

City of Busselton
Geographe Bay

Council Agenda

21 June 2023

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city@busselton.wa.gov.au

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 21 JUNE 2023

TO: THE MAYOR AND COUNCILLORS

NOTICE is given that a meeting of the Council will be held in the Council Chambers, Administration Building, Southern Drive, Busselton on Wednesday, 21 June 2023, commencing at 5:30pm.

Your attendance is respectfully requested.

DISCLAIMER

Statements or decisions made at Council meetings or briefings should not be relied on (or acted upon) by an applicant or any other person or entity until subsequent written notification has been given by or received from the City of Busselton. Without derogating from the generality of the above, approval of planning applications and building permits and acceptance of tenders and quotations will only become effective once written notice to that effect has been given to relevant parties. The City of Busselton expressly disclaims any liability for any loss arising from any person or body relying on any statement or decision made during a Council meeting or briefing.



TONY NOTTLE

CHIEF EXECUTIVE OFFICER

8 June 2023

CITY OF BUSSELTON

AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 21 JUNE 2023

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1. **DECLARATION OF OPENING, ACKNOWLEDGEMENT OF COUNTRY AND ANNOUNCEMENT OF VISITORS**

2. **ATTENDANCE**

Apologies

Approved Leave of Absence

Nil

3. **PRAYER**

4. **APPLICATION FOR LEAVE OF ABSENCE**

5. **DISCLOSURE OF INTERESTS**

6. **ANNOUNCEMENTS WITHOUT DISCUSSION**

Announcements by the Presiding Member

7. **QUESTION TIME FOR PUBLIC**

Response to Previous Questions Taken on Notice

Public Question Time For Public

8. CONFIRMATION AND RECEIPT OF MINUTES

Previous Council Meetings

8.1 Minutes of the Council Meeting held 17 May 2023

RECOMMENDATION

That the Minutes of the Council Meeting held 17 May 2023 be confirmed as a true and correct record.

8.2 Minutes of the Special Council Meeting held 31 May 2023

RECOMMENDATION

That the Minutes of the Special Council Meeting held 31 May 2023 be confirmed as a true and correct record.

Committee Meetings

8.3 Minutes of the Policy and Legislation Committee Meeting held 10 May 2023

RECOMMENDATION

That the Unconfirmed Minutes of the Policy and Legislation Committee Meeting held 10 May 2023 be noted as received.

8.4 Minutes of the Audit and Risk Committee Meeting held 7 June 2023

RECOMMENDATION

That the Unconfirmed Minutes of the Audit and Risk Committee Meeting held 7 June 2023 be noted as received.

8.5 Minutes of the Finance Committee Meeting held 7 June 2023

RECOMMENDATION

That the Unconfirmed Minutes of the Finance Committee Meeting held 7 June 2023 be noted as received.

9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

Petitions

9.1 PLAYGROUND - ARDFIN STREET, DUNSBOROUGH

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.1 Provide opportunities for the community to engage with Council and contribute to decision making.
SUBJECT INDEX	Petitions
BUSINESS UNIT	Governance Services
REPORTING OFFICER	Governance Officer - Jo Barrett-Lennard
AUTHORISING OFFICER	Chief Executive Officer - Tony Nottle
NATURE OF DECISION	Advocacy: to advocate on its own behalf or on behalf of its community to another level of government/body/agency
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Petition (Redacted) 

OFFICER RECOMMENDATION

That the Council receive the petition.

EXECUTIVE SUMMARY

A Petition with 28 signatures (Attachment A) was received from the Petitioners on 11 May 2023 requesting as follows:

We, the undersigned, do respectfully request that Council:

Keep the playground on Ardfin [Street, Dunsborough], or relocated within the Reserve.

The requirements for a petition to be heard by Council is set out by Standing Order 6.89 of the *City of Busselton Standing Orders Local Law 2018*. The Petition meets all of the requirements.

Pursuant to Standing Order 6.9(3), the Council has the following options:

- (a) receive the petition;
- (b) reject the petition;
- (c) receive the petition and refer it to the CEO to prepare a report to Council / Committee;
- (d) receive the petition and refer it to the CEO for action.

It is recommended that the Petition be received by the Council.

Presentations

Deputations

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

11. **ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY**

12. REPORTS OF COMMITTEE

12.1 Policy and Legislation Committee - 10/5/2023 - COUNCIL POLICY REVIEW: EVENTS

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Council Policies
BUSINESS UNIT	Governance Services
REPORTING OFFICER	Governance Coordinator - Emma Heys Events Coordinator - Peta Pulford
AUTHORISING OFFICER	Acting Director, Community and Commercial Services - Dave Goodwin
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Proposed Council Policy: Events  Attachment B Current Council Policy: Events  Attachment C Tracked Changes Proposed Policy: Events (for reference only) 

This item was considered by the Policy and Legislation Committee at its meeting on 10/5/2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council adopts the amended Council policy: Events (the Policy) (Attachment A) to replace the current policy (Attachment B).

OFFICER RECOMMENDATION

That the Council adopts the amended Council policy: Events (the Policy) (Attachment A) to replace the current policy (Attachment B).

EXECUTIVE SUMMARY

This report presents an amended Council policy: Events (the Policy) (Attachment A), with the Policy having been reviewed as part of the City's ongoing review of its Council policies. Officers are recommending the Policy replace the current Council policy contained in Attachment B.

BACKGROUND

It is the function of the Policy and Legislation Committee to consider new and review existing Council policies. The City's Policy Framework sets out an ongoing cycle of policy review, whereby all policies of the Council will be reviewed at least every 3 years, with the aim of determining the ongoing strategic importance and applicability of the policy.

The original Events policy was adopted by Council on 12 April 2006 to improve management of the event application and approval process. The policy was part of an overall events application package developed to help inform applicants about the various approvals required and to assist the City to meet its legislative responsibilities.

The policy was further reviewed in September 2016 to include reference to the objectives and goals of the Events Strategy prepared in April 2012, and to document improvements in the event application process.

Most recently the Policy was reviewed in January 2020 and amended in response to amendments to the *Local Government Act 1995* (the Act) requiring all local governments to adopt a policy that deals with matters relating to the attendance of council members and the CEO at events.

OFFICER COMMENT

The attraction, development and promotion of events is a key strategic objective for the City of Busselton, with events an important contributor to the achievement of a robust and prosperous economy, and the creation of vibrant places and an inclusive community.

In recognition of events as a strategic driver the City has adopted the brand 'Events Capital WA' and developed an Events Strategy. Events are considered to be either a Hallmark, Major, Regional or Community events dependant on their ability to achieve the City's objectives. The Policy outlines the criteria to be considered in relation to 5.90A of the Act and the approval of attendance of Councillors and the CEO at events.

Amendments to the Policy include an updated list of pre-authorised events, which align to the recommendations of the Business Development, Events and Marketing Program (previously MERG) and the Events Strategy. Additionally, amendments have been made to the provision for markets, with the maximum allowable markets to be held at Lions Park, Dunsborough reduced from one per Saturday to two per month; and with any additional markets in Dunsborough to be held at the Dunsborough Playing Fields or Dunsborough Foreshore.

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 the Act.

The Policy also deals with attendance at events by Councillors and the CEO. The relevant sections of the Act are detailed below:

5.62 Closely associated persons

(1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —

....

(eb) the relevant person is a council member and the person has given a gift to which this paragraph applies to the relevant person since the relevant person was last elected; or

(ec) the relevant person is a CEO and the person has given a gift to which this paragraph applies to the relevant person since the relevant person was last employed (or appointed to act) in the position of CEO;

(1A) Subsection (1)(eb) and (ec) apply to a gift if —

(a) either —

(i) the amount of the gift exceeds the amount prescribed for the purposes of this subsection; or

(ii) the gift is 1 of 2 or more gifts made by 1 person to the relevant person at any time during a year and the sum of the amounts of those 2 or more gifts exceeds the amount prescribed for the purposes of this subsection; and

(b) the gift is not an excluded gift under subsection (1B).

(1B) *A gift is an excluded gift —*

(a) *if —*

(i) *the gift is a ticket to, or otherwise relates to the relevant person's attendance at, an event as defined in section 5.90A(1); and*

(ii) *the local government approves, in accordance with the local government's policy under section 5.90A, the relevant person's attendance at the event;*

5.90A. Policy for attendance at events

(1) *In this section —*

event includes the following —

(a) *a concert;*

(b) *a conference;*

(c) *a function;*

(d) *a sporting event;*

(e) *an occasion of a kind prescribed for the purposes of this definition.*

(2) *A local government must prepare and adopt* a policy that deals with matters relating to the attendance of council members and the CEO at events, including —*

(a) *the provision of tickets to events; and*

(b) *payments in respect of attendance; and*

(c) *approval of attendance by the local government and criteria for approval; and*

(d) *any prescribed matter.*

Relevant Plans and Policies

The officer recommendation aligns to the City's Events Strategy.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could choose to not adopt the proposed Policy or to include further amendments.

CONCLUSION

Council policy: Events, has been reviewed in accordance with the City's ongoing review of its Council policies and is recommended for adoption.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be placed on the City's website within one week of adoption.

12.2 Policy and Legislation Committee - 10/5/2023 - PROPOSED LOCAL PLANNING POLICY: IDENTIFICATION OF COMPLEX DEVELOPMENT APPLICATIONS - CONSIDERATION OF ADOPTION FOR ADVERTISING

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Local Planning Policies
BUSINESS UNIT	Planning and Development Services
REPORTING OFFICER	Director Planning and Development Services - Paul Needham Manager Development Services - Joanna Wilson
AUTHORISING OFFICER	Director Planning and Development Services - Paul Needham
NATURE OF DECISION	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Draft Local Planning Policy: Complex Development Applications  Attachment B Applications over \$2M ECD - 2021 and 2022  Attachment C Zoning Table with 'A' uses highlighted 

This item was considered by the Policy and Legislation Committee at its meeting on 10/5/2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council, pursuant to clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, prepare and advertise Draft Local Planning Policy: Complex Development Applications (the Draft Policy) (Attachment A) as a draft local planning policy.

OFFICER RECOMMENDATION

That the Council, pursuant to clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, prepare and advertise Draft Local Planning Policy: Complex Development Applications (the Draft Policy) (Attachment A) as a draft local planning policy.

EXECUTIVE SUMMARY

The Council is asked to consider adopting, as a draft for advertising, a new local planning policy that would identify, in addition to what is set out in State level regulation, the scope of development applications to be identified as ‘complex applications’.

Complex applications must be advertised for public comment before being determined, and the breadth and duration of the advertising process is longer than is the case for non-complex applications.

The aim is to ensure that applications that are likely to be of significant community interest and/or strategic importance would be subject of longer and broader advertising/consultation processes than would be the case in the absence of the policy.

