of the Committee and the Chief Executive Officer or Chief Executive Officer's nominee are authorised to identify suitable members of the community with relevant qualifications and / or interest and invite them to submit an expression of interest and if acceptable, City officers will present a report to the Council reflecting the assessment and the preferred candidates.

10.7 Policy and Legislation Committee - 21/09/2017 - REVIEW OF TERMS OF REFERENCE FOR THE LOCAL EMERGENCY MANAGEMENT COMMITTEE, AND THE BUSH FIRE ADVISORY COMMITTEE

<b>SUBJECT INDEX:</b>	Council and Committee Meetings
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Environmental Services
<b>ACTIVITY UNIT:</b>	Ranger & Emergency Services
<b>REPORTING OFFICER:</b>	Ranger & Emergency Services Coordinator - Ian McDowell
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Revised Proposed Terms of Referenced for the Local Emergency Management Committee⇒
	Attachment B Revised Proposed Terms of Reference for the Local Emergency Management Committee (showing track changes)⇒
	Attachment C Revised Proposed Terms of Reference for the Bush Fire Advisory Committee⇒
	Attachment D Revised Proposed Terms of Reference for the Bush Fire Advisory Committee (showing track changes)⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 21 September 2017, the recommendations from which have been included in this report.**

## **PRÉCIS**

The purpose of this report is to request the Council to adopt the revised proposed Terms or Reference for the Local Emergency Management Committee (LEMC), and the Bush Fire Advisory Committee (BFAC).

## **BACKGROUND**

The Terms of Reference of the LEMC and the BFAC have been reviewed and where necessary revised.

The Terms of Reference for these committees are now in the standard Council format consistent with other Committees of Council.

## **STATUTORY ENVIRONMENT**

### Local Emergency Management Committee

Pursuant to section 38 of the *Emergency Management Act 2005* (the EM Act) a local government is to establish one or more local emergency management committees for the local government's district. The City has established one LEMC for its District: the City of Busselton Local Emergency Management Committee.

The establishment of the LEMC is a statutory requirement of the EM Act.

Section 39 of the EM Act sets out the following functions of the LEMC, in relation to the district for which it is established:

- a. to advise and assist the local government in ensuring that local emergency management arrangements are established for its district;

- b. to liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements; and
- c. to carry out other emergency management activities as directed by the State Emergency Management Committee (SEMC) or prescribed by the regulations.

#### Bush Fire Advisory Committee

Pursuant to section 67 of the *Bush Fires Act 1954* (the BF Act), a local government may at any time appoint such persons as it thinks fit as a bush fire advisory committee for the purpose of advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires, the planning of the layout of fire-breaks in the district, prosecutions for breaches of the BF Act, the formation of bush fire brigades and the grouping thereof under group brigade officers, the ensuring of cooperation and coordination of bush fires brigades in their efforts and activities, and any other matter relating to bush fire control whether of the same kind as, or a different kind from, those specified in this subsection.

A committee established under this section of the BF Act shall include a member of the council of the local government nominated by it for that purpose.

In respect to a committee so appointed, the local government shall fix the quorum for the transaction of business at meetings and may:

- a. make rules for the guidance of the committee;
- b. accept the resignation in writing, or remove, any member of the committee; and
- c. where for any reason a vacancy occurs in the office of a member of the committee, appoint a person to fill that vacancy.

It is the decision of the local government as to whether or not it establishes a BFAC.

#### **RELEVANT PLANS AND POLICIES**

Appointing members of the Council to committees is subject to the requirements of Council Policy 014 – Convening the Council Following an Election. Both the LEMC and BFAC contain members of the Council in their committee membership.

A Special Meeting of the Council shall be convened for this purpose and whenever possible it shall occur on the Monday evening immediately following the ordinary Election Day. The proceedings shall commence with the “Swearing In” ceremony for new Councillors to be followed by the Special Meeting for the election of the Mayor and Deputy Mayor and consideration of membership of the Council’s Committee’s and the appointment of Council delegates to other various groups.

#### **FINANCIAL IMPLICATIONS**

There are no financial implications associated with the adoption of the Terms of Reference of the LEMC or BFAC.

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

There are no Long Term Financial Plan implications associated with the adoption of the Terms of Reference of the LEMC or BFAC.

**STRATEGIC COMMUNITY OBJECTIVES**

## Key Goal Area

6 Leadership: visionary, collaborative and accountable.

## Community Objective

6.1: governance systems, processes and practices are responsible, ethical and transparent.

**RISK ASSESSMENT**

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

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Committees consider matters outside of their scope or committee members fail to recognise interests	Provision of advice and officer attendance at LEMC and BFAC meetings	Minor	Possible	Medium

**CONSULTATION**

It is standard governance for committees to have terms of reference to establish their areas of responsibility and powers. The Terms of Reference for the LEMC and BFAC seek to define those matters in a manner consistent with the functions of those committees as established by the City under the appropriate Acts.

The Terms of Reference for the LEMC (Attachment A) were presented to, and endorsed by the LEMC at its meeting on 5 September 2017.

The Terms of Reference for the BFAC (Attachment C) were presented to, and endorsed by the BFAC at its meeting on 12 September 2017

**OFFICER COMMENT**Local Emergency Management Committee

The Terms of Reference for the LEMC have been reviewed and reformatted to the City's current standard format for terms of reference.

The LEMC is a mandatory committee established under the EM Act, and is likely to be ongoing in nature for the foreseeable future. In line with the recent review of Committees of Council in June 2017, reference to the LEMC having a termination date have been removed from the terms of reference. This will avoid the practice of re-establishing the LEMC every two years. It is noted there is no statutory requirement for the life of the LEMC to be contained in the terms of reference. The termination relates to membership of the LEMC, not the LEMC itself.

Other changes are shown in the "tracked changed" copy of the LEMC Terms of Reference as attached (Attachment B). These include:

- Inclusion of the Local Emergency Coordinator (as appointed by the State Emergency Coordinator (the Commissioner of Police) as a member of the committee as required by section 37 of the EM Act; and

- Revision of the membership list including specifying recent name changes for some State Government Departments.

#### Bush Fire Advisory Committee

The Terms of Reference for the BFAC have been reviewed and reformatted to the City's current standard format for terms of reference.

The BFAC is likely to be ongoing in nature for the foreseeable future and reference to the BFAC having a termination date has been removed. This will avoid the practice of re-establishing the BFAC every two years. It is noted there is no statutory requirement for the life of the BFAC to be contained in the terms of reference. The termination relates to membership of the BFAC, not the BFAC itself.

Other changes are shown in the "tracked changed" copy of the LEMC Terms of Reference as attached (Attachment D). These include:

- Nominating representatives of the Department of Fire and Emergency Services (DFES) and the Department of Biodiversity, Conservation and Attractions (DBCA) as 'advisory members' with no voting rights, rather than members of the committee with voting rights. This change was suggested by DFES and had the full support of DBCA and the BFAC Committee. Both DFES and DBCA see their role as one of only providing professional advice and guidance to the Committee.
- Specifying the process and timeframe for election of the presiding member;
- Appointment of the City's Community Emergency Services Manager (CESM) as the executive officer for the BFAC.
- Changing the quorum for the Committee from 50% of members to 40% in line with the Local Emergency Management Committee (LEMC).

#### **CONCLUSION**

Consistent with best practice, it is beneficial to review the operation of the LEMC and BFAC in order to maximise efficiencies and ensure best outcomes. A periodic review of the Terms of Reference for these committees will ensure this is achieved and maintained.

#### **OPTIONS**

The Council may amend the Terms of Reference for the LEMC (Attachment A).

The Council may determine it does not require the BFAC, or may amend the Terms of Reference for the BFAC (Attachment C).

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

If adopted by the Council the Terms of Reference for the LEMC and BFAC will come into immediate effect.



**COUNCIL DECISION AND COMMITTEE RECOMMENDATION****C1710/248**

Moved Councillor P Carter, seconded Councillor J McCallum

**ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council adopts the revised proposed Terms of Reference for:

1. The Local Emergency Management Committee (LEMC) as shown in Attachment A with the change to point 3.0 Membership of LEMC as follows:
  - Two elected members, being the Mayor and Deputy Mayor, shall be appointed to the Committee by the Council.
  - One deputy elected member shall be appointed to the Committee by the Council;  
and
2. The Bush Fire Advisory Committee (BFAC) as shown in Attachment C.

**CARRIED 9/0**

## Attachment A

LOCAL EMERGENCY MANAGEMENT COMMITTEETerms of Reference1.0 Introduction

The Council of the City of Busselton establishes a Local Emergency Management Committee (LEMC) under the powers given in Section 38 of the *Emergency Management Act 2005* (the Act).

The Council appoints to the Committee those persons whose names (*shall*) appear in Section 4.0 below.

The Committee shall act for and on behalf of the Council in accordance with all relevant provisions of the Act, local laws and policies of the City of Busselton and this document.

2.0 Objectives

Pursuant to Section 39 of the Act the functions of a local emergency management committee are, in relation to its district or the area for which it is established:

- a. to advise and assist the local government in ensuring that local emergency management arrangements are established for its district;
- b. to liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements; and
- c. to carry out other emergency management activities as directed by the State Emergency Management Committee (SEMC) or prescribed by the regulations.