BACKGROUND

The Council is asked to consider adopting, as a draft for advertising, a new local planning policy that would identify, in addition to those set out in State level regulation, the scope of development applications to be identified as ‘complex applications’. State level regulation only identifies what are known as ‘use-not-listed’ applications as complex applications.

A use-not-listed is as set out in clause 3.4.2 of the City of *Busselton Local Planning Scheme No. 21* ('Scheme'), and arises where an application is;

"in respect of a use that is not specifically referred to in the zoning table and...cannot reasonably be determined as falling within a use class referred to in the zoning table".

Applications for uses-not-listed are quite unusual and very small in number, with perhaps the key example in the City of Busselton being display homes or display home villages.

State level regulation does, however, explicitly allow local governments to adopt local planning policies that identify other types or forms of applications as complex applications. That is set out in part (b) of the definition of complex application. That definition forms part of clause 1 ('terms used') of Schedule 2 (the 'Deemed Provisions') of the *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations'). The Deemed Provisions are incorporated into all local government town planning schemes in Western Australia and, in the event of any conflict between the Deemed Provisions and a local government town planning scheme, the Deemed Provisions prevail.

Where an application is identified as a complex application, it must be advertised for a period of 28 days, and must be advertised by:

- (1) the publication of a notice on the City's website;
- (2) by giving notice to owners and occupiers of land in the vicinity of the site; and
- (3) by the placement of a sign on the site.

Where an application is not a complex application, if it needs to be advertised, it can only be advertised for a period of 14 days, and does not need to be advertised through all three means. Note that non-complex applications can be advertised for longer periods, but only with the agreement of the applicant.

Both complex and other applications can also be advertised in other ways, such as through advertising in a newspaper, or through notices on social media. It should be noted that applications of a single residential nature, including outbuildings, that require discretion around matters such as setbacks, are usually only advertised through the sending of a notice to potentially affected neighbours, and are not advertised more broadly.

OFFICER COMMENT

It is considered that, where an application has the potential to be of significant community interest or strategic importance, an advertising period of greater than 14 days is appropriate – with the 28 day period for complex applications being seen as a more appropriate period. It is also considered appropriate that such applications are not only advertised through the sending of notices to the owners and occupiers of land in the vicinity. It is considered that such applications should be advertised more broadly, providing greater opportunity for others in the community to become aware of the application and make submissions. The publishing of a notice on the City's website and the placement of a sign on site can assist in highlighting that opportunity.

Further, in most cases such applications will need to be referred for comment to one or more State agencies, and the Deemed Provisions give those agencies 42 days in which to provide comment to the local government. As such, in most cases a 28 day public advertising period will not add to the total time required to assess the application. It is also worth noting that the City's normal practice in any case is to accept late submissions up to the point where it becomes impracticable to do so (i.e. once a decision has been made or, in the case of an application to be determined by the Council or a Development Assessment Panel, once the report on the application has been substantially drafted).

In addition, in terms of the key rationale for a local planning policy that identifies additional development applications to be 'complex applications', it is considered that most of the applications that have the potential to be of significant community interest or strategic importance are not for a use-not-listed (and as already noted, such applications are in fact quite rare). Given that, it is clearly appropriate to treat some other types of applications as complex.

As already noted, the Deemed Provisions do allow applications other than use-not-listed applications to be treated as complex applications in the absence of a local planning policy, but only with the agreement of the applicant. Until recently, where officers identified that broader and longer advertising was appropriate, most applicants have agreed to their applications being treated as complex applications, meaning that a local planning policy had not been required. In more recent times, however, there have been cases where applicants have not agreed, and that has triggered the work to develop the draft local planning policy.

The Draft Policy (Attachment A) proposes that the following types of applications be identified as complex applications (meeting any one of the following criteria would identify an application as complex - although note that many applications may meet two or more of the criteria) -

1. Any applications lodged for determination by a Development Assessment Panel (DAP).
2. Any applications for development to a value of more than \$2M estimated cost of development, other than applications for entirely permitted ('P') land uses, or a Warehouse/Storage, Single Houses or less than 10 Grouped Dwellings.
3. Any application for a land use that must be advertised (i.e. an 'A' use).
4. Any application to extend, alter or change a non-conforming use.
5. Any application for land within a 'Development Zone' (either the 'Urban Development' or 'Industrial Development' Zone) that is not consistent with an adopted Structure Plan, or where there is no adopted Structure Plan.
6. Any application for a Child Care Centre within 100 metres of any residential dwelling.

The Draft Policy, however, does set out that certain types of applications are not identified as complex, even if they meet the criteria described above -

1. An application to amend or cancel a development approval.
2. The reconsideration of an application that is subject of an application for review ('appeal') with the State Administrative Tribunal (SAT).
3. Relatively minor development, unlikely to generate significant community interest or be of strategic importance.

In preparing the Draft Policy, officers have reviewed and considered local planning policies adopted by some other local governments, but have not based the Draft Policy on any other particular example. In part that reflects the fact that the variety, complexity and volume of development applications received by the City is greater than that experienced by most other local governments in Western Australia.

A description of and rationale for the identification of each of the types of applications proposed is set out below, as is the rationale for the proposed exclusions. There is also some commentary around an aspect of the Draft Policy that proposes some advertising requirements that reflect existing practice, but which are in addition to the minimum requirements set out in the Deemed Provisions.

DAP applications

Applications lodged for determination by a DAP consist of both 'mandatory' DAP applications (with an estimated cost of development over \$10M) and 'optional DAP applications (with an estimated cost of development over \$2M). Some forms of development are, however, excluded –

1. Development of Warehouse/Storage (but only with respect to the mandatory application threshold); and
2. Development of a Single House, or less than 10 Grouped or Multiple Dwellings.

Whilst, if the number of DAP applications was to expand significantly in future, some reconsideration may be required, at this stage it is considered appropriate that all DAP applications be identified as complex. That is because mandatory DAP applications always involve a relatively high level of investment, and in many cases where applicants lodge optional DAP applications, it will be because the applicants expect that the application may generate significant community interest.

The identification of DAP applications as complex is set out in 4.1.1 in the Draft Policy.

\$2M value threshold

Subject to most of the same exclusions as the State has applied to identifying the DAP application thresholds, it is proposed that other applications with an estimated cost of development over \$2M also be identified as complex. An exclusion for Multiple Dwelling developments (i.e. flats or apartments) over \$2M in cost but which consist of less than 10 dwellings is not, however, proposed. As Multiple Dwelling developments that cost less than \$2M to develop are unlikely, and would likely consist of substantially less than 10 dwellings if they did arise, that means that any significant Multiple Dwelling application would be complex.

The key rationale for the \$2M value threshold proposed is that such applications are reasonably likely to generate significant community interest or be of strategic importance. A secondary rationale for the \$2M value threshold is also to avoid a situation where an applicant decides not to lodge an application for DAP determination as a means of avoiding a broader and longer advertising process.

In future, as costs of development escalate with inflation, an adjustment to the \$2M value threshold would be appropriate. For reasons of simplicity and legibility, however, it is not proposed that the policy include an automatic indexation provision. A report identifying all development applications with an estimated cost of development greater than \$2M received during the last two complete calendar years is provided as Attachment B.

The \$2M value threshold for complex applications is set out in 4.1.2 of the Draft Policy.

'A' land uses

It is also proposed that all applications for 'A' land uses, which the Scheme requires must be advertised before a decision is made, also be identified as complex. In drafting the Scheme and identifying some land uses in some Zones as 'A' land uses, a decision has already been made that a higher level of community engagement may be required than for other applications – and that is the key rationale for this aspect of the Draft Policy.

Attachment C is a copy of the Zoning Table from the Scheme, with all land uses that are treated as an A use in one or more of the Zones highlighted. Some of the key 'A' land uses are –

1. Animal Establishment (e.g. a dog kennels) in the Rural Residential and Rural Landscape Zones;
2. Brewery in all of the Zones in which it is permissible, other than the Industry Zones;
3. Caravan Park in the Rural and Viticulture & Tourism Zones;

4. Child Care Premises in the Residential, Rural-Residential, Viticulture & Tourism Zones and Tourism Zones;
5. Educational Establishment in the Residential Zone;
6. Holiday (Multiple/Grouped Dwelling) in all of the Zones in which it is permissible;
7. Hotel in all of the Zones in which it is permissible;
8. Industry Extractive in all of the Zones in which it is permissible;
9. Medical Centre in the Residential Zone;
10. Nightclub in all of the Zones in which it is permissible;
11. Place of Worship in the Residential, Rural, Viticulture & Tourism and Rural Residential Zones;
12. Tavern in all of the Zones in which it is permissible; and
13. Wind Farm in all of the Zones in which it is permissible.

The identification of applications for 'A' land uses as complex is set out in 4.1.3 of the Draft Policy.

Non-conforming uses

A non-conforming use is one that either did not require development approval or has lawfully received development approval in the past, but due to subsequent changes in the planning framework, would be a prohibited land use now, and no longer capable of receiving development approval if applied for today. Clause 3.11 of the Scheme provides that non-conforming uses enjoy 'non-conforming use rights', which allow for the continuation of the use, and also provide a right to apply to alter, extend or change the development.

An application to alter, extend or change a non-conforming use (i.e. to change from one non-conforming use to another) is, by definition, an application to undertake development that could not otherwise be approved on the subject site or, in most but not all cases, other land in the vicinity. As such, it is considered more likely than would otherwise be the case that it would be an application that would generate significant community interest or be of strategic importance – and that is the key reason why it is proposed that such applications be identified as complex.

The identification of applications for non-conforming uses as complex is set out in 4.1.4 of the Draft Policy.

Applications subject of, or not consistent with, a Structure Plan

Land in urban growth areas is usually in the 'Urban Development' Zone, and the zoning and other land use controls are generally set out in a Structure Plan (noting that a Structure Plan guides future subdivision and zoning – and in the case of a Precinct Structure Plan, can also guide future development). The same is true for land in the 'Industrial Development' Zone – noting the only land currently in that Zone is the planned, but not yet commenced, 'Airport North' industrial area.

Structure Plans do not include or incorporate the Zoning Table as such, and in effect all land uses are discretionary ('D') land uses – and there are no prohibited ('X'), permitted ('P') or advertised ('A') land uses as such. The fact that there are no prohibited uses also means there are no non-conforming uses. Applications can also be lodged before a Structure Plan has actually been lodged or approved.

The effect of the above is that applications can be lodged either before there is any specific land-use guidance or controls, or for what are proposed, in time, to be identified as prohibited land uses.

There is a high likelihood that such applications would be of strategic importance – most often that approval could be inconsistent with and undermine strategic direction. Given that, it is considered that applications that are inconsistent with a Structure Plan, or which relate to land for which a Structure Plan is required but has not yet been adopted, should also be treated as complex.

It is also proposed, however, that inclusions and exclusions for ‘A’, ‘P’ and some specific land uses also apply where there is an adopted Structure Plan, consistent with what would apply if land subject of an adopted Structure Plan was zoned in accordance with that plan. Once land subject of a Structure Plan has been subdivided, the Deemed Provisions and current practice require that the land is subject of a ‘Basic Amendment’ to remove the land from the Urban Development or Industrial Development Zone, and to instead zone the land as per the proposed zoning shown on the Structure Plan.

The identification of the application types described above as complex is set out in 4.1.2 (b), 4.1.3 (b) and 4.1.5 of the Draft Policy.

Exclusions

Some exclusions to the scope of complex applications outlined above are proposed in part 4.2 of the Draft Policy -

1. An application to amend or cancel a development approval.
2. The reconsideration of an application that is subject of an application for review (‘appeal’) with the State Administrative Tribunal (SAT).
3. Relatively minor development, unlikely to generate significant community interest or be of strategic importance.

An application to amend or cancel a development approval is made pursuant to clause 77 of the Deemed Provisions. Applications to cancel a development approval are very rare, but applications to amend are fairly common, especially for more significant developments.

Clause 77 (2) sets out that an application to amend or cancel is to be assessed as if it was a new application, but clause 77 (3) allows the local government to waive or vary a requirement that would apply to a new application. The intent of clause 77 (3) is, in substantial part, to allow applications to amend approvals to be assessed in a reasonably efficient fashion, with the local government being granted discretion to not advertise amendments or seek input from State agencies where it is considered that the amendment is unlikely to create any new issues requiring consideration. Usually, applications to amend involve relatively minor changes to approvals, and no further advertising is considered necessary.

The Draft Policy would not, however, mean that applications to amend could not be advertised if it was seen as appropriate to do so. Also, if considered appropriate, because the local government has the discretion to vary a requirement, the City could therefore advertise an application to amend as a complex application if considered appropriate, notwithstanding the policy. Conversely, even in the absence of this aspect of the Draft Policy, clause 77 (3) would still allow the local government to vary the advertising requirement for an application that the Draft Policy identifies as being complex, and either not advertise at all, or advertise as per a non-complex application. As most applications to amend are not advertised at all, though, it is seen as more transparent to not identify applications to amend as complex in the policy – making it clear that they will generally not be advertised as complex applications.

With respect to an application that is subject of an application for review with the SAT and that is being reconsidered, depending on the circumstances, reconsideration could be by City officers acting under delegation, by the Council or by a DAP. Reconsideration may also involve the application as previously considered without change, or an application that has been modified to a lesser or greater degree. If the application has been modified, however, it would almost invariably be modification(s) designed to address issues raised as a result of advertising the application.

In such a context, it is considered that further advertising would often not be necessary or appropriate. The Draft Policy would, however, not preclude further advertising (or referral to State agencies) where it was considered appropriate. Also, if the decision-maker felt that more extensive advertising was appropriate, that could be identified and agreed with the applicant as part of the SAT process.

The final exclusion is for relatively minor development, such as an addition to an existing approved development, or a minor component of a development in a Zone where that use is an A use. Consideration was given to including some further detail around this aspect of the Draft Policy, but doing so was not seen as appropriate, mostly because of the diversity of applications that may be received, and the capacity for applicants to break applications down into smaller components, pursued via separate applications, to avoid the complex application advertising requirements.

It should be noted that, whilst different decision-makers can form different views on the exercise of the same discretionary power, other than for uses-not-listed, at the present time the identification of complex applications is currently an entirely discretionary matter, and subject to the agreement of the applicant, and the draft policy would reduce the extent of discretion required, and remove the need to obtain applicant agreement, even with the inclusion of part 4.2 (c).

Child care centres

Child Care Premises is an 'A' use in the Residential, Rural-Residential, Viticulture & Tourism Zones and Tourism Zones, but a 'D' use in the Rural, Service Commercial and the various Centre Zones. In some but not all cases, the development of a new Child Care Premises would also entail development over \$2M in value. As a result, given parts 4.1.1, 4.1.2 and 4.1.3 of the Draft Policy, most applications for new child care centres would be identified as complex.

There is a possibility, however, that an application for a new child care centre may arise in one of the Zones where it is a 'D' use and with a development value below \$2M, but also be in close proximity to one or more dwellings – meaning that consideration of potential noise impacts would be required. As a result, part 4.1.6 has been included in the Draft Policy, identifying any application for a Child Care Premises within 100 metres of a dwelling as complex.

Additional advertising requirements

In part 4.3 of the Draft Policy, two additional advertising requirements for complex applications are also set out, being the publication of a notice in a newspaper circulating in the District, as well as a notice on social media. It is seen as appropriate that those additional means are used with complex applications.

Statutory Environment

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

Relevant Plans and Policies

The Community Engagement Council Policy has been considered in the preparation of this report.

Financial Implications

There are no significant financial implications associated with the officer recommendation.

Stakeholder Consultation

Draft local planning policies are required to be advertised for a period of a minimum of 21 days before being considered for final adoption by the Council. The Deemed Provisions also require that a copy of a draft policy is available on the City's website and available at the City's office during the advertising period. It is envisaged that the advertising period would be a minimum of 28 days, and that the Draft Policy would also be advertised via a newspaper notice and direct correspondence to key community groups (e.g. PLGLOA, DDPA).

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could -

1. Not adopt the Draft Policy; or
2. Modify the Draft Policy prior to adoption as a draft for advertising purposes.

CONCLUSION

It is considered that the Draft Policy, if adopted in final form, would help ensure that applications that are likely to be of significant community interest and/or strategic importance would be subject of longer and broader advertising/consultation processes than would be the case in the absence of the policy. That is considered to be appropriate and, as such, it is recommended that the Council adopt the Draft Policy for advertising.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

It is envisaged that advertising would commence in July, with a view to the Draft Policy being further considered by the Policy & Legislation Committee in September and the Council in October.

12.3 Policy and Legislation Committee - 10/5/2023 - CONSOLIDATED PARKING SCHEME AMENDMENT - PROWSE WAY, DUNSBOROUGH

STRATEGIC THEME	LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing
STRATEGIC PRIORITY	2.10 Provide local road networks that allow for the safe movement of people through the District.
SUBJECT INDEX	Consolidated Parking Scheme
BUSINESS UNIT	Ranger Services
REPORTING OFFICER	Ranger & Emergency Services Coordinator - Ian McDowell
AUTHORISING OFFICER	Director Planning and Development Services - Paul Needham
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Line Marking and Sign Installation Layout Plan: No Stopping Road or Verge (adjacent to 17 Prowse Way) 

This item was considered by the Policy and Legislation Committee at its meeting on 10/5/2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council:

1. Resolves, pursuant to clause 2.1(1)(a) of the *City of Busselton Parking Local Law 2020*, that the bend abutting 17 Prowse Way, Dunsborough be determined a no-stopping road or verge area as shown in the attached Line Marking and Sign Installation Plan (Attachment A);
2. Notes:
 - (a) that the resolution will take effect after the giving of public notice by the CEO; and
 - (b) the Consolidated Parking Scheme will be amended to reflect the resolution.

OFFICER RECOMMENDATION

That the Council:

1. Resolves, pursuant to clause 2.1(1)(a) of the *City of Busselton Parking Local Law 2020*, that the bend abutting 17 Prowse Way, Dunsborough be determined a no-stopping road or verge area as shown in the attached Line Marking and Sign Installation Plan (Attachment A);
2. Notes:
 - (a) that the resolution will take effect after the giving of public notice by the CEO; and
 - (b) the Consolidated Parking Scheme will be amended to reflect the resolution.

EXECUTIVE SUMMARY

The Consolidated Parking Scheme (CPS) is an administrative document including a series of maps that details vehicle parking restrictions across the District. Restrictions include no-stopping zones.

This report seeks to establish a no-stopping zone, road or verge, on the bend adjacent to 17 Prowse Way, Dunsborough. The extent of the no-stopping zone is shown on the linemarking and sign installation layout plan at Attachment A.

The report has been prepared following an approach from a resident on the street, acting on behalf of himself and others, raising concerns about parking management in the area.

BACKGROUND

On 16 February 2023, the City received a letter from a resident, acting for and on behalf of a number of residents of Prowse Way, identifying concerns a number of perceived parking and traffic issues in Prowse Way including:

- The all-day carpark in Prowse Way adjacent to Dugalup Brook Reserve is full every day of the week;
- Once these bays are full, people park on the Dugalup Brook Reserve and down both sides of the street;
- People regularly park on verges and on driveways and the vacant block at number 21;
- The apex of Prowse Way, at the entrance to the all-day carpark, is a 90 degree bend;
- All day parking on both verges, including under the trees on Dugalup Brook Reserve has created a blind corner from pedestrian and residents; and
- Residents are occasionally hindered accessing their own residences and driveways, some experience difficulties when backing trailers onto and from the thoroughfare
- Tradespeople (e.g. lawn mowing contractors) with trailers cannot always park in front of the house they are working at.

OFFICER COMMENT

City officers have completed an assessment of the parking and traffic behaviour in the area, and have determined that there are parking issues on Prowse Way that are of sufficient concern to require some management. The measures considered appropriate, most of which do not require a Council resolution, and some of which have already been implemented, are outlined later in this section of the report. Prior to setting out that information, however, it is seen as appropriate to outline broader principles that may be usefully applied to considering parking management in a context such as Prowse Way.

In broad terms, it is considered that, especially in areas close to or within activity centres (i.e. Busselton City Centre, Dunsborough Town Centre, Vasse Village Centre and a number of smaller centres), there will be increasing pressure to make greater of on-street carparking capacity. Under both parking control laws and the planning framework, there are in fact inherent rights for people to park on-street – including for people not residents on the street. There are not, however, the same inherent rights with respect to parking on the verge.

Also, in contexts where the demand exists, it may often be sensible to make use of surplus on-street parking capacity, rather than constructing additional car parking areas in other locations, or simply not having as much car parking capacity available. Constructing additional car parking capacity comes not only at a financial cost, but also increases the paved/impermeable area within the urban environment, contributing to the urban heat island affect and reducing the area available for trees or other landscaping. Without acquiring land, there is also a finite amount of land on which the City can deliver additional public parking.

Making a decision to not allow use of on-street car parking capacity without providing additional car parking capacity elsewhere also imposes costs, as the parking is not available to meet the demand. Whilst it is also noted that there can be net benefits from not having enough car parking supply to meet demand, as it encourages other forms of transport, because the urban areas in the District, and the District in general, have developed at very low densities and are extremely car dependent, the capacity to induce behaviour change by deliberately restricting car parking capacity is quite limited.

It does need to be recognised, though, that parking pressure in a street can have amenity impacts on the owners and occupiers of property on that street. Parking pressure can also have safety implications especially where there are footpaths, on-street car parking can often enhance pedestrian safety, as parked cars act as a barrier between the footpath and vehicle traffic. In locations where there is no, or very limited, on-site parking on the properties on a street, there can also be a need to manage on-street car parking to ensure that owners and occupiers on a street have somewhere to park (i.e. on-street parking capacity needs to be protected for those who own or occupy the property on the street, otherwise there is nowhere available for them to park – which is not the case on Prowse Way). Other amenity impacts could include people parking on verges, blocking driveways, or from noise associated with parking activity.