Pursuant to Section 40 of the Act after the end of each financial year the Committee is to prepare and submit to the District Emergency Management Committee (DEMC) for the district and annual report on activities undertaken by it during the financial year. The annual report is to be prepared within such a reasonable time, and in the manner, as is directed in writing by the SEMC.

3.0 Membership

Two elected members, being the Mayor and Deputy Mayor, shall be appointed to the Committee by the Council.

One deputy elected member shall be appointed to the Committee by the Council.

As recommended by *State Emergency Management Preparedness Procedure 7.0* (the EM Procedure) membership of the Committee shall comprise:

- The Local Emergency Coordinator (as appointed by the State Emergency Coordinator (the Commissioner of Police) pursuant to Section 37 of the Act)
- The Local Recovery Coordinator (as appointed by the local government)
- The following officers of the City of Busselton:
  - Manager Environmental Services
  - Environmental Health Coordinator

- Airport Operations Coordinator
- Community Emergency Services Manager (CESM)
- Chief Bush Fire Control Officer
- Representatives from the following Emergency Management Agencies, welfare support agencies or non-government organisations, and other industry agencies and organisations:
  - Department of Fire and Emergency Services (DFES) – Fire and Rescue Service
  - DFES – State Emergency Service
  - DFES – Volunteer Marine Rescue Service
  - St John Ambulance
  - Department of Agriculture and Food
  - Department of Community Services
  - Department of Transport
  - Department of Biodiversity, Conservation and Attractions
  - WA Country Health Service – South West
  - Surf Life Saving Western Australia
  - ATCO Gas
  - Busselton Water
  - NBN Co
  - Telstra
  - Water Corporation
  - Western Power

#### 4.0 Advisory Members

In addition to the voting members above, staff from the City of Busselton and from other external state government and non-government organisations may attend meetings regularly or on an ad-hoc basis in an advisory and networking role only. Advisory members shall not have voting rights.

#### 5.0 Presiding Member

The Presiding Member shall be an elected member of Council as per the recommendation of the EM Procedure. The election of the Presiding Member shall occur every two years immediately following the Council election.

The Committee shall appoint a Presiding Member to conduct its business. The Presiding Member shall ensure that minutes of the proceedings are kept and that business is conducted in accordance with the *City of Busselton Standing Orders Local Law 2010*.

The Deputy Presiding Member shall be the Local Emergency Coordinator as recommended by the EM Procedure.

6.0 Executive Officer

The Committee shall be supported by an Executive Officer. The Executive Officer as appointed by the Chief Executive Officer of the City of Busselton shall be the Ranger and Emergency Services Coordinator.

7.0 Meetings

Committee meetings shall be held at three monthly intervals normally in March, June, September and December. If a scheduled meeting is cancelled, the reason for cancelling the meeting shall be noted in the Minutes of the next meeting.

Notice of meetings shall be given to members at least 3 days prior to each meeting.

All members of the Committee shall have one vote. If the vote of the members present is equally divided, the person presiding shall cast a second vote.

8.0 Quorum

Quorum for a meeting shall be at least 50% of the number of offices, whether vacant or not. A decision of the Committee does not have effect unless it has been made by the required majority.

9.0 Delegated Powers

The Local Emergency Management Committee has been established as an advisory committee only and does not have any delegated powers. Committee recommendations shall be referred to the Council.

<u>History</u>	
TBA	CXXXX/XXX Review and revision (Mayor and Deputy Mayor appointed to the LEMC by the Council)
28 September 2016	C1609/261 Establishment

## Attachment C

BUSH FIRE ADVISORY COMMITTEETerms of Reference1.0 Introduction

The Council of the City of Busselton establishes a Bush Fire Advisory Committee (BFAC) under the powers given in Section 67 of the *Bush Fires Act 1954*.

The Council appoints to the Committee those persons whose names (*shall*) appear in Section 4.0 below.

The Committee shall act for and on behalf of the Council in accordance with all relevant provisions of the *Bush Fire Act 1954*, local laws and policies of the City of Busselton and this document.

2.0 Objectives

- To provide advice to Council in regard to all matters relating to bush fire control, prevention and management, including recommendation on the annual firebreak requirements, capital equipment purchase, review of firefighting/prevention practices and firefighting training.
- To develop a bush fire strategic plan incorporating plant, firebreak order development process and strategic firebreak development, to be endorsed by Council.
- To care for, control and manage the bush fire risk within the district of the City of Busselton.

3.0 Membership

One elected member shall be appointed to the Committee.

One deputy elected member shall be appointed to the Committee.

The Fire Control Officers from each of the City's Bush Fire Brigades shall be, by virtue of the office held, appointed to the Committee.

Representatives of the Department of Fire and Emergency Services (DFES) and Parks and Wildlife Services (Department of Biodiversity, Conservation and Attraction (DBCA)) will be advisory members of the Committee. Such persons will not be entitled to vote on any matter brought before the Committee.

Other persons, or representatives of organisations, may participate in meetings of the Committee (or any sub-committees the Committee may establish) as determined by a majority of the Committee. Such persons will not be entitled to vote on any matter brought before the Committee.

4.0 Presiding Member

The Committee shall appoint a Presiding Member and Deputy Presiding Member to conduct its business. The election of the Presiding Member and Deputy Presiding Member shall be held every two years at the first meeting of the Committee immediately following the Council election.

The Presiding Member shall ensure that Minutes of the proceedings are kept.

5.0 Executive Officer

The Committee shall be supported by an Executive Officer. The Executive Officer as appointed by the Chief Executive Officer of the City of Busselton shall be the Community Emergency Services Manager (CESM).

6.0 Meetings

The Committee may meet from time to time as the Committee thinks fit but, shall meet as a minimum twice annually, once at the beginning and once at the end of the bush fire season.

7.1 Notice of meetings shall be given to members at least 3 days prior to each meeting.

7.2 All members of the Committee shall have one vote. If the vote of the members present is equally divided, the person presiding shall cast a second vote.

7.0 Quorum

Quorum for a meeting shall be at least 40% of the number of offices. A decision of the Committee does not have effect unless it has been made by the required majority.

8.0 Delegated Powers

The Bush Fire Advisory Committee has been established as an advisory committee only and does not have any delegated powers. Committee recommendations shall be referred to the Council.

<u>History</u>	
TBA	CXXXX/XXX Review and revision
14 October 2016	C1510/294 Establishment of New Members
21 October 2013	SC1310/186 Membership
9 October 2013	C1310/267 Establishment
12 October 2011	C1110/315

10.8 Policy and Legislation Committee - 21/09/2017 - REVIEW OF POLICY 001 - FEES, ALLOWANCES AND EXPENSES FOR ELECTED MEMBERS

<b>SUBJECT INDEX:</b>	Clothing/Corporate Attire
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Revised Policy 001 Fees, Allowances and Expenses for Elected Members⇒ Attachment B Revised Policy 001 Fees, Allowances and Expenses for Elected Members - Tracked Changes⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 21 September 2017, the recommendations from which have been included in this report.**

## **PRÉCIS**

The purpose of this report is to consider options in relation to clause 3.1.7.2 relating to Corporate Attire which is part of Policy 001 – Fees, Allowances and Expenses for Elected Members.

## **BACKGROUND**

At the Policy and Legislation Committee held on 17 August, 2017 Council considered a revised Policy 001 - Fees, Allowances and Expenses for Elected Members. The Policy was adopted other than clause 3.1.7.2 of the policy relating to Corporate Attire.

At the Council meeting held on 13<sup>th</sup> September 2017, it was resolved (in part):

*That Council:*

1. ....
2. Consider a further report relating to clause 3.1.7.2 Corporate Attire at a future meeting.

Further to this resolution, officers have proposed changes to clause 3.1.7.2 of the Policy to reflect the discussions around the topic from the Committee meeting for consideration by the Policy and Legislation Committee.

## **STATUTORY ENVIRONMENT**

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

## **RELEVANT PLANS AND POLICIES**

This report recommends that Policy 001 - Fees, Allowances and Expenses for Elected Members be updated to take into account informal discussions held at recent Meetings and changes to reflect the appropriate actions.

## FINANCIAL IMPLICATIONS

A budget provision is made in each budget adopted in relation to payment of elected member allowances including provision of equipment and clothing. There are only minor financial implications associated with the changes proposed to the Policy.

### 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'.

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

## RISK ASSESSMENT

Not required for this policy review.

## CONSULTATION

External consultation is not considered necessary.

## OFFICER COMMENT

Clause 3.1.7.2 of the policy relating to Corporate Attire currently reads as follows:

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

At the Policy and Legislation Committee held on 17 August, 2017, the Committee considered a proposal which sought to modify this clause to read as follows:

### 3.1.7.2 Corporate Attire allowance

*Each elected member is eligible to be provided Corporate Attire with City logo up to the value of the amount provided in the annual budget (currently \$750pa), which may include:*

- *Corporate suit (male – Trousers and Jacket)*
- *Corporate suit (female – Skirt, Dress, Pants and Jacket)*
- *Corporate shirts/blouses etc*
- *Casual/Light weight Fleecy Jacket*
- *Polo top*
- *City tie/scarf*



- *Shoes (up to the value of \$150)*
- *Dry cleaning and maintenance of Corporate Attire*

*All of the above clothing attire acquisitions (other than shoes) should be acquired through the City's approved uniform suppliers.*

*As it is likely that on election as an elected member, a full suite of attire will be required soon after being sworn in, the entire allowance is available in the first year (commencing October). In relation to the second and subsequent years following election, the use of the allowance will be limited to two thirds of the allowance for the period October to April and one third of the allowance for the period May to October.*

At the August Committee meeting, Councillors requested further options of this clause be presented for further consideration.

The differences between the existing and proposed clauses above are as follows:

- The amount was reduced as (a) the briefcase or travel case was moved to another section of the policy and (b) other than in the first year of being elected, it was thought that \$1,000pa for clothing was not required;
- The proposed policy provided greater flexibility as to how the allowance could be spent;
- The proposed policy provided clarity as to what the Corporate uniform consists of; and
- Clarified that the Corporate suit and shirts would need to be acquired from the City's Corporate uniform supplier.

There are obviously many options that Council could consider when reviewing a policy on this subject. The first issue is whether or not a Corporate Uniform is required. If it is thought appropriate that a Corporate uniform is required the main options are as follows:

1. Make no change to the existing Policy clause as shown above;
2. Re-consider the clause submitted to the August Policy & Legislation Committee also shown above;
3. Assuming that option 2 above was generally acceptable, variations could include:
  - Increasing the amount in the first year of a term to \$1,000 with the allowance for the following 3 years being set at \$750; and
  - Having acquired a Corporate suit (usually in the first term), any balance of funds from the allowance could be used to purchase a Business suit of the Councillors preference;
  - Consider, if a Corporate suit is selected, whether or not it should be returned on expiry of office.

One option is to base a new clause on the previously proposed clause (considered at the August Policy and Legislation Committee meeting) and further modified taking into account the features described in point 3 above:

### 3.1.7.2 Corporate Attire allowance

*Each elected member is eligible to be provided Corporate Attire with City logo up to an amount of \$1,000 in the first year of being elected and an amount of \$750 for each successive year.*

*In the first year, the allowance must be used to purchase a Corporate suit with City logo and other attire which may include:*

- *Corporate suit (male – Trousers and Jacket)*
- *Corporate suit (female – Skirt, Dress, Pants and Jacket)*
- *Corporate shirts/blouses etc*

*The City would issue the following items of clothing with City logo (at cost and charged against the allowance):*

- *Casual/Light weight Fleecy Jacket*
- *Polo top*
- *City tie/scarf*

*Other (and charged against the allowance):*

- *Shoes (up to the value of \$150)*
- *Dry cleaning and maintenance of Corporate Attire*

*All of the above clothing attire acquisitions (other than shoes) should be acquired through the City's approved uniform supplier.*

*As it is likely that on election as an elected member, a full suite of attire will be required soon after being sworn in, the entire allowance is available in the first year (commencing October). In relation to the second and subsequent years following election, the use of the allowance will be limited to two thirds of the allowance for the period October to April and one third of the allowance for the period May to October.*

*Any balance of funds may be used to purchase Business suits that are not "Corporate suits".*

*On expiry of office the Corporate Attire be returned to the City.*

*Alternatively, If Council decides that the use of "Corporate Attire" is no longer appropriate; the clause could be reworded as follows:*

### 3.1.7.2 Clothing allowance

*Each elected member is eligible to be provided a Clothing allowance up to an amount of \$1,000 in the first year of being elected and an amount of \$750 for each successive year and may be used to purchase:*

- *Business suit (male – Trousers and Jacket)*
- *Business suit (female – Skirt, Dress, Pants and Jacket)*
- *Business shirts/blouses etc*

*The City would issue the following items of clothing (at cost and charged against the allowance) with City logo:*

- *Casual/Light weight Fleecy Jacket*
- *Polo top*
- *City tie/scarf*

*Other (and charged against the allowance):*

- *Shoes (up to the value of \$150)*
- *Dry cleaning and maintenance of Clothing*

*As it is likely that on election as an elected member, a full suite of attire will be required soon after being sworn in, the entire allowance is available in the first year (commencing October). In relation to the second and subsequent years following election, the use of the allowance will be limited to two thirds of the allowance for the period October to April and one third of the allowance for the period May to October.*

Both avenues allow for Elected Members to have access to the clothing allowance to assist in the performance of the various functions as required by the role. The first option where Elected Members can acquire a City Logo branded formal business attire allows the opportunity for members to be highly recognisable at formal functions and portray a uniform look during events. There would be some benefit to this approach as Elected Members would be easily recognisable by other attendees of events and the opportunity would exist for Elected Members to engage with a large variety of people as the formal representative of the Council. A Corporate uniform is also a strong visual aid to demonstrate a 'team' approach to business.

The second option would allow for Elected Members to still have access to appropriate formal attire, but to express their own individual style. If Council selects to move away from a 'Corporate Attire' towards the 'Clothing allowance' the need to remove any City branded attire when an Elected Member ceases to act in the position of Councillor would be reduced to the City issued clothing only.

## **CONCLUSION**

As shown above benefits exist for both approaches to the Corporate Attire. It should be noted the biggest change in the proposed options is around the formal business attire only, the informal issued attire, shoes and dry-cleaning and maintenance of clothing remains consistent across all the proposed outcomes. The proposed fee structure changes are also consistent across both options, therefore the proposed point of consideration comes down to the Council's desire to have City branded formal wear or not.

The policy is presented for updating, noting that an Absolute Majority is required as this Policy as it includes reference to the annual allowance paid to the Mayor and the percentage of the Mayor's allowance to which the Deputy Mayor will be entitled. However no changes are proposed to be made to these particular Policy provisions.

The proposed changes have been discussed with elected members on a number of occasions in recent months.

**OPTIONS**

Various options exist for consideration of Clause 3.1.7.2 of the policy relating to Corporate Attire. Through the discussion process it has been noted the following options have shown the most relevant and Council can select to:

1. Make no changes to the original Policy and reconsider adopting the proposed amendments as submitted to Council at the meeting held 13 September 2017;
2. Keep the principle of “Corporate Attire” and implement the proposed changes to the fee structure and uniform issue to comply with a consistent City branded approach;
3. Select to change from a “Corporate Attire” approach to a “Clothing allowance” approach, which will have the same fee structure as option 2 but allow Elected Members to acquire non City branded attire;
4. Make any other change to the Clause as required.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The new policy adopted will be effective immediately.

**COUNCIL DECISION AND COMMITTEE RECOMMENDATION****C1710/249**

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

**ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council adopt the revised Council Policy 001 - Fees, Allowances and Expenses for Elected Members as shown below noting the changes to clause 3.1.7.2 Corporate Attire.

**3.1.7.2 Corporate attire allowance**

Each elected member is eligible to be provided with a range of Corporate attire (with City logo) on being elected as Councillor and is entitled to an additional amount of \$750pa for business attire for each year of the election term.

Upon election, elected members will be entitled to be issued with the following items:

Corporate attire with City logo (and not charged against the allowance):

- Corporate suit (male – Trousers and Jacket)
- Corporate suit (female – Skirt, Dress, Pants and Jacket)
- Corporate shirts/blouses etc
- Casual/Light weight Fleecy Jacket
- Polo top
- City tie/scarf

Other (charged against the allowance):

- Business attire (which may consist of a suit, jacket and shirts / blouses)
- Shoes (up to the value of \$150)
- Dry cleaning and maintenance of Corporate and business attire

All of the Corporate attire acquisitions (should be acquired through the City’s approved uniform supplier.

All items of Corporate attire which are branded with the City of Busselton’s logo should be returned to the City on expiry of office.

**CARRIED 9/0**

## Attachment A

## 001 Fees, Allowances and Expenses for Elected Members

V9 Current

## 1. PURPOSE

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

## 2. SCOPE

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

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

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

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

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

## 3. POLICY CONTENT

## 3.1 Elected members

## 3.1.1 Provision of equipment

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

- A brief case up to the value of \$150;
- A standard-issue mobile telephone;
- A standard issue mobile device that will be upgraded from time to time, inclusive of standard equipment associated with the day-to-day use of the device.

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

### 3.1.2 Meeting attendance fees

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

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

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

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

### 3.1.3 Information and Communications Technology allowance

In accordance with the relevant Local Government Elected Council Members Determination, all elected members are eligible to claim an annual information and communications technology allowance the amount of which will be included in the Schedule.

This allowance is to cover an elected member's costs in relation to expenses that relate to information and communications technology, for example telephone rental and call charges and internet service provider fees and that are a kind of expense prescribed by regulation 32(1) of the Local Government (Administration) Regulations 1996.

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

### 3.1.4 Reimbursement of childcare expenses

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

### 3.1.5 Reimbursement of travel expenses

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

- Council meetings - ordinary and special;
- Committee meetings of a formally constituted Council committee of which they are a member or a deputy member acting in the capacity of a member;
- Electors' meetings - annual and special;
- Civic receptions hosted by the City of Busselton;
- Visits by Ministers of the Crown or other distinguished visitors of similar status;
- City organised inspection tours of matters arising before the Council or as a JDAP member;
- Any City-convened meeting by the Mayor or CEO requiring elected member attendance, including briefing sessions, workshops and other forums;
- Elected member training courses;
- City organised meetings with ratepayers;
- Attendance at "Flagship" functions and events held within the boundaries of the City and as determined by the Mayor and CEO at the commencement of each calendar year or as determined during the year\*;
- Where the Mayor is unable to attend a function or event and has requested another elected member to attend on his behalf;
- Seminars and conferences attended in the capacity of an elected member as approved by the City in accordance with Policy 08 "Councillors Induction, Training and Professional Development";
- Meetings of community groups or other external organisations of which the elected member has been appointed the Council's representative / delegate by Council resolution (except where the other body pays the elected member for meeting attendance and/or travel eg ministerial appointment to State Advisory Boards).