Essentially, it is considered that there needs to be a balanced consideration of broader parking demand and supply issues, whilst identifying impacts on the owners and occupiers of property on a street or area, and finding appropriate ways to mitigate those impacts if required.

Officers have identified a number of actions that, once implemented, are expected to mitigate the impacts of car parking in this area. These are:

- Within the all-day carpark, restrict parking to the designated bays only;
- Install no parking signs and bollards on Dugalup Brook Reserve; and
- Establish a no-stopping road or verge zone, on the bend abutting 17 Prowse Way, as shown on the linemarking and sign installation layout plan at Attachment A – the specific recommendation of this report.

The City has already completed the following works, which do not require a resolution of the Council:

- Bollards have been installed along the boundary of the Dugalup Brook Reserve, Prowse Way and the all-day carpark. The bollards act as a physical barrier to prevent people parking on the Reserve;
- A new sign advising that parking on Dugalup Brook Reserve is prohibited has been installed on the Reserve (this is already prohibited under the provisions of the *Parking Local Law 2020* so does not require a resolution of the Council); and
- Linemarking in the all-day carpark will be/has been refreshed to better delineate the parking bays. In addition to this, a new sign has been installed at the entry to the car park advising this is an all-day carpark “marked bays only”. These measures, along with the installation of the bollards will ensure that people park only in designated bays.

Although provisions already exist within the *Parking Local Law 2020* to prohibit people stopping on a carriageway in a position (e.g. on a curve) where it is not visible to the driver of an overtaking vehicle from a distance of 50m in a built-up area, photographs provided by the residents of Prowse Way in support of their submission show this sometimes occurs on the road and verge abutting 17 Prowse Way.

In the interest of improved community safety at this location, formalisation of the proposed no-stopping zone will clarify this restriction to all road users.

Residents of Prowse Way also requested consideration of ‘residents only’ parking restrictions on Prowse Way. The City’s *Parking Local Law* already sets out that people can only park on a verge with the consent of the adjoining property owner or occupier. The City, however, will only be aware of any issues in this regard when advised by the owner or occupier. City officers have and expect to continue communicating with residents around controls related to verge parking, with the aim of educating both the residents and those looking to park on Prowse Way about the controls, as well as advising of alternative parking locations.

The *Parking Local Law 2020* does not, allow for establishment of ‘resident only’ parking areas. Timed parking controls would also apply to both residents and others in the same way. Whilst some local government parking local laws allow for establishment of ‘permit parking’ areas, the City’s does not, and it is not considered that the kinds of issues that would require introduction of permit parking areas exist in the District to any significant degree at present.

An option that officers have considered to further manage parking pressure on Prowse Way, but is not recommended at this stage, is to line-mark car parking bays. Once bays are marked, people are required to park their vehicles within the marked bays. The marking of bays would therefore be expected to reduce the incidence of people parking in inappropriate locations. Because of the design standards that would need to be applied, such an action would also reduce the total amount of space available for parking. It is considered, however, that it is not necessary to do so at this stage, and that the impact of the other actions already undertaken or recommended in this report should be assessed before considering further actions to manage car parking on Prowse Way.

Another option considered is the construction of a footpath on portion(s) of Prowse Way. That would, however, need to be considered in the context of the City’s broader capital works programme, and considered and prioritised alongside other potential footpath projects.

Statutory Environment

City of Busselton Parking Local Law 2020

Pursuant to clause 1.10 Powers of the Council: the Council may, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

Pursuant to subclause 2.1(1)(e) Determination of Parking Stalls: parking stations and parking areas: the Council may by resolution constitute, determine or vary no stopping areas.

Pursuant to subclause 3.10(2) Parking on Private Land: a person must not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.

Pursuant to clause 3.11 Parking on Reserves: a person, other than an employee of the local government in the course of his or her duties or a person authorised by the local government, must not drive or park a vehicle on or over any portion of a reserve other than on an area specifically set aside for that purpose.

Pursuant to subclause 6.5(1) Stopping on Crests, Curves etc.: a driver must not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres in a built-up area.

Pursuant to subclause 6.9(1)(a) Stopping on Verge: a person must not stop a vehicle so that any portion of it is on a verge.

Pursuant to subclause 6.9(1)(c) Stopping on Verge: a person must not stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge so that any portion of it is on a verge.

Pursuant to subclause 6.9(2) Stopping on Verge: subclause 6.9(1)(a) does not apply if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.

Pursuant to subsection 6.10(2)(a) Obstructing Access to and from a Path, Driveway etc.: a driver must not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless the driver is dropping off, or picking up passengers.

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

The review of the parking controls at Prowse Way was triggered from a letter representing 15 households in the area (12 households in Prowse Way, and another 3 in close proximity of streets around Prowse Way). There are a total of 30 households in Prowse Way.

Officers from the City have met with representatives from that group to discuss matters other than those directly related to parking issue which are the subject of this report. Representatives from the group have also been advised of the actions already taken by the City, and the proposed establishment of the no stopping zone abutting 17 Prowse Way. They have requested to meet with officers on-site to further discuss parking issues, this meeting is scheduled for 22 May 2023 which is after the Policy and Legislation Committee meets.

Officers have advised the owner of 17 Prowse Way, who is not a signatory to the letter provided by residents of Prowse Way, but who is most affected by the implementation of the proposed no-stopping road or verge restrictions of this proposal. The owner of the property is in favour of the proposal to create a no-stopping zone on the bend abutting 17 Prowse Way.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve to establish a formal no-stopping road or verge zone over a greater, or entire length of Prowse Way on both sides of the road.
2. Resolve to establish a formal no-stopping road or verge zone over a greater, or entire length of Prowse Way on one side of the road.
3. Choose not to establish a formal no-stopping road or verge zone anywhere in Prowse Way.

CONCLUSION

Pursuant to clause 1.10 of the *Parking Local Law 2020*, the Council may, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

Pursuant to subclause 2.1(1)(e) of the *Parking Local Law 2020* this report recommends that the Council resolves to establish a no-stopping on the road or verge on the bend abutting 17 Prowse Way, as shown on the linemarking and sign installation layout plan at Attachment A.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If approved by the Council, the implementation of the officer recommendation will come into effect after the giving of public notice by the Chief Executive Officer of the Council determination, and following the installation of signs giving effect to the determination. This is expected to take no more than 28 days following the date of the Council resolution.

12.4 Policy and Legislation Committee - 10/5/2023 - BUSHFIRES BRIGADES LOCAL LAW

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Local Laws
BUSINESS UNIT	Legal Services
REPORTING OFFICER	Legal Officer - Briony McGinty
AUTHORISING OFFICER	Acting Director, Finance and Corporate Services - Sarah Pierson
NATURE OF DECISION	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A WALGA advice  Attachment B 1968 Bush Fire Brigades Local Law  Attachment C Marked-up Proposed Local Law  Attachment D Clean Proposed Local Law 

This item was considered by the Policy and Legislation Committee at its meeting on 10/5/2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council:

1. Commences the law-making process for the City of Busselton Bush Fire Brigades Local Law; the purpose and effect of the local law being as follows:

Purpose: To make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.

Effect: Bush fire brigades are created in accordance with the *Bush Fires Act 1954*.
2. Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the *Local Government Act 1995*, by:
 - (a) Giving local public notice of the Proposed Local Law; and
 - (b) Giving a copy of the Proposed Local Law and public notice to the Minister for Local Government and the Minister for Emergency Services.
3. Notes that the CEO, after the close of the public consultation period, will submit 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.

OFFICER RECOMMENDATION

That the Council:

1. Commences the law-making process for the City of Busselton Bush Fire Brigades Local Law; the purpose and effect of the local law being as follows:

Purpose: To make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.

Effect: Bush fire brigades are created in accordance with the *Bush Fires Act 1954*.
2. Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the *Local Government Act 1995*, by:

- (a) Giving local public notice of the Proposed Local Law; and
 - (b) Giving a copy of the Proposed Local Law and public notice to the Minister for Local Government and the Minister for Emergency Services.
3. Notes that the CEO, after the close of the public consultation period, will submit 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.

EXECUTIVE SUMMARY

The *City of Busselton Bush Fire Brigades Local Law* (Proposed Local Law) is presented to Council for consideration. The Bush Fire Advisory Committee (BFAC) and City Officers have identified a need for a new local law relating to bush fire brigades. This is supported by recent advice from DFES and WALGA regarding the requirement to establish brigades pursuant to a local law. It is recommended that the Council initiates the law-making process and authorises the CEO to give local public notice of the Proposed Local Law.

BACKGROUND

The City has operated a number of bushfire brigades over many years. The management of those brigades has occurred through a variety of policies as well as requirements under the *Bush Fires Act 1954* (BF Act). At the BFAC meeting on 13 December 2022 a motion was passed to review these management policies. It was determined by officers upon review that a bush fire brigade local law could replace these policies.

In addition to this, local governments were recently contacted by both DFES and WALGA regarding the requirement to establish bushfire brigades pursuant to a local law. Separate advice from DFES and WALGA both confirmed that there were certain risks attaching to bushfire brigades operating without being established under a local law. However, those risks were minimal in the short term provided a local government had appointed Bushfire Fire Control Officers (FCOs) in accordance with the BF Act; which the City does. A summary of WALGA's advice is provided at Attachment A.

The City already has a local law relating to bush fire brigades, found at Attachment B. However, it was gazetted in 1968 and no longer fit for purpose.

In order to comply with the BF Act, City officers have drafted a local law, based on the WALGA model template. This model is understood to be acceptable to the Joint Standing Committee on Delegated Legislation (JSC) (discussed further under Statutory Environment). In consultation with BFAC, officers have made changes to the model, in order to achieve a more contemporary local law, as well as ensuring consistency (where feasible) with existing brigade management practices and policies.

OFFICER COMMENT

The Proposed Local Law is based on the WALGA model and is consistent with those of many other local governments who have adopted a bush fire brigades local law. A number of amendments have been made to the model, which can be seen in the "marked-up" version at Attachment C.

The local law is divided into parts, described further below:

Part 2 – Establishment of Bush Fire Brigades

This part provides that a local government can create brigades. It then lists the positions to which a local government must appoint persons. Following the first AGM of a brigade, those positions are thereafter appointed by the brigade themselves. In a fire ground situation, the chain of command is also established through Part 2, Division 2.

This part also incorporates the Rules (at Schedule 1) to be the Rules of each brigade. Existing brigades continue to operate as if they were established under the local law.

Part 3 – Organisation and maintenance of Bush Fire Brigades

The Chief Bush Fire Control Officer (Chief FCO) has primary managerial responsibility for organisation and maintenance of brigades. Brigades must hold annual general meetings, and nominate brigade members to serve as the FCO at the Bush Fire Advisory Committee (BFAC). The BFAC then nominates a person for the position of FCO to the local government.