\*Flagship events and functions will be published in the Friday factsheet or will be the subject of a specific invitation sent by the City's administration.

Where large distances are involved and when practicable a City-owned motor vehicle should be used in the first instance.

The reimbursement will be made available to the elected member on the receipt of a certified claim form and in accordance with the rates determined by the State Salaries and Allowances Tribunal. Elected members are encouraged to use a City-owned motor vehicle (subject to availability) for the types of travel approved under this section

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

### 3.1.6 Reimbursement of expenses while away from home on sanctioned activities

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

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

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

<b>Expenses and Restrictions</b>	<b>Elected Member</b>	<b>Spouse</b>
Laundry > 2 nights	Y	Y
Taxi fares or other public transport - only where these directly relate to the activity and no other transport is provided	Y	Y when with Member
Daily sustenance per day allowance in accordance with the <i>Public Service Award 1992</i>	Y	N
Specific conference related dinners/meals	Y	Y

### 3.1.7 Reimbursement of other expenses

#### 3.1.7.1 Reimbursement of hospitality expenses

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

#### 3.1.7.2 Corporate attire allowance

Each elected member is eligible to be provided with a range of Corporate attire (with City logo) on being elected as Councillor and is entitled to an additional amount of \$750pa for business attire for each year of the election term.

Upon election, elected members will be entitled to be issued with the following items:

Corporate attire with City logo (and not charged against the allowance):

- ☐ Corporate suit (male – Trousers and Jacket)
- ☐ Corporate suit (female – Skirt, Dress, Pants and Jacket)
- ☐ Corporate shirts/blouses etc
- ☐ Casual/Light weight Fleecy Jacket
- ☐ Polo top
- ☐ City tie/scarf

Other (charged against the allowance):

- ☐ Business attire (which may consist of a suit, jacket and shirts / blouses)
- ☐ Shoes (up to the value of \$150)
- ☐ Dry cleaning and maintenance of Corporate and business attire

All of the Corporate attire acquisitions (should be acquired through the City's approved uniform supplier.

All items of Corporate attire which are branded with the City of Busselton's logo should be returned to the City on expiry of office.



### 3.2 Mayor

#### 3.2.1 Mayoral allowance

In addition to their entitlements as an elected member under Section 3.1 of this policy, the Mayor is eligible for a Mayoral allowance in accordance with the Local Government Act 1995.

In accordance with the relevant Local Government Elected Council Members Determination the Mayor of the City of Busselton shall be paid an allowance within the Band established as set by Council when the annual budget is adopted, payable monthly or quarterly in arrears.

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

#### 3.2.2 Provision of a Mayoral vehicle

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

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

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

- ☐ By deduction from the quarterly members allowance payment ; or
- ☐ An invoice be given to the Mayor for reimbursement.

The mileage rate would be calculated at the rate determined by the State Salaries and Allowances Tribunal for Local Government Elected Council Members.

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

### 3.3 Deputy Mayor

#### 3.3.1 Deputy Mayor's allowance

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

The allowance will be calculated on a pro-rata basis for any Deputy Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Deputy Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim

a Deputy Mayor's allowance and their preferred payment schedule. Nothing in the relevant legislation or this policy prevents the Deputy Mayor from changing their intention at any time.

#### 4. APPLICATION OF THE POLICY

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

##### Policy Background

Policy Reference No. - 001 Owner Unit – Governance

Originator – Director of Finance and Corporate Services Policy approved by – Council

Date Approved – 27 August 2008 Review Frequency – As required Related Documents –

Local Government Act 1995

Local Government Department Circular 9-2011

Local Government (Administration) Regulations 1996

Local Government Elected Council Members Determinations

Background/History - Initiated June 2008 to replace former policies: 054/1 - Councillors' Travelling Expenses;

055/1 - Attendance at Conferences, Training and Seminars; 193 - Communications Allowances - Councillors;

212/1 - Vehicle for Use by Shire President and Councillors; 226 - Laptop Computers - Councillors and Officers;

227 - Printer Consumables.

##### Last Policy Change

Council Resolution	Date	Information
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C1612/156	14 December 2016	Adjustments of the Policy to reflect current practice and to allow the Mayor private use of vehicle.
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Version 9

C1608/200	10 August, 2016	Adjustments to state that fees and allowances to be determined in accordance with the relevant Local Government Elected Council Members Determination.
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Version 8

10.3 Policy and Legislation Committee - 21/09/2017 - STANDING ORDERS LOCAL LAW

<b>SUBJECT INDEX:</b>	Local Laws
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Legal Services
<b>REPORTING OFFICER:</b>	Legal Officer - Briony McGinty
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Proposed Local Law <a href="#">⇒</a> Attachment B Current Local Law with Changes Marked-Up <a href="#">⇒</a>

**This item was considered by the Policy and Legislation Committee at its meeting on 21 September 2017, the recommendations from which have been included in this report.**

### PRÉCIS

Under the *Local Government Act 1995* (**the Act**) local governments are required to carry out periodic reviews of their local laws to determine whether they should be repealed or amended. As part of the City's ongoing review of its local laws, the City's current *Standing Orders Local Law 2010* (**current local law**) has been identified as in need of review.

The City's current local law has been compared against the WALGA model Local Government (Council Meetings) Local Law (**WALGA model**) and other Standing Orders/Meeting Procedures Local Laws recently adopted by various other Councils.

A new *Standing Orders Local Law 2017* (**proposed local law**) has been prepared for consideration by the Council. Various changes, ranging from grammatical to substantive, have been made. It is recommended that Council initiate the law-making process and authorise the CEO to commence advertising the proposed local law.

### BACKGROUND

The Western Australian Local Government Association (**WALGA**) provides assistance to local governments in the implementation of local laws by creating "model" local laws. These model local laws provide a starting point in which to develop local laws suitable to the locality of the local government whilst ensuring that local laws across the State are generally similar when dealing with a particular subject matter.

The current local law is based on an old WALGA model, which has since been amended. Given the current local law has not been reviewed for 7 years (with the Act requiring a review every 8 years) it is considered appropriate to determine if recent revisions to the WALGA model are appropriate for the City to adopt, as well as considering other avenues for improvement.

### STATUTORY ENVIRONMENT

Section 3.5 of the Act provides the head of power for the Council to make the proposed local law.

The procedure for making local laws is set out in section 3.12 of the Act and regulation 3 of the *Local Government (Functions and General) Regulations 1996*. The person presiding at a council meeting is to give notice of the purpose and effect of a proposed local law by ensuring that —

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and

- (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose and effect of the proposed local law is as follows:

Purpose: The purpose of the proposed local law is to provide for the orderly conduct of the proceedings and business of the Council.

Effect: The effect of the proposed local law is that all Council meetings, committee meetings, and other meetings as described in the Act, shall be governed by the proposed local law unless otherwise provided in the Act, regulations or other written law.

As part of the statutory consultation process, the proposed local law is advertised in accordance with section 3.12(3) of the Act, by giving state wide public notice of the local law and allowing at least six weeks for the public to make submissions. A copy of the local law is also provided to the Minister for Local Government.

Following this process, the proposed local law will then be referred back to the Council for consideration of any submissions received in relation to the local law and for the Council to resolve whether or not to make the local law by absolute majority decision.

The *Local Government Act 1995*, *Local Government (Rules of Conduct) Regulations 2007*, *Local Government (Administration) Regulations 1996* all interact with and complement the standing orders of the City.

## **RELEVANT PLANS AND POLICIES**

The City has adopted a Code of Conduct to be observed by Council members in accordance with Section 5.103(1) of the *Local Government Act 1995*.

The policy '005 - Meetings, Information Sessions and Decision-making Processes' sets out the guidelines for provision of information to Councillors and the Council and other matters relating to the various forums utilised.

## **FINANCIAL IMPLICATIONS**

Costs associated with the advertising and gazettal of the local law will come from the legal budget. These costs are unlikely to exceed \$2,000 and there are sufficient funds in the legal budget for this purpose.

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

There are no implications for long-term financial planning.

## **STRATEGIC COMMUNITY OBJECTIVES**

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

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

## **RISK ASSESSMENT**

The proposed local law does not involve major departures from current practices and is therefore considered low risk.

## CONSULTATION

If the Council resolves to initiate the local law-making procedure, the City is required by the Act to place notices in *The West Australian* newspaper, locally circulating newspapers and on City notice boards, containing details of the proposed local law and an invitation to the public to make submissions in relation to it.

The submission period must run for a minimum period of six weeks after which, the Council having considered any submissions received, may resolve to adopt the proposed local law or a law which is not significantly different.

## OFFICER COMMENT

Various grammatical and minor stylistic changes have been made to the current local law. In addition, more substantive changes have been made, as outlined further below.

Attachment A shows a “clean version” of the proposed local law, in the correct formatting for the State Law Publisher, but with boxed notes referring to the Act and various regulations, to assist in interpretation of the local law. Boxed notes are generally not permissible by the Joint Standing Committee on Delegated Legislation (JSC) and would need to be removed prior to adoption. The JSC is a committee of State parliamentarians from both houses of the WA Parliament, and has delegation from Parliament to scrutinise and recommend the disallowance of local laws to the Parliament of Western Australia. Attachment B shows the current local law, in its current formatting, with no boxed notes, and with proposed changes “marked-up” to enable comparison of the two.