Part 4 – Types of Bush Fire Brigade Membership

The membership types reflect those currently operating within the City's brigades, with the exception of Honorary life member. This has been included within the Proposed Local Law to reflect a motion passed at the BFAC meeting of 13 December 2022 to amend the bush fire brigade management policies to incorporate this membership type.

Part 5 – Appointment Dismissal and Management of Members

Part 5 refers to the Rules (contained in Schedule 1) for dealing with brigade member management.

Part 6 - Equipment of Bush Fire Brigades

Part 6 provides for the making of policies, the provision of equipment and funding requests to the local government.

First Schedule – The Rules

The first schedule outlines the Rules under which the brigades are to operate. This is akin to the rules (or Constitution) of an incorporated association. City officers have spent time with BFAC members in different forums to ensure that the proposed model is fit for purpose for brigades, and in particular those that are currently incorporated. Under section 42A of the BF Act a brigade may be incorporated or otherwise. So the registration of some brigade groups as incorporated associations for purposes such as fundraising and community engagement, does not impact on the creation of the brigade by the local government for purposes under the BF Act.

Statutory Environment

Local Government Act 1995

Section 3.5 of the Act provides Council with the head of power for making local laws, which stipulates:

A local government may make Local Laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.

Pursuant to section 41(1) of the BF Act, where a local government elects to establish a bushfire brigade it must do so in accordance with local laws it has made for that purpose.

Section 62 of the BF Act provides a general power to make local laws relating to bushfire brigade matters for –

- (a) *the appointment, employment, payment, dismissal and duties of bush fire control officers; and*
- (b) *the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local government; and*

- (c) *any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local government by this Act.*

The procedure for making local laws is set out in sections 3.12 to 3.17 of the Act and regulation 3 of the *Local Government (Functions and General) Regulations 1996* (WA). The person presiding at a Council meeting is to give notice of the purpose and effect of a proposed local law by ensuring that:

- the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- the minutes of that Council meeting include the purpose and effect of the proposed local law.

The purpose and effect of the Proposed Local Law is as follows:

Purpose: To make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.

Effect: Bush fire brigades are created in accordance with the *Bush Fires Act 1954*.

Local public notice is to be given by advertising the Proposed Local Law in accordance with the requirements of sections 3.12(3) of the Act. The submission period must run for a minimum period of six weeks after which Council, having considered any submissions received, may resolve to make the local law as proposed or make a local law that is not significantly different from what was proposed.

Parliamentary Scrutiny

Section 42 of the *Interpretation Act 1984* allows the WA State Parliament to disallow a local law, which is a mechanism to guard against the making of subsidiary legislation that is not authorised or contemplated by the empowering enactment, has an adverse effect on existing rights or ousts or modifies the rules of fairness. Parliament has appointed the Joint Standing Committee on Delegated Legislation (JSC) which is a committee of State politicians from both houses of the Western Australian Parliament, to undertake an overseeing role on its behalf, which includes the power to scrutinise and recommend the disallowance of local laws to the Parliament. After gazettal, a copy of the Local Law will be sent to the JSC who will examine the local law and determine whether or not it complies with the abovementioned criteria.

Relevant Plans and Policies

There are a number of City policies relating to bush fire brigades. These policies will continue to operate in the short term. However, should the local law be adopted, these policies will be superseded and will be presented to Council for repeal.

Financial Implications

Costs associated with the advertising and gazettal of the Proposed Local Law will come from the legal budget. These costs are unlikely to exceed \$2,000. Making and implementing the Proposed Local Law should not have any other financial implications for the City.

Stakeholder Consultation

Should Council resolve to commence the process of making the Proposed Local Law, public submissions will be invited as part of the statutory consultation process prescribed under section 3.12(3) of the Act. The submission period must run for a minimum period of 6 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.

It should be noted that City officers commenced consultation with BFAC prior to presentation to Council. A draft local law was distributed to BFAC prior to its meeting of 14 March 2023, with a robust discussion of the item taking place at this meeting. A motion was passed supporting further development of the local law, which included referring the matter to a working group for detailed consideration.

On 29 March 2023 the City convened a meeting between the Chief FCO and deputies along with a representative of WALGA to discuss the background to the advice from WALGA and DFES, as well as the status of the proposed consolidated emergency services legislation. During this meeting City officers also presented amendments to the tabled draft that incorporated the feedback and queries provided by BFAC members to date.

On 4 April 2023 officers again met with BFAC members to discuss the draft local law and its implementation. All queries and feedback provided to the City from BFAC members were incorporated by way of amendments or responsive comments into the Proposed Local Law.

As a result of those meetings, City officers are able to present the Proposed Local Law at Attachment D. The Proposed Local Law has been distributed to the City's 22 FCOs who were provided with the opportunity to virtually indicate their support for or against. By 4 May 2023 the City had received 18 responses, with 18 for, and 0 against. The Proposed Local Law will also be formally referred back to BFAC at its meeting 13 June 2023, and the results of that formal resolution will be presented to Council.

Risk Assessment

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

Under the BF Act the City is required to adopt a bush fire brigades local law to ensure its brigades are properly established and brigade officers are properly appointed and empowered. The Officer Recommendation serves to mitigate the currently identified risk of bushfire brigades not being correctly established under the BF Act. Referring to the WALGA summary of advice, in the short term, the City has a local law (under which brigades are established) and also appoints FCOs pursuant to the BF Act; but the longer term risks need addressing.

Section 3.16 of the Act requires that all local laws of local governments must be reviewed within an 8 year period after their commencement to determine if they should remain unchanged or be repealed or amended. Since the Act came into force in 1996 there have been no amendments made to the City's existing local law relating to bushfire brigades.

There are a number of inconsistencies between the existing local law and the WALGA model and established brigade practices. Continuing to have management practices for brigades that are in conflict with the existing local law is a risk. As such officers consider it prudent to make a local law which is consistent with the WALGA model and in keeping with modern practices.

Options

As an alternative to the proposed recommendation the Council could choose to vary the provisions of the Proposed Local Law in any number of ways. However, for the reasons outlined in this report, the Proposed Local Law is the form of local law recommended at this stage.

There will be further opportunity for considering and making changes to the Proposed Local Law following the public consultation process outlined above, provided the changes are not significantly different from what is currently proposed. If any changes are of a significant nature the local law would need to be re-advertised.

CONCLUSION

It is recommended that the Council initiate the law-making process and authorise the CEO to commence advertising the Proposed Local Law.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Within two weeks of the Council decision to commence the law-making process, the Proposed Local Law will be advertised for public comment. The statutory consultation period is a minimum of six weeks and following the close of the advertising period a report will be submitted to the Council for further consideration which, depending on the number and nature of submissions received, could be within three months.

12.5 Audit and Risk Committee - 7/6/2023 - REVIEW OF THE AUDIT AND RISK COMMITTEE

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Review of Committees
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Acting Director, Finance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER	Chief Executive Officer - Tony Nottle
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Audit and Risk Committee Terms of Reference Proposed Edits 

This item was considered by the Audit and Risk Committee at its meeting on 7/6/2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council:

1. notes the outcome of the evaluation of the Audit and Risk Committee's (the Committee) effectiveness, in accordance with clause 8 of the Committee's Terms of Reference;
2. acknowledge that improvements in relation to increased information and training for members, and establishment of an internal audit function would improve its effectiveness;
3. requests that the CEO research the options and costs to establish an internal audit function, and present a report to the next Audit and Risk Committee meeting; and
4. endorses the amendments proposed to the Committee's Terms of Reference as per Attachment A.

OFFICER RECOMMENDATION

That the Council:

1. notes the outcome of the evaluation of the Audit and Risk Committee's (the Committee) effectiveness, in accordance with clause 8 of the Committee's Terms of Reference;
2. acknowledge that improvements in relation to increased information and training for members, and establishment of an internal audit function would improve its effectiveness;
3. requests that the CEO research the options and costs to establish an internal audit function, and present a report to the next Audit and Risk Committee meeting; and
4. endorses the amendments proposed to the Committee's Terms of Reference as per Attachment A.

EXECUTIVE SUMMARY

Under its Terms of Reference, the Audit and Risk Committee (the Committee), at a meeting prior to the ordinary Local Government Elections, is to undertake a review to evaluate its effectiveness. Committee Members and City officers have reviewed the effectiveness of the Committee and this report presents the outcomes of that review for the Committee's consideration.

BACKGROUND

Following the 2021 Council elections, and in accordance with clause 2.2 of the City of Busselton Standing Orders Local Law 2018, Council resolved to (re-)establish the Committee and adopted its Terms of Reference (ToR), which states:

8. EVALUATION OF COMMITTEE'S EFFECTIVENESS

8.1. *At the meeting of the Committee prior to the ordinary Council elections, the Committee shall undertake review to evaluate its effectiveness, and as a guide the following should be determined:*

- a. *are the Committee's purpose and objectives being met?*
- b. *should the purpose and objectives be amended?*
- c. *is the Committee functioning effectively and as per the requirements of the Act?*
- d. *are the Committee members regularly attending meetings?*
- e. *review the Terms of Reference, including membership.*

With Council elections to be held in October this year, officers initiated the review process.

OFFICER COMMENT

In order to facilitate the review a survey link was opened to the Committee and Deputy Committee Members of the Committee from Friday 28th April until Monday 1st May 2023. Each Member was asked to respond to the following questions and provide comments where appropriate or required:

- a. Do you feel the Committee's purpose and objectives are being met? – Yes / No / Partly.
- b. In your opinion, is the Committee functioning effectively? If no, how could this be improved?

In addition to the questions asked of Committee Members, City officers assessed the following questions through a review of attendance and minutes:

- a. Is the Committee functioning as per the functions of the Act?
- b. Are committee members' regularly attending meetings?

The table below sets out the collated responses:

Question	Collated Response
Do you feel the Committee's purpose and objectives are being met?	2 responses Partly <ul style="list-style-type: none"> • 1 response concerned about whether the Committee is fully meeting objective c (iv). 2 responses Yes
In your opinion, is the Committee functioning effectively?	2 responses Partly 2 Responses Yes

<p>If no, how could this be improved?</p>	<p>Audit Plan and resources to implement internal auditing of identified risk areas.</p> <p>Training for new members and overview of ToR and responsibilities.</p> <p>All members to meet with the financial auditors (as opposed to just the Chair or Chair and Mayor)</p> <p>The ToR be amended to insert the following <i>"Following Council elections, the CEO is to ensure those councillors elected to this Committee are provided with the current Terms of Reference, Local Government Act, Regulations, or Guidelines along with copies of any policy, local law, or document related to this Committee which will enable the member to fully understand the his/her role and function on this Committee"</i>.</p> <p>Further, the Committee members be provided the Auditor General's WA Public Sector Audit Committees Better Practice Guide and the recommendations provided for in the Guidelines be adopted at the very first meeting of the Committee.</p>
<p>Is the Committee functioning as per the functions of the Act?</p>	<p>Yes, the Committee has been established in accordance with the Act and meets all requirements of the Act</p>
<p>Are committee members' regularly attending meetings?</p>	<p>Yes</p>

Based on the responses provided, it is recommended that the Committee is largely operating effectively, albeit improvements are sought to improve its effectiveness; namely that the CEO research the options and costs to establish an internal audit function, and present a report to the next Audit and Risk Committee meeting. It is noted that this also aligns with a recommendation of the Regulation 17 Review also presented on this same agenda.