### Order of Business (clause 5.2)

The Order of Business has been amended to reflect the WALGA model, with the exception that the Prayer has been retained. This has resulted in a slight rearrangement of certain business as well as the introduction of new business. For example, “Disclosure of interests” has been brought forward. “Items brought forward for the convenience of those in the public gallery” and “Urgent business” have been introduced. An ‘Acknowledgement of Country’ has also been included in the proposed local law.

An Acknowledgement of Country is an opportunity to show respect for Traditional Owners and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country. It can be given by both non-Indigenous people and Aboriginal and Torres Strait Islander people. It may take the following terms, for example: *I’d like to begin by acknowledging the Traditional Owners of the land on which we meet today. I would also like to pay my respects to Elders past and present.*

### Leave of Absence (clause 5.5)

A new clause has been inserted regarding the procedures for seeking a leave of absence. Proposed clause 5.5 requires members seeking leave to give written notice to the CEO prior to the commencement of the meeting. The notice must include the period of leave and the reasons for seeking the leave. The intent is to ensure members do not fall foul of section 2.25(4) of the Act under which members have been disqualified for failing to obtain a resolution of the Council to grant the leave of absence.

### Questions by members (clauses 5.6 and 7.1)

Clause 7.1 of the current local law deals concurrently with both questions during debate, and general questions regarding good governance of the district. The proposed local law separate these concepts into new clauses 5.6 and 7.1.

New clause 5.6, taken from the WALGA model, requires questions relating to matters not on the agenda, to be provided in writing to the CEO 3 days prior to the Council meeting. This allows the CEO or his delegate to conduct research and provide a meaningful response on the matter at the meeting.

New clause 7.1 deals with questions by members during debate on a motion. In this case, a question may be asked at any point prior to the right of reply commencing and no notice is required.

Motions of which previous notice has been given (clause 5.8)

A notice of motion requires 21 days' notice under the current local law. It is proposed to change this requirement to 7 days in line with the WALGA model.

Lapsed Notices of Motion (clause 5.8(6))

Where a notice of motion is lost, a notice in the same terms or to the same effect, must not be given again for 3 months, unless with the support of an absolute majority.

Urgent Business (clause 5.9)

This clause of the proposed local law reflects a similar clause taken from the City of Canning's standing orders. Currently, items not on the agenda, can be introduced with the consent of the Presiding Member (old clause 5.1.(1)). The proposed local law requires:

1. the consent of the Presiding Member;
2. the matter cannot await consideration at the following meeting or the delay may have adverse legal, reputational or financial consequences for the City; and
3. the item is in the form of an employee report, provided to members prior to the commencement of the meeting (unless it is a motion to revoke a decision).

This may appear to be a difficult hurdle to overcome in some circumstances. However, it may be overcome by an appropriate motion to suspend the standing orders.

This clause would not apply to "late items". Late items can still be included on the agenda with 72 hours' notice (as per s 5.5(1) of the Act and Reg 14 of the *Administration Regulations*).

En Bloc Resolutions (clause 5.10)

This clause has been amended to allow decisions requiring an absolute majority to be included in the "adoption by exception resolution" of the Council.

Participation at Committee Meetings (clause 6.12(2))

The ability of members to attend (but not participate) in committee meetings of which he or she is not a member is clarified in this clause.

Foreshadowing alternative motions (clause 10.18)

This clause deals with how alternative motions are to be dealt with at Council meetings. Further, those items excluded from the adoption by exception resolution, with a motion different to the employee recommendation, shall be the motion that is first considered by the Council. Where the alternative motion is different to a recommendation by a committee, the members are first to be given the option to debate the Committee recommendation.

Member be no longer heard (clause 11.8)

From the WALGA model, this clause prevents a speaker from speaking further on the substantive motion or any amendment to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

## CONCLUSION

The proposed local law incorporates improvements to the current local law, which are based on the new WALGA model, other local governments which have recently updated their standing orders, and other changes deemed suitable specifically for the locality of the City of Busselton. For these reasons it is recommended that the Council authorise the CEO to advertise the proposed local law for comment.

## OPTIONS

In addition to the Officer's recommendations (as per Officer Recommendations 1, 2 and 3 below), the Council has the following alternative options regarding standing orders:

### Option 1

Not to proceed with the local law-making process and rely on the current local law to regulate meeting procedures. However, certain provisions have been identified as in need of change, for example in relation to "en Bloc" resolutions, and it is recommended to update and improve the current local law for the reasons stated in the report.

### Option 2

Council could choose to vary the provisions of the proposed local law in any number of ways. This is, however, the form of local law recommended at this stage for the reasons stated in the report. There will be further opportunity for making changes to the proposed local law following advertising and consultation, provided the changes are not significantly different from what is currently proposed. If any changes are of a significant nature the amended proposed local law would need to be re-advertised.

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

**C1710/250**

Moved Councillor R Paine, seconded Councillor P Carter

That the Committee recommendation below be adopted

- (1) That the Council commences the law-making process, for the *City of Busselton Standing Orders Local Law 2017*, the purpose and effect of the local law being as follows:
  - Purpose: The purpose of the proposed local law is to provide for the orderly conduct of the proceedings and business of the Council.
  - Effect: The effect of the proposed local law is that all Council meetings, committee meetings, and other meetings as described in the Act, shall be governed by the proposed local law unless otherwise provided in the Act, regulations or other written law.
- (2) That the Council authorises the CEO to carry out the law-making procedure under section 3.12(3) of the *Local Government Act*, by –
  - (i) giving Statewide public notice and local public notice of the proposed local law; and
  - (ii) giving a copy of the proposed local law and public notice to the Minister for Local Government.
- (3) That the CEO, after the close of the public consultation period, submits a report to the Council on any submissions received on the proposed local law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.

With the following amendments:

Amendment**C1710/251**

Moved Councillor R Paine, seconded Councillor P Carter

Amendment to clause 10.18 Foreshadowing alternative motions to read as (6) Where a member has identified an item for exclusion from the adoption by exception resolution under clause 5.10(5), and includes a motion that is different to the employee or committee recommendation, that motion is taken to be a foreshadowed Alternative Motion and is to be the substantive motion that is first considered by the Council.

~~(7) — Where a member has identified an item for exclusion from the adoption by exception resolution under clause 5.10(5), and includes a motion that is different to the committee recommendation, that motion is taken to be a foreshadowed Alternative Motion and members are first to be given the option to debate the committee recommendation.~~

**LOST 2/7**

## Voting:

For the motion: Councillor P Carter and Councillor R Paine.

Against the motion: Councillor R Bennett, Councillor T Best, Councillor G Bleechmore, Mayor G Henley, Councillor J McCallum, Councillor C Tarbotton and Councillor R Reekie.

Amendment**C1710/252**

Moved Councillor R Paine, seconded Councillor P Carter

Amendment to clause 5.2 Order of Business to move Acknowledgement of Country from 1(3) to 1(1).

**CARRIED 7/2**

## Voting:

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

Against the motion: Councillor T Best and Councillor G Bleechmore.

Amendment**C1710/253**

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

Amendment to clause 6.14 Recording of proceedings to include (4) In the case of a recording taken under subclause (3), the CEO must advise the meeting, immediately before the recording is commenced, that the meeting is being recorded for the purpose of taking minutes.

**CARRIED 9/0**



Amendment**C1710/254**

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

Amendment to clause 5.8 Motions of which previous notice has been given by deleting “7 clear days” and replacing with “21 clear days”.

**CARRIED 5/4**

## Voting:

For the motion: Councillor T Best, Councillor G Bleechmore, Councillor J McCallum, Councillor C Tarbotton and Councillor R Reekie.

Against the motion: Councillor R Bennett, Mayor G Henley, Councillor P Carter and Councillor R Paine.

RESOLUTION**C1710/255**

Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

That the Substantive Motion was then put with the carried amendments above C1710/253, C1710/254 and C1710/255.

**CARRIED 9/0**

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

<b>SUBJECT INDEX:</b>	Development/Planning Applications
<b>STRATEGIC OBJECTIVE:</b>	An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.
<b>BUSINESS UNIT:</b>	Development Services and Policy
<b>ACTIVITY UNIT:</b>	Statutory Planning
<b>REPORTING OFFICER:</b>	Senior Development Planner - Andrew Watts
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Location Plan⇒ Attachment B Independent Peer Review of Noise Impact Assessment⇒

## PRÉCIS

The City has been invited by the State Administrative Tribunal (SAT) to reconsider a decision made by Council at its 8 February 2017 meeting to refuse an application seeking approval for a Market on Lot 400 (No.24) Dunn Bay Road, Dunsborough.

The City has been invited to reconsider a revised proposal which endeavours to address the previous areas of concern that lead to the refusal decision. The most significant changes to the proposal are the inclusion of a solid Colorbond metal roof with Anticon insulation underneath, and a 4.0m high tilt-up concrete parapet wall to the boundary adjoining Bay Village Resort.