The suggestion with respect to additional training is noted and able to be provided. With respect to amending the ToR to require relevant reference documentation to be provided to Committee members, the reference documents noted are available on the hub for Councillors. Ensuring they are more readily available to Committee members through training and having them more directly linked to the Audit and Risk Committee folder is something that can be incorporated. It is not however recommended that a specific reference is added to the ToR as the ToR set out more the purpose and objectives along with the membership and meeting frequencies of the Committee.

Additionally the Auditor General's WA Public Sector Audit Committees Better Practice Guide (Better Practice Guide) can be provided. It is noted however that this document is a guidance document only and that, while it can be applied to local government entities, the Auditor General notes in the overview

"the specific legislative and regulatory requirements for State and local government entities are different and it is therefore difficult to have a one size fits all approach for better practice guidance". Entities need to consider their relevant legal and regulatory requirements as well as operating environment when using this guide".

The Local Government Operational Guideline (No. 9) – Audit in Local Government provides more directly relevant guidance as it takes into account the legislative and governance frameworks specific to local government and ensures compliance with the specific requirements governing local government audit committees. It also provides guidance on establishing appropriate control mechanisms, ensuring transparency in financial management, and effectively managing risks specific to the local government sector. Importantly it too recognises the need for flexibility and adaptability in implementing audit committee practices within local governments, acknowledging the diversity of local government entities.

For these reasons it is not recommended that the recommendations contained within the Better Practice Guide be adopted by the Committee.

With respect to the ToR the following amendments are proposed (Attachment A):

- Removing reference to medium rates risks at point 2.2(f) such that reporting is in relation to strategic risks regardless of risk level;
- Amendment to point 3.4 to provide for appointment of new members at either the next ordinary or a special council meeting post the election. With changes to the election process (preferential voting) flexibility is required;
- Increase the Committee's meeting frequency from two meetings per year to four. This aligns with improving the role of the Audit and Risk Committee and reflects the fact we have met more than twice this past year;
- Removal of the delegation to schedule and endorse dates, times and locations of meetings held by the Committee. Officers do not believe this requires a delegation.
- Amendment of point 8 evaluation of the committee's effectiveness to provide for one single Committee review report to be presented to Council as opposed to each Committee evaluating their own effectiveness. For many years officers have undertaken a review of the committees and their terms of reference (ToR) (along with working groups) and provided a report to Council with Council then determining which Committees are to continue and any changes to ToR's. This has worked efficiently and has provided Council with the opportunity to review their Committee structure. It is therefore recommended that this process be used;
- Replacement of 'shall' with 'will'.

Statutory Environment

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

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could choose to evaluate the effectiveness of the Committee differently and / or make different of further amendments to the ToR.

CONCLUSION

An evaluation of the Committee's effectiveness is required under the Committee's ToR. This report presents an evaluation for the Committee's endorsement and recommendation to Council.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The recommendation will be implemented in time for the local government elections.

12.6 Audit and Risk Committee - 7/6/2023 - CEO REVIEW OF SYSTEMS AND PROCEDURES (REG 17)

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Risk Management
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Acting Director, Finance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER	Chief Executive Officer - Tony Nottle
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Regulation 17 Review Report  Attachment B Risk Management Framework 

This item was considered by the Audit and Risk Committee at its meeting on 7/6/2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council

1. **Accept the CEO's Regulation 17 review of the appropriateness and effectiveness of the City of Busselton systems and procedures in relation to risk management, internal control and legislative compliance; and**
2. **request that the Chief Executive Officer provide quarterly updates to the Audit and Risk Committee on the progress of the recommendations for improvement identified as part of the review.**

OFFICER RECOMMENDATION

That the Council

1. Accept the CEO's Regulation 17 review of the appropriateness and effectiveness of the City of Busselton systems and procedures in relation to risk management, internal control and legislative compliance; and
2. request that the Chief Executive Officer provide quarterly updates to the Audit and Risk Committee on the progress of the recommendations for improvement identified as part of the review.

EXECUTIVE SUMMARY

Regulation 17 of the *Local Government (Audit) Regulations* (the Audit Regulations) requires the Chief Executive Officer to review the appropriateness and effectiveness of a local government's systems and procedures in relation to risk management, internal control and legislative compliance, and report the results of the review to the Audit (and Risk) Committee. The City engaged AMD Chartered Accountants (AMD) to undertake this review on behalf of the CEO and provide a report to the CEO with findings and recommendations. This report presents the findings of that review to the Audit and Risk Committee and subsequently to Council.

BACKGROUND

Regulation 17 of the Audit Regulations was introduced in early 2013, with the City presenting its initial review to the Audit Committee on 11 December 2014 (endorsed by Council on 28 January 2015). In accordance with Regulation 17 requirements (at the time) a second review was presented to the Audit Committee on 26 October 2016 (endorsed by Council on 9 November 2016).

In June 2018, Regulation 17 was amended with the period of review changed from once every 2 financial years to at least once every 3 financial years. The City therefore provided its next review to the Audit Committee in May 2020 (endorsed by Council on 20 June 2020).

All previous Regulation 17 reviews have been undertaken internally, with officers utilising tools such as the Department of Local Government's Operational Guideline – Audit in Local Government – and the Local Government Accounting Manual (in relation to internal control) and the previous extended version of the Compliance Audit Return (in relation to legislative compliance).

OFFICER COMMENT

As part of maturing our systems and processes with respect to Audit and Risk, the CEO determined it would be appropriate to have an independent Regulation 17 review conducted. AMD, a leading local government audit, accounting and advisory firm in Western Australia, was therefore engaged to complete the review. AMD attended the City during the week ending 12 May 2023, with their findings presented in the attached report (the Report) (Attachment A).

As per the summary of findings (section 1.2 of the Report), AMD found that, subject to 12 further recommendations, "in context of the City's overall risk, internal control and legislative compliance environments, policies, procedures and processes in place are appropriate, and have been operating effectively at the time of the review".

The table below summarises the 12 findings, with the Report providing more detail and recommendations in relation to each. As noted in the Report, the findings are on an exception basis and do not take into account the focus areas tested where policies, procedures and processes were appropriate and in accordance with best practice.

Ref	Issue	Risk Rating
Risk management		
Risk Management Framework and Risk Reporting		
2.2.1	Further enhancements recommended with respect to risk management and reporting including management through a centralised online system managed by a dedicated team.	High
Emergency Risks and Response Management		
2.2.2	Further enhancements recommended with respect to emergency risk documentation and management of brigades, emergency facilities and service level emergency equipment.	Medium
Misconduct, Fraud and Corruption Policy		
2.2.3	Suggest a formal Fraud and Corruption Control Plan be developed and implemented throughout the City. Also recommend the development of a communications strategy for ethics, fraud and corruption awareness and integrate this into the fraud and corruption control plan.	Medium
Contract Management		
2.2.4	The City does not have a Contractor Management Framework or dedicated contract manager to oversee contracts.	Medium
Tender Management		
2.2.5	Various documents in respect to two tenders selected by us for testing were unavailable. Recommend Council consider developing a policy for post tender reviews.	Medium
Risk Management Policies and Procedures		
2.2.6	A number of policies and procedures are outdated, requiring review and some City practices do not have documented policies and/or procedures.	Medium
IT Strategic Plan and Business Continuity Plan Testing		
2.2.7	IT Strategic Plan in progress and not yet approved. Business Continuity Plan (Disaster Recovery Plan) not formally tested or reviewed since 2019.	Medium
Lease Management		
2.2.8	Recommend ensuring the required insurance coverage is in place by the lessee and current.	Low
Internal controls		
BAS Lodgement Relief		
3.2.1	Our inquiries indicated the Finance Coordinator is the only employee with access to the ATO portal to lodge BAS.	Low
Legislative compliance		
Compliance Calendar		
4.2.1	The City does not have a centralised Compliance Calendar.	Medium
Audit and Risk Committee		
4.2.2	Various enhancements and improvements suggested in relation to the operation of the City's Audit and Risk Committee.	Low
Internal Audit		
4.2.3	There is currently no formal internal audit function in place.	Low

Some discussion in relation to each aspect of the findings is provided below.

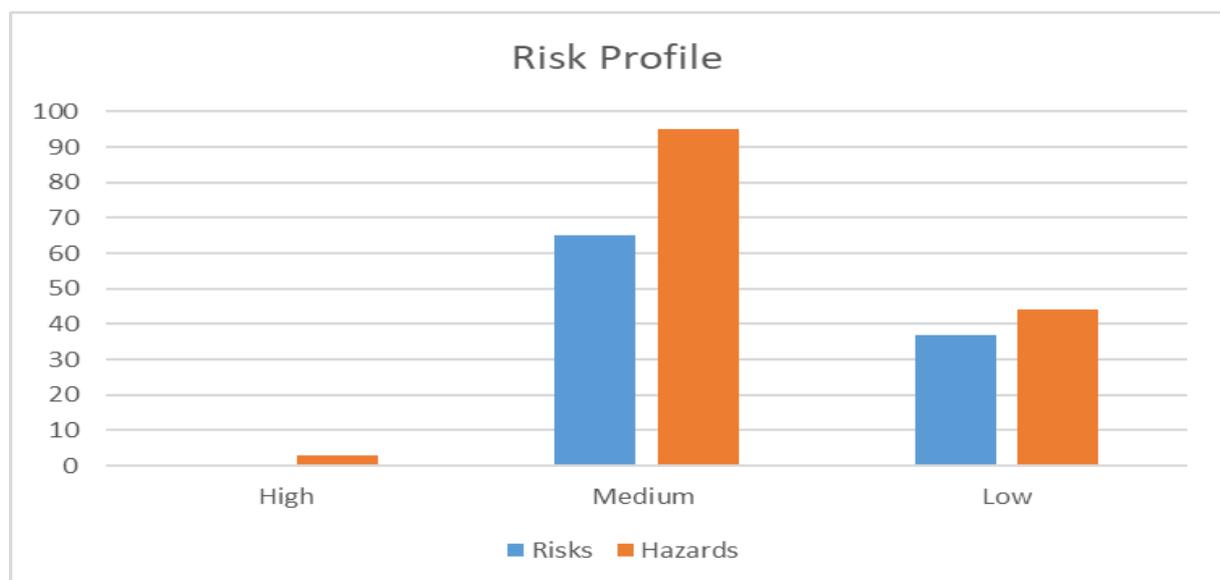
Risk Management

By way of background, the City's formal risk management system is outlined in the City's Risk Management Framework (Attachment B). This framework contains the City's risk reference tables, the City's risk tolerance levels, and the City's risk management processes and procedures.

Risks are most commonly identified formally at an operational level, either through business planning processes or as they arise during the year. Risks may also be identified through organisational processes such as safety inspections or investigations or in the process of planning for significant projects.

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

As at end of May 2023, the City has 102 risks formally captured within its 'corporate' risk management system and 142 evaluated hazards in its hazard register. The City's overall risk profile is shown below.



The City has in previous reviews found that its risk management processes were at a basic level of maturity and that there remained scope for the City to further integrate and mature its risk management system, subject to its resourcing levels. The City has historically employed a risk and OHS officer to coordinate delivery of both corporate and safety risk systems. Since the last Regulation 17 review in 2020, given changes in WHS legislation and noting the City has only 2 WHS positions, the focus of this position has shifted almost entirely to WHS. This has impacted in the coordination of corporate risk and certainly reduced the effectiveness of the City's risk management systems.

In light of this, the City agrees with finding 2.2.1 in relation to the risk management framework and risk reporting. Additional resourcing will be required to implement the recommendations. While proposals contained within the recent organisational review will help to realign risk responsibilities, a risk officer will likely be required to embed risk management beyond its current maturity level.

Similarly the City accepts the other findings under risk management (2.2.2 – 2.2.8). Work is already underway in relation to 2.2.2 - emergency risks and response management, 2.2.6 – policies and procedures and 2.2.7 – IT strategic plan and business continuity testing. In relation to 2.2.4 – contract management and 2.2.5 – tender management, documentation does exist to support some of the noted processes; and centralisation of procurement and contract management functions would facilitate reductions in risk through improved coordination and usage of such documents. It is however subject currently to resourcing limitations.

Internal Control

Previous reviews have identified that the City's internal control systems and processes are sound. This review makes only one low level finding in relation to a lack of back up and relief for the lodging of Business Activity Statements. This will be corrected as soon as we can establish access for another appropriate employee.

Legislative Compliance

The review undertaken in 2020 noted that the City relies on a combination of IT business systems, documented processes and procedures and appropriately qualified, and knowledgeable staff to ensure it complies with the varied laws impacting on its operations. While comfortable that legislative compliance was being achieved, it highlighted the benefits that a central governance / compliance system could bring.

AMD have echoed this sentiment recommending (4.2.1) that the City develop a centralised compliance calendar. In mid-2022 the City implemented the Attain governance system for management of gifts, primary and annual returns and delegations. It also has a compliance module which the City will look to implement.

In relation to findings 4.2.2 and 4.2.3, it is recognised that the City does not have an internal audit function and that reporting to the Audit and Risk Committee has been largely limited to statutory requirements (annual financial audit completed by the OAG (including general computer controls) and the annual Compliance Audit Return). Discussions have commenced internally (and also informally with Councillors) around implementing a more robust audit program. It is proposed that a further report be provided to the Audit and Risk Committee outlining the options and costs of doing so.

Statutory Environment

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

“17. CEO to review certain systems and procedures

- (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to –*
 - (a) risk management; and*
 - (b) internal control; and*
 - (c) legislative compliance.*
- (2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.*
- (3) The CEO is to report to the audit committee the results of that review.”*

Relevant Plans and Policies

The City of Busselton Risk Management Policy was adopted by Council on 10 May 2006. It has been reviewed on numerous occasions since then, the last time being 8 September 2021.

Financial Implications

There are no financial implications associated with the officer recommendation. Progression of the Report's recommendations in full however will have financial implications, with additional resourcing required in order to improve overall coordination of risk management, and to implement an internal audit function. Additionally, if the City was to further centralise coordination of its procurement and contract management functions, additional resourcing may be required. Further information and proposals will be presented to the Audit and Risk Committee / Council as part of the proposed regular updates.

Stakeholder Consultation

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

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. This review of the City's systems and procedures in relation to risk management, internal control and legislative compliance found no material risks of a medium or greater level.

Options

As an alternative to the proposed recommendation the Council could request the CEO to undertake alternative or additional actions in relation to risk management, internal control or legislative compliance.

CONCLUSION

Overall, the review undertaken by AMD concludes that the City has appropriate and effective systems and procedures in place to manage and mitigate risk; but identifies a number of areas for further improvement.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Progression of the Report's recommendations, subject to the management comments, will, bar review of the Bushfire Risk Management Plan, be complete by 30 June 2024. The Bushfire Risk Management Plan review will be complete by 30 June 2025.

12.7 Finance Committee - 7/6/2023 - LIST OF PAYMENTS MADE - APRIL 2023

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	List of Payments
BUSINESS UNIT	Financial Services
REPORTING OFFICER	Manager Financial Services - Paul Sheridan
AUTHORISING OFFICER	Acting Director, Finance and Corporate Services - Sarah Pierson
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A List of Payments - April 2023 

This item was considered by the Finance Committee at its meeting on 7/6/2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council notes payment of voucher numbers for the month of April 2023 as follows:

CHEQUE PAYMENTS	119647 - 119655	18,207.31
ELECTRONIC FUNDS TRANSFER PAYMENTS	94541 -95021 and 95025 - 95086	7,699,179.06
TRUST ACCOUNT PAYMENTS	EFT # 95022 - 95024	70,740.14
PAYROLL PAYMENTS	01.04.23 - 30.04.23	167,464.71
INTERNAL PAYMENT VOUCHERS	DD #5253 - 5280	1,696,104.49
TOTAL PAYMENTS		9,651,695.71

OFFICER RECOMMENDATION

That the Council notes payment of voucher numbers for the month of April 2023 as follows:

CHEQUE PAYMENTS	119647 - 119655	18,207.31
ELECTRONIC FUNDS TRANSFER PAYMENTS	94541 -95021 and 95025 - 95086	7,699,179.06
TRUST ACCOUNT PAYMENTS	EFT # 95022 - 95024	70,740.14
PAYROLL PAYMENTS	01.04.23 - 30.04.23	167,464.71
INTERNAL PAYMENT VOUCHERS	DD #5253 - 5280	1,696,104.49
TOTAL PAYMENTS		9,651,695.71

EXECUTIVE SUMMARY

This report provides details of payments made from the City's bank accounts for the month of April 2023 for noting by the Council and recording in the Council Minutes.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* (the Regulations) requires that, when the Council has delegated authority to the CEO to make payments from the City's bank accounts, a list of payments made is prepared each month for presentation to, and noting by, the Council.

OFFICER COMMENT

In accordance with regular custom, the list of payments made for the month of April 2023 is presented for information.

Statutory Environment

Section 6.10 of the *Local Government Act 1995* and more specifically Regulation 13 of the Regulations refer to the requirement for a listing of payments made each month to be presented to the Council.

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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

Risk Assessment

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

Options

Not applicable.

CONCLUSION

The list of payments made for the month of April 2023 is presented for information.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not applicable.

12.8 Finance Committee - 7/6/2023 - FINANCIAL ACTIVITY STATEMENTS - YEAR TO DATE AS AT 30 APRIL 2023

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Financial Activity Statements
BUSINESS UNIT	Financial Services
REPORTING OFFICER	Manager Financial Services - Paul Sheridan
AUTHORISING OFFICER	Acting Director, Finance and Corporate Services - Sarah Pierson
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Loan Schedule - April 2023  Attachment B Investment Report - April 2023  Attachment C Financial Activity Statement - April 2023 

This item was considered by the Finance Committee at its meeting on 7/6/2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council receives the statutory financial activity statement reports for the period ending 30 April 2023, pursuant to Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996*.

OFFICER RECOMMENDATION

That the Council receives the statutory financial activity statement reports for the period ending 30 April 2023, pursuant to Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996*.

EXECUTIVE SUMMARY

Pursuant to Section 6.4 of the *Local Government Act 1995* (the Act) and Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996* (the Regulations), a local government is to prepare, on a monthly basis, a statement of financial activity that reports on the City's financial performance in relation to its adopted / amended budget.

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the City's financial performance on a year to date basis, for the period ending 30 April 2023.

BACKGROUND

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

- Annual budget estimates
- Budget estimates to the end of the month in which the statement relates
- Actual amounts of revenue and expenditure to the end of the month in which the statement relates

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

Additionally, and pursuant to Regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year. At its meeting on 3rd August 2022, the Council adopted (C2208/198) the following material variance reporting threshold for the 2022/23 financial year:

That pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations, the Council adopts a material variance reporting threshold with respect to financial activity statement reporting for the 2022/23 financial year as follows:

- *Variances equal to or greater than 10% of the year to date budget amount as detailed in the Income Statement by Nature and Type/Statement of Financial Activity report, however variances due to timing differences and/or seasonal adjustments are to be reported only if not to do so would present an incomplete picture of the financial performance for a particular period; and*
- *Reporting of variances only applies for amounts greater than \$50,000.*

OFFICER COMMENT

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

Statement of Financial Activity

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

Net Current Position

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

Capital Acquisition Report

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

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

Reserve Movements Report

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

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

Comments on Financial Activity to 30 April 2023

The Statement of Financial Activity (FAS) for the year to date (YTD) shows an overall Net Current Position of \$7.6M as opposed to the YTD budget of (\$14.5M). Although this represents a positive variance of \$22.2M YTD, it should be noted that due to system issues relate to the implementation of the new system based budgeting tool, the budget timing of the transfers from reserves and restricted assets was misaligned (all in June), making it appear that we have budgeted for a \$14.5M deficit. Historically at this time of the FY, the net current position becomes closer to breakeven, as is evident from the full year budgeted position of a surplus of \$432K.

The following table summarises the major YTD variances that appear on the face of the FAS, which, in accordance with Council's adopted material variance reporting threshold, collectively make up the above difference. Each numbered item in this lead table is explained further in the report.