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

## BACKGROUND

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

The following attachments accompany this report:

- Location Plan
- Revised Development Plans (including Noise Management Plan)
- Noise Impact Assessment (including Noise Management Plan)
- Independent Peer Review of Noise Impact Assessment

At the time that the original application was considered by Council, under Local Planning Scheme 21 the site was zoned 'Special Purposes – Mixed Use' and subject to Special Provision 49. Special Provision 49 in respect to commercial uses stated that:

"Land-use permissibility shall be the same as for the 'Business' Zone..."

Subsequently through Local Planning Scheme 21 Amendment No.1 (Omnibus Amendment) the site has been rezoned to 'Business'.

The proposal was previously presented to Council at its meeting of 8 February 2016 where it was resolved:

*That the Council resolve that application DA16/0503 submitted for development of a Market on Lot 400 (Hse No 24) Dunn Bay Road, Dunsborough is considered by the Council to be inconsistent with Local Planning Scheme No. 21 and is refused, for the following reasons –*

- 1. The appearance of the proposed development is not compatible with the prevailing pattern of development in the surrounding area to the detriment of the character of the area.*
- 2. Noise created by the proposal is likely to be audible from surrounding residential properties as well as guests of the Bay Village Resort and it is considered that this will likely have an adverse environmental impact upon the amenity of these properties;*

*Approval of this development would be inconsistent with the orderly and proper planning of the locality for the reasons noted above.*

Following refusal, the applicant on 1 March 2017 made an application to the SAT for review of the Council decision.

City staff and the applicant (and representative) attended a SAT mediation conference on 22 March 2017. As a result of the mediation the SAT invited the applicant to provide additional and amended information for the City to consider. The SAT also, pursuant to s31 of the *State Administrative Tribunal Act 2004* issued an order inviting the City to reconsider its decision, with the aim being to achieve a resolution without needing a formal hearing and a determination to be issued by SAT. Initially the order issued by SAT required the applicant to provide the additional information and for the City to reconsider its decision prior to a further SAT directions hearing on 23 June 2017. Due to the intended timeline not being met, that directions hearing has been adjourned several times, and it is now scheduled for 20 October 2017.

The applicant provided the City with a revised Noise Impact Assessment and revised plans on 27 April 2017 indicating a reduced setback to the boundary with Bay Village Resort to prevent the setback area being used as rubbish and general storage area or a significant thoroughfare.

The City reviewed the revised information and revised plans and referred the noise impact assessment report to the Department of Environment Regulation (DER) for assessment.

Following receipt of comments and recommendations from DER in respect to noise impacts of the proposal, the DER information was provided to the applicant and advice given that the information provided to date was insufficient to allow Council reconsideration of the application. Due to the applicant not providing sufficient information for Council to reconsider its decision, it was agreed by mutual consent of all parties to defer the matter further.

A further revision of their Noise Impact Assessment, inclusive of noise management recommendations, and a further set of revised plans, was received by the City on 11 August 2017. A summary of the changes to the plans is as follows: -

- Inclusion of a 4.0m height tilt panel parapet wall to the common boundary with Bay Village Resort;
- Colourbond roof at a maximum height of approx. 5.6m, with minimum 50mm Anticon insulation layer applied to the underside of the roof;
- Enclosed gable ends to Dunn Bay Rd and Chieftain Cr frontages;
- Closing direct access from the car park to minimise noise leakage to Chieftain Cr; and
- Relocation of the bin area away from the common boundary with Bay Village Resort.

## STATUTORY ENVIRONMENT

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

The site is zoned 'Business'. The objectives of the 'Business' zone are as follows -

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

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

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

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

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- ...
- (g) *any local planning policy for the Scheme area;*
- (h) *any structure plan, activity centre plan or local development plan that relates to the development;*
- ...

- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
  - (i) *environmental impacts of the development;*
  - (ii) *the character of the locality;*
  - (iii) *social impacts of the development;*
- ...
- (u) *the availability and adequacy for the development of the following —*
  - (i) *public transport services;*
  - (ii) *public utility services;*
  - (iii) *storage, management and collection of waste;*
  - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
  - (v) *access by older people and people with disability;*
- ...
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- ...
- (zb) *any other planning consideration the local government considers appropriate.*

## **RELEVANT PLANS AND POLICIES**

Assessment of the parking needs for the development has been made based on the City's *Local Planning Policy 8A: Carparking Provisions*. The applicable parking rate for Business Zoned properties in the Busselton and Dunsborough CBD's is 4 car parking bays per 100m<sup>2</sup> Net Lettable Area (NLA). The NLA does not include service areas, toilets, areas set aside as public space or general thoroughfare areas that are not for the exclusive use of occupiers of a building. The total NLA has been determined to be approximately 300m<sup>2</sup>, which generates the need for 12 bays. The development plan indicates 11 bays onsite, including 1 disabled bay, resulting in a shortfall of 1 on-site parking bay.

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

The applicant is seeking that the cash-in-lieu be accepted by Council. The City's current cash-in-lieu payment figure is \$ 10,400 per bay.

## **FINANCIAL IMPLICATIONS**

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

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

No significant implications.

### **STRATEGIC COMMUNITY OBJECTIVES**

The recommendation of this report reflects Community Objectives 2.3 and 4.1 of the Strategic Community Plan 2017, which are –

- 2.3 Creative urban design that produces vibrant, mixed-use town centres and public spaces.
- 4.1 An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.

### **RISK ASSESSMENT**

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City's risk assessment framework. The assessment identifies 'downside' risks only, rather than 'upside' risks as well. Risks are only identified where the individual risk, once controls are identified, is medium or greater.

It is identified that there is a risk that the application could be determined by SAT at a formal hearing, with the potential for an outcome that is not favourable to the City.

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
<b>Reputational risk</b> - Community perception that final developments not in keeping with character of Dunsborough Town Centre.	Ensure detailed conditions to manage/control appearance and issue time limited approval as recommended.	Minor	Possible	Medium Risk – M8

### **CONSULTATION**

Prior to being refused by Council the previous proposal concept underwent a public consultation process. Details of previous public consultation on this development application were outlined in the officer's report for the 14 December 2016 Council meeting.

The revised proposal has made some changes to the design of the development with the endeavour to address the two key issues of noise impacts and aesthetics of the development, which were previously identified by Council and public submissions as being of most concern.

The invitation by the SAT for Council to reconsider its decision based on a revised proposal does not include an additional public consultation period, however in respect to noise issues the City has referred the revised proposal to Department of Water and Environment Regulation (DWER) Noise Branch, and engaged Lloyd George Acoustics to undertake an independent peer review of the submitted Noise Impact Assessment. At the time of writing of this report, DWER comments have not been received. The details of any DWER comments will be provided to Council as soon as possible after they have been received.

## OFFICER COMMENT

Comments on the general issues related to this development proposal were included in the Officer reports for the 14 December 2016 and 8 February 2017 Council meetings and therefore the discussion contained therein has not been repeated here.

Revisions made to the plans by the applicant have been made with the aim to address previous concerns regarding the form and layout of the development proposed and noise impacts on neighbouring land.

From past public consultation and previous Council consideration of the proposal to develop a market utilising sea containers, it is clear that the key issues of concern are noise impacts and design/aesthetic impacts on the amenity of the surrounding area.

### Noise

The applicant believes that the revised noise impact assessment report with recommendations included indicates how, with the revised plans, the proposed development will be able to comply with the requirements of the *Environmental Protection (Noise) Regulations 1997*.

Staff have sought an independent peer review of the submitted noise impact assessment. The peer review has been completed by Lloyd George Acoustics. As a summary of the review, it found that the noise assessment has considered the key noise sources, being patrons within the market and mechanical plant however, the overall impact of the proposal on nearby receivers has potentially been under-estimated on the basis that:

- Noise emissions from the west alfresco areas, vehicle doors closing in the car park and deliveries have not been included in the noise model and assessment.
- It is noted that the market stalls will operate “*with extended hours of operation during long weekends [...] and special events.*” and therefore may operate after 10pm on occasions. This scenario doesn’t seem to have been assessed.
- The Town Planning Scheme No. 21 *Business* zoning can allow for sensitive uses to be developed e.g. grouped or multiple dwelling, guest house, as such, it is noted the receiver at 29 Dunn Road may be considered as sensitive depending on its current and future use. While this may have been discussed with the City, the assessment report does not consider this eventuality.

It is recommended by staff that the alfresco area (‘umbrella area’ on plans) located outside of container 12 is removed and replaced with extended landscaping. This is the closest alfresco area to residential zoned properties on Chieftain Crescent and is located away from the proposed food businesses, such that it may not be particularly necessary or practical.

The Dunsborough Park Shopping Centre carpark and parking at the rear of Bay Village Resort are equally close to the residential properties on Chieftain Crescent as the carpark for the proposed development and given the relatively small number of parking bays proposed it is unlikely that there would be a significant increased impact due to noise from car doors.

It is recommended that a condition of approval be that the Permitted opening hours for the development are limited to Monday – Sunday 7am -10pm.

The property at 29 Dunn Bay Road has in recent times been used for office purposes. Whilst recognising that future development of the property could include a residential component, it is difficult to quantify that the proposed market development at Lot 400 Dunn Bay Road will have any significant additional noise impact than that already created by the two existing mixed-use developments that are located immediately either side of 29 Dunn Bay Road.

Whilst the property does have residential properties immediately opposite on Chieftain Crescent and noise sensitive tourist accommodation on the adjoining lot at Bay Village Resort, it is necessary to be mindful that the proposed development is zoned 'Business' and is located in a Town Centre environment. Further, those residential properties are now zoned to allow mixed-use, medium density development. The revised plans to include a solid roof structure with closed gable ends and a concrete panel wall on the boundary make the development proposed much closer in effect to a more conventional building or indeed closer to the commercial development associated with DA15/0476 that was previously approved by Council for the site.

Ongoing implementation of the recommendations of the noise impact assessment report forms part of the conditions of the officer recommendation.

### Design/Aesthetics

Staff have liaised with the applicant in respect to design issues and whilst officers still have some minor concerns in respect to aesthetic issues of the revised development plans, these have been addressed as best as possible in the recommended conditions of approval.

Design issues that have been identified and discussed with the applicant are set out below.

### **Stormwater**

Officers sought to have a better understanding of how stormwater management is addressed and where stormwater will go, with a preference for the use of landscaped areas developed as rain gardens.

The applicant advised that the design of the stormwater management system will be prepared by his engineers to comply with City requirements. This information can be required via a condition of approval.

### **Bin storage size and location**

Development plans indicated a bin store designed for wheelie bins. It has been assessed that for the number of general waste and recycle bins that will be required, that the bin store is significantly undersized. The location of the bin store also raised concern in respect to amenity impact on residential premises on the opposite side of Chieftain Cres and is also a concern with respect to how can it practically be accessed when located behind parking bays.

The applicant advised that he is now liaising with a commercial waste contractor in respect to the use of skip bins rather than wheelie bins and in respect to the requirements for truck access.

The use of skip bins if emptied at a suitable frequency allows the development of a bin store with a lesser footprint than that required for wheelie bins. The need for approval of details of the waste collection arrangements, and the design and location of the bin store are recommended to be included as conditions of approval.



**Alfresco area closest to residential properties**

It is recommended by staff that the alfresco area ('umbrella area' on plans) located outside of container 12 is removed and replaced with extended landscaping. This is the closest alfresco area to residential properties on Chieftain Crescent and is located away from the proposed food businesses, such that it may not be particularly necessary or practical.

The applicant advised that the lawn area adjacent is the most likely place where children will play and the seating area is provided to allow passive supervision by parents.

It is not considered by staff that the use of the grass area as a children's play area is practical and potentially raises safety concern when located between a road and a carpark, particularly if the area is not fenced. It is considered that the area would be better used for extended landscaping for stormwater retention purposes and potentially a relocated bin store area. The removal of this alfresco area is included as a condition in the officer recommendation.

**Bicycle parking location**

Bike parking would be better for user convenience and prevention of bike theft if located nearer to the entry off Seymour Boulevard, between containers K5 and K6, or near K2.

The applicant comments that the only area available is the landscape area opposite K2. However, bike access to this area is via a seating area which is not ideal. The applicant has further commented that as is the case with 'Meal-Up' across the road, The City could place a bike rack on the footpath close to the proposed retaining wall.

Unfortunately, there appears to be insufficient space on the road reserve to provide sufficient bike parking without affecting pedestrian accessibility. Given that and given the scale of the proposed development it is considered bike parking should be provided on site, in a suitable location.

**Appearance of elevations to Seymour Blvd and Chieftain Cres**

The City is not comfortable with the current aesthetic of the elevations of the proposal. Cladding of blank sections of Seymour Boulevard and Chieftain Crescent elevations is recommended and may be able to form part of a condition. It has been suggested by the applicant that a future possibility is to provide artwork to create a suitable aesthetic treatment. If a subsequent proposal for artwork is received then the City is prepared to entertain such a proposal, and the recommended conditions would allow that to be considered.

**CONCLUSION**

Previous concerns regarding the form and layout of the development proposed and noise impacts on neighbouring land have been addressed to an extent such that City officers are prepared to recommend conditional approval of the proposed Market development at 24 Dunn Bay Road, Dunsborough.

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

**OPTIONS**

The Council could:

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

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The decision of Council is to be communicated to the applicant and the SAT on or prior to directions hearing scheduled for 20 October 2017.

**OFFICER RECOMMENDATION**

That the Council resolve:

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

**General Conditions:**

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

**Prior to Commencement of Any Works Conditions:**

5. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing:
  - 5.1 A Construction Management Plan.
  - 5.2 Details for the final finished appearance of each of the buildings facing (i.e. those that will trade into areas visible from) Dunn Bay Road and Seymour Boulevard, and of all of the externally visible aspects of the development including the Chieftain Crescent elevation, to ensure the development is compatible with the amenity of its setting, presents a coherent aesthetic appearance and in this context that it represents a high architectural standard. The details should include:
    - external cladding of the buildings (sea containers) - the materials, colours, textures and projections including any verandas/awnings that are proposed to extend over a road or public place;
    - activation of Dunn Bay Road and Seymour Boulevard frontages through the use of openings in buildings, businesses trading out to the street, lighting, and artwork;
    - cladding or artwork details for walls without openings on the Seymour Boulevard and Chieftain Crescent elevations;
    - removal of the 'umbrella area' outside of container 12, which shall be replaced with landscaping; and

- external signage – location and dimensions.
- 5.3 Details of bin storage and collection arrangements. Bin storage areas shall be screened from public view at all times, other than when refuse collection is taking place. The Bin Storage Area shall be not less than 10m<sup>2</sup>, with a minimum internal dimension of 3.5m and is to be relocated to provide greater separation from residential premises on Chieftain Crescent.
  - 5.4 Details of bin wash facilities.
  - 5.5 A Drainage Management Plan setting out details of stormwater and surface water drainage works. The Plan shall include but not be limited to the following:
    - 5.5.1 Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 40m<sup>2</sup> of impervious area;
    - 5.5.2 Kerbing or grade changes for paved areas;
    - 5.5.3 Installing and maintaining stormwater collection systems, such as bio-retention gardens and soak wells to intercept roof and general runoff; and
    - 5.5.4 Establishing soaks that collect and permit infiltration of stormwater.
  - 5.6 Details of the finished treatment of all hard surfaced areas to be used for the construction of the parking and maneuvering areas and pedestrian footpaths as shown on the Approved Development Plans.
  - 5.7 Details of the bicycle parking facilities. The details shall include, as a minimum, the location, design and materials to be used in their construction.
  - 5.8 A Landscape Plan providing details of onsite landscaping works.
  - 5.9 A plan detailing footpaths and other hard landscaping works to be undertaken on street verges adjacent to the site.
6. The development hereby approved, or any works required to implement the development, shall not commence until the following contributions have been paid to the City:
    - 6.1 A contribution of \$ 10,400 to the City in lieu of a shortfall of one on-site parking bay.

**Prior to Occupation/Use of the Development Conditions:**

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

**On-going Conditions:**

8. The works undertaken to satisfy Condition(s) 1, 5.1-5.9 and 7 shall be subsequently maintained for the life of the development and subject to the following conditions:
  - 8.1 Recommendations in the approved Noise Management Plan shall be implemented in accordance with the approval details, specifically the following recommendations should be followed in order to reduce noise disturbance to neighbours and generally comply with the *Environmental Protection (Noise) Regulations 1997* -
    - Music, including acoustic or amplified performances or other electronic music devices and playback or public address systems are not permitted.
    - Acoustic treatments to be permanently installed, as described in the Noise Impact Assessment Report.
    - On-site manager to be present at all times during the operation of the development. Name and contact details of the on-site manager to be displayed at all times to immediately address any issues.
    - Staff members are to be sensitive of depositing waste into containers outside of 0700 and 1900 hours from Monday to Saturday, and between 0900 and 1900 hours on Sundays.
    - Rubbish, including bottles and recyclables, are not to be deposited in bins between the hours of 07:00 and 09:00 on Sundays or Public Holidays (acoustics).
    - Any moveable furniture is fitted with rubber pads to avoid dragging noise, especially in the outdoor areas. Pads to be regularly inspected and maintained by staff to ensure they are effective at reducing noise.
    - If furniture is stackable or moveable, staff are ensure that it is stacked or moved in such a way that noise is minimised.
    - In order to reduce potential disturbance to residents, waste collections should occur between 0900 and 1700 whenever possible.
    - Management shall use best efforts to avoid loitering outside the development after 2200.
    - Loading activities are to occur from a loading bay to be located on Seymour Boulevard for deliveries, and not the development site.
  - 8.2 Noise emissions from mechanical plant such as kitchen exhaust fans, compressors and air conditioning systems shall comply with assigned noise levels at the nearest noise sensitive receiver in accordance with the *Environmental Protection (Noise) Regulations 1997*.
  - 8.3 Buildings with openings facing onto Dunn Bay Road or Seymour Boulevard must, at all times they are open, trade towards the street.
  - 8.4 No more than one vendor is permitted to sell alcohol for consumption on the premises. Additional vendors who hold a producer's licence may only be permitted to sell alcohol in sealed containers for consumption off the premises.
  - 8.5 Permitted opening hours are Monday – Sunday 7am -10pm.

All buildings and structures are to be removed from the site, by the owner or his successor, within 6 months of the expiry of this Development Approval and the condition of the land made good.

**AMENDED RECOMMENDATION****C1710/256** Moved Councillor R Bennett

That the Council resolve to adopt the officer recommendation with the following amendment:

**General Conditions:**

2. The development hereby approved is permitted for a period of five years from the date of this Decision Notice.

**LAPSED FOR WANT OF A SECONDER**

**COUNCIL DECISION AND AMENDED OFFICER RECOMMENDATION****C1710/257** Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

That the Council resolve:

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

**General Conditions:**

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

**Prior to Commencement of Any Works Conditions:**

5. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing:
  - 5.1 A Construction Management Plan.
  - 5.2 Details for the final finished appearance of each of the buildings facing (i.e. those that will trade into areas visible from) Dunn Bay Road and Seymour Boulevard, and of all of the externally visible aspects of the development including the Chieftain Crescent elevation, to ensure the development is compatible with the amenity of its setting, presents a coherent aesthetic appearance and in this context that it represents a high architectural standard. The details should include:
    - external cladding of the buildings (sea containers) - the materials, colours, textures

and projections including any verandas/awnings that are proposed to extend over a road or public place;

- activation of Dunn Bay Road and Seymour Boulevard frontages through the use of openings in buildings, businesses trading out to the street, lighting, and artwork;
- cladding or artwork details for walls without openings on the Seymour Boulevard and Chieftain Crescent elevations; and
- external signage – location and dimensions.

5.3 Details of bin storage and collection arrangements. Bin storage areas shall be screened from public view at all times, other than when refuse collection is taking place. The Bin Storage Area shall be not less than 10m<sup>2</sup>, with a minimum internal dimension of 3.5m and is to be relocated to provide greater separation from residential premises on Chieftain Crescent.

5.4 Details of bin wash facilities.

5.5 A Drainage Management Plan setting out details of stormwater and surface water drainage works. The Plan shall include but not be limited to the following:

5.5.1 Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 40m<sup>2</sup> of impervious area;

5.5.2 Kerbing or grade changes for paved areas;

5.5.3 Installing and maintaining stormwater collection systems, such as bio-retention gardens and soak wells to intercept roof and general runoff; and

5.5.4 Establishing soaks that collect and permit infiltration of stormwater.

5.6 Details of the finished treatment of all hard surfaced areas to be used for the construction of the parking and maneuvering areas and pedestrian footpaths as shown on the Approved Development Plans.

5.7 Details of the bicycle parking facilities. The details shall include, as a minimum, the location, design and materials to be used in their construction.

5.8 A Landscape Plan providing details of onsite landscaping works.

5.9 A plan detailing footpaths and other hard landscaping works to be undertaken on street verges adjacent to the site.

6. The development hereby approved, or any works required to implement the development, shall not commence until the following contributions have been paid to the City:

6.1 A contribution of \$ 10,400 to the City in lieu of a shortfall of one on-site parking bay.

**Prior to Occupation/Use of the Development Conditions:**

7. The development hereby approved shall not be occupied or used until all plans, details of works required by Conditions(s) 1, 3 and 5 have been implemented and the following conditions have been complied with:

7.1 Landscaping and reticulation shall be implemented in accordance with the approved Landscape Plan and shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die, or are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

- 7.2 A minimum number of 11 car parking bays (including 1 disabled bay) shall be provided on site. The parking area(s), driveway(s) and point(s) of ingress and egress [including crossover(s)] shall be designed, constructed, sealed, drained and marked.
- 7.3 The development being connected to a reticulated water supply.
- 7.4 The development being connected to reticulated sewerage.

**On-going Conditions:**

- 8. The works undertaken to satisfy Condition(s) 1, 5.1-5.9 and 7 shall be subsequently maintained for the life of the development and subject to the following conditions:
  - 8.1 Recommendations in the approved Noise Management Plan shall be implemented in accordance with the approval details, specifically the following recommendations should be followed in order to reduce noise disturbance to neighbours and generally comply with the *Environmental Protection (Noise) Regulations 1997* -
    - Electronically amplified performances are not permitted.
    - Acoustic treatments to be permanently installed, as described in the Noise Impact Assessment Report.
    - On-site manager to be present at all times during the operation of the development. Name and contact details of the on-site manager to be displayed at all times to immediately address any issues.
    - Staff members are to be sensitive of depositing waste into containers outside of 0700 and 1900 hours from Monday to Saturday, and between 0900 and 1900 hours on Sundays.
    - Rubbish, including bottles and recyclables, are not to be deposited in bins between the hours of 07:00 and 09:00 on Sundays or Public Holidays (acoustics).
    - Any moveable furniture is fitted with rubber pads to avoid dragging noise, especially in the outdoor areas. Pads to be regularly inspected and maintained by staff to ensure they are effective at reducing noise.
    - If furniture is stackable or moveable, staff are ensure that it is stacked or moved in such a way that noise is minimised.
    - In order to reduce potential disturbance to residents, waste collections should occur between 0900 and 1700 whenever possible.
    - Management shall use best efforts to avoid loitering outside the development after 2200.
    - Loading activities are to occur from a loading bay to be located on Seymour Boulevard for deliveries, and not the development site.
  - 8.2 Noise emissions from mechanical plant such as kitchen exhaust fans, compressors and air conditioning systems shall comply with assigned noise levels at the nearest noise sensitive receiver in accordance with the *Environmental Protection (Noise) Regulations 1997*.
  - 8.3 Buildings with openings facing onto Dunn Bay Road or Seymour Boulevard must, at all times they are open, trade towards the street.
  - 8.4 No more than one vendor is permitted to sell alcohol for consumption on the premises. Additional vendors who hold a producer's licence may only be permitted to sell alcohol in sealed containers for consumption off the premises.
  - 8.5 Permitted opening hours are Monday – Sunday 7am -10pm.

- 8.6 All buildings and structures are to be removed from the site, by the owner or his successor, within 6 months of the expiry of this Development Approval and the condition of the land made good.

**CARRIED 9/0**

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

Nil



**17. CONFIDENTIAL REPORTS**

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

**RECOMMENDATION**

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

**17.1 BUSSELTON CENTRAL SHOPPING CENTRE REDEVELOPMENT PROJECT**

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

**17.2 WASTE LOCAL LAW**

This report contains information of a confidential nature in accordance with Section 5.23(2)(d) of the Local Government Act 1995, as it contains information relating to legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting

**17.3 APPOINTMENT OF SENIOR EMPLOYEE**

This report contains information of a confidential nature in accordance with Section 5.23(2)(b) of the Local Government Act 1995, as it contains information relating to the personal affairs of any person

**17.1      BUSSELTON CENTRAL SHOPPING CENTRE REDEVELOPMENT PROJECT**

<b>SUBJECT INDEX:</b>	Townscape/Busselton
<b>STRATEGIC OBJECTIVE:</b>	Growth is managed sustainably and our environment is protected and enhanced as we develop.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Legal Services
<b>REPORTING OFFICER:</b>	Legal Services Coordinator - Cobus Botha
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A   Original Staging Plan Attachment B   Revised Staging Plan

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

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1710/258**      Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council resolves to:

1. Agree to amend the contract of sale between the City of Busselton and the Trust Company Australia Limited for purposes of aligning the contract of sale with the amended Development Approval DA15/0285.01 granted by the City of Busselton on 17 August 2017 in relation to redevelopment of the Busselton Central Shopping Centre.
2. Delegates to the CEO the authority to negotiate the contract changes and to vary the contract of sale between the City and the Trust Company (Australia) Limited to give effect to Resolution 1.

**CARRIED 9/0**

**17.2 WASTE LOCAL LAW**

<b>SUBJECT INDEX:</b>	Local Laws
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Legal Services
<b>REPORTING OFFICER:</b>	Legal Officer - Briony McGinty
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

**This item is confidential in accordance with section 5.23(2) (d) of the Local Government Act 1995, as it contains information relating to legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.**

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1710/259** Moved Councillor P Carter, seconded Councillor R Paine

That the Council undertakes to within 6 months, amend the local law to include an express "Objection and appeal rights clause".

2. Also undertakes:

- a) That all consequential amendments arising from the undertaking will be made.
- b) That the local law will not be enforced in a manner contrary to the undertaking given.
- c) That the undertaking will be completed within six months of the date of the letter giving the undertaking.
- d) Where the local law is made publicly available, whether in hard copy or electronic form, it be accompanied by a copy of these undertakings."

**CARRIED 9/0**

**17.3      APPOINTMENT OF SENIOR EMPLOYEE**

<b>SUBJECT INDEX:</b>	Employee Relations - Recruitment
<b>STRATEGIC OBJECTIVE:</b>	Accountable leadership that is supported by a skilled and professional workforce.
<b>BUSINESS UNIT:</b>	Office of the Chief Executive Officer
<b>ACTIVITY UNIT:</b>	Employee Relations
<b>REPORTING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

**This item is confidential in accordance with section 5.23(2) (b) of the Local Government Act 1995, as it contains information relating to the personal affairs of any person.**

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1710/260**      Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

That the Council accept the CEO's recommendation to appoint one of the two preferred applicants to the position of Director Finance and Corporate Services, subject to finalisation of the selection process.

**CARRIED 9/0**

**18.      QUESTIONS FROM MEMBERS****Leave of Absence**

**C1710/261**      Moved Councillor P Carter, seconded Councillor J McCallum

That Leave of Absence be granted to Cr Ross Paine for 8 November 2017.

**CARRIED 9/0**

**19.      PUBLIC QUESTION TIME**

Nil

**20.      NEXT MEETING DATE**

Wednesday, 8 November 2017

**21. CLOSURE**

The meeting closed at 7.04pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 101 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 8 NOVEMBER 2017.

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