Description	2022/23 Actual YTD \$	2022/23 Amended Budget YTD \$	2022/23 Amended Budget \$	2022/23 YTD Bud Variance %	2022/23 YTD Bud Variance \$	Change in Variance Current Month \$
Revenue from Ordinary Activities				9.77%	7,437,516	260,218
1. Operating Grants, Subsidies and Contributions	2,627,029	2,131,040	3,432,638	23.27%	495,989	(136,968)
2. Fees & Charges	19,794,561	14,764,380	19,894,021	34.07%	5,030,181	272,655
3. Other Revenue	419,932	305,847	351,906	37.30%	114,085	(34,866)
4. Interest Earnings	3,327,536	1,606,493	2,019,250	107.13%	1,721,043	257,636
Expenses from Ordinary Activities				(14.90%)	(9,367,596)	(1,447,469)
5. Materials & Contracts	(15,927,005)	(10,338,600)	(23,421,561)	(54.05%)	(5,588,405)	(49,240)
6. Utilities (Gas, Electricity, Water etc)	(2,229,399)	(2,010,755)	(2,876,680)	(10.87%)	(218,643)	1,930
7. Insurance Expenses	(869,528)	(635,907)	(652,369)	(36.74%)	(233,621)	(82)
8. Other Expenditure	(4,150,601)	(2,193,273)	(7,627,766)	(89.24%)	(1,957,328)	(1,382,122)
9. Non-Operating Grants, Subsidies and Contributions	10,185,025	594,396	33,439,826	1613.51%	9,590,629	845,304
Capital Revenue & (Expenditure)			<i>Net</i>	26.87%	13,543,219	8,146,218
10. Land & Buildings	(10,197,560)	(13,696,362)	(41,606,124)	25.55%	3,498,802	1,274,786
Plant & Equipment	(1,065,706)	(1,295,606)	(4,773,534)	17.74%	229,900	(14,392)
Furniture & Equipment	(707,098)	(632,865)	(1,217,956)	(11.73%)	(74,233)	50,064
Infrastructure	(12,220,696)	(15,763,484)	(24,396,525)	22.47%	3,542,788	587,262
11. Proceeds from Sale of Assets	474,449	613,452	460,652	(22.66%)	(139,003)	50,207
12. Proceeds from New Loans	6,500,000	0	6,750,000	100.00%	6,500,000	0
13. Transfer to Restricted Assets	(23,585,881)	0	0	(100.00%)	(23,585,881)	(1,956,623)
14. Transfer from Restricted Assets	15,494,072	0	13,038,048	100.00%	15,494,072	1,343,384
15. Transfer from Reserves	9,039,472	(34,134)	40,835,585	(26582.31%)	9,073,606	7,028,588

Revenue from Ordinary Activities

In total, revenue from Ordinary Activities is 9.8% ahead YTD. There are however material variance items contained within this category, on the face of the FAS, that require comment.

1. Operating Grants, Subsidies and Contributions

Ahead of YTD budget by \$496K, or 23.3%, mainly due to the items listed in the table below:

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
<i>Finance and Corporate Services</i>		886,740	687,808	198,932	28.9%	26,564
1028	Governance and Corporate Services	29,572	-	29,572	100.0%	-
Actuals relate to 2 x Parenting Leave Reimbursements which were not budgeted for. These are offset by the actual wages paid to the employee while on parental leave.						
1030	Human Resources	39,048	-	39,048	100.0%	176
The actuals relate primarily to Workcover wages reimbursement from LGIS. This is not something that can be reliably estimated, hence there is no budget figure for the year.						
1033	Financial Services	72,673	167,841	(95,168)	(56.7%)	12,014
The variance to budget relates to mainly Insurance Reimbursements. The total budget for the year is an estimate based on prior years, with monthly timing difficult to forecast accurately due to not knowing in advance when insurance claims will need to be made.						
1034	General Purpose Funding	566,335	418,840	147,496	35.2%	(49)
The annual Financial Assistance Grants from the state government are received each year in 4 instalments. At the time of setting the budget, estimates were made based on prior years receipts, incremented by projected LGCI. Final FAGS distributions, finalised after the budget was set, were higher than initially forecast. As such there is higher than anticipated grant revenue in this area YTD, and this will continue through to the end of the financial year.						
1038	Records	14,624	-	14,624	100.0%	-
Actuals relate to Parenting Leave Reimbursements which were not budgeted for. These are offset by the actual wages paid to the employee while on parental leave.						
1041	Land and Property Leasing	150,755	93,277	57,478	61.6%	14,534
When the budget was created there were no allocations for utility charge reimbursements for certain properties (i.e. the amounts the tenants of the Microbrewery, Interpretive Centre and UWO pay the City to reimburse the City for utility charges were budgeted as \$0). YTD the City has received revenue for reimbursements across those properties which explains most of the current exceedance and also why the budget will likely be exceeded at year end.						
<i>Community and Commercial Services</i>		183,439	166,142	17,297	10.4%	16,725
1005	Library Services	68,684	44,368	24,316	54.8%	4,948
\$7K relates to unbudgeted Parenting Leave Reimbursements (offset in parental leave wages), and the remainder is a timing difference with all of the budgeted operating grants having been received ahead of budget.						
1007	Airport Operations	2,464	59,533	(57,070)	(95.9%)	(336)
This is a budget timing variance that relates mainly to the \$50K RADS grant that will be received towards the end of the financial year. The budget has been spread.						
1009	Community and Recreation Management	94,481	60,000	34,481	57.5%	11,243
The variance relates to timing differences in the budget phasing for Youth Services being allocated entirely in June.						

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
1011	Leisure Centres	12,747	-	12,747	100.0%	870
<p>\$7K relates to unbudgeted Parenting Leave Reimbursements (offset in parental leave wages), and the remainder relates to a grant for a JobSkills Trainee that was not budgeted for (also offset by slightly higher wages).</p>						
<i>Planning and Development Services</i>		589,431	497,242	92,189	18.5%	55,684
1043	Planning and Development Directorate Admin	20,008	-	20,008	100.0%	-
<p>This is a final recoup of the Healthy Estuaries grant that was not budgeted.</p>						
1048	Statutory Planning	14,716	-	14,716	100.0%	-
<p>The variance relates to unbudgeted Parenting Leave Reimbursements. These are offset by the actual wages paid to the employee while on parental leave.</p>						
1049	Strategic Planning Management	15,200	-	15,200	100.0%	-
<p>This is the final grant payment as part of the Coastal Adaptation Strategy. It was expected in the 21/22 year, and was therefore not budgeted for in this FY.</p>						
1051	Environmental Health Services	75,111	-	75,111	100.0%	-
<p>This is a timing variance with budgets allocated to June and actual operating contributions already reconciled and recouped in relation to the CLAG mosquito program with neighbouring shires.</p>						
1054	Ranger and Emergency Management	464,396	497,242	(32,846)	(6.6%)	55,684
<p>The variance is a combination of the cancellation of grant funding for the previous 0.5FTE Bushfire Risk Management Officer role (a new 1.0 FTE role has been created, but funded from the Ranger budget for the 21/22 FY), budget timing for the recognition of the ESL levy reimbursements, and a reallocation of the budget for the ESL Commission administration. It is expected that we will be under budget by approximately \$80K by the end of the financial year.</p>						
<i>Engineering and Works Services</i>		967,418	779,664	187,755	24.1%	(235,941)
1014	Engineering and Works Directorate	408,815	681,283	(272,468)	(40.0%)	(268,012)
<p>The variance relates to the timing of when we have budgeted to receive the license fee payable by Busselton Jetty INC, as opposed to when it actually has been and will be received. The total fee is payable in two parts during the financial year. The first payment has been made, the second payment has been invoiced and is due to be received by the end of May 2023. The total received is expected to be as per the budget.</p>						
1015	Operations and Works Management	129,749	56,879	72,870	128.1%	(5,995)
<p>Actuals and budget relate to Workers Compensation Insurance Reimbursements, which are difficult to predict with any degree of accuracy, and are usually based on historical trends.</p>						
1016	Construction and Maintenance	122,874	-	122,874	100.0%	-
<p>Actuals relate to unbudgeted insurance recoveries for Gale Road bridge repairs and maintenance, and reimbursements from RAC for the charging station costs in Busselton and Dunsborough.</p>						
1017	Parks & Gardens	178,215	31,037	147,179	474.2%	20,946
<p>Positive variance to budget relates mainly to the Southwest Catchments Council's grants in the Environmental Management area, plus some other minor grants, all with budget allocations in the June period.</p>						

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
1019	Facilities Maintenance	46,506	-	46,506	100.0%	5,431
The positive variance is due to the allocation of utilities reimbursements from tenants, which were budgeted in a different area. A review of that budget indicates that we are expecting to recover more than expected by year end overall, due to higher actual utility costs.						
1025	Fleet Management	70,267	-	70,267	100.0%	9,252
Actuals relate to Fuel Rebates received, with the full year budget of \$117K allocated to June. Due to the ATO cutting the excise rate, the fuel rebates will come in considerably less than budget by year end.						

2. Fees & Charges

Ahead of YTD budget by \$5M, or 34.1%, mainly due to the items listed in the table below:

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
<i>Finance and Corporate Services</i>		1,069,014	945,644	123,370	100.0%	(21,939)
1034	General Purpose Funding	55,034	66,680	(11,646)	100.0%	(2,300)
Lower than expected property information and settlement/search requests.						
1041	Land and Property Leasing	468,278	347,470	120,808	100.0%	(22,724)
The variance is primarily as a result of timing issues caused by how the budget has been spread (e.g. rental payments have been received ahead of where they were allocated in the budget). Lease revenue is forecasted to be significantly lower for the Goose Café (rent concession granted by Council during rebuild), Old Tennis Club Building (delays with entering into a lease with new tenant) and Peel Terrace Building (delays with entering into a lease with new tenant after CQU vacated). This will likely result in budget not being achieved by the end of financial year.						
1042	Aged and Community Housing	445,693	431,125	14,569	100.0%	(3,319)
Income fluctuates depending on financial status of tenants and is difficult to predict accurately.						
<i>Community and Commercial Services</i>		7,828,208	3,480,686	4,347,522	100.0%	321,824
1001	Community & Commercial Directorate Administration	1,591,079	1,179,618	411,461	100.0%	81,718
Significantly ahead of budget YTD due to much higher levels of caravan park visitations than originally forecast.						
1003	Cultural Precinct	36,414	14,001	22,413	100.0%	4,205
Higher than forecast YTD retail and art sales have been achieved due to the successful Margaret River Open Studios event and commercial rent was also received earlier than forecast.						
1004	Events	33,554	-	33,554	100.0%	5,754
The variance relates to timing variances in terms of how the budget has been spread. We are on target to achieve full year budget.						
1005	Library Services	34,189	15,878	18,312	100.0%	1,303
Much higher than expected printing and photocopying fees raised YTD, and are expected to exceed the full year budget as well.						
1007	Airport Operations	3,527,885	2,109,010	1,418,876	100.0%	(10,365)
Significantly ahead of budget YTD due to much higher levels of visitations than originally forecast, giving rise to increased passenger, landing and car parking fees at the airport.						

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
1008	Economic and Business Development	35,333	28,305	7,028	100.0%	(3,479)
Hire fees are over YTD and overall in this category it is forecast to be over budget by year end.						
1009	Community and Recreation Management	108,897	-	108,897	100.0%	7,941
The YTD variance relates to timing, in terms of how the budget has been spread. In relation to the full year budget, the following is forecast:						
<ul style="list-style-type: none"> Hire fees – on track to 90% achievement of budget Hire of Buildings – on track to achieve Hire Sporting grounds – on track to achieve Event application fee – Exceed budget 						
1011	Leisure Centres	2,461,467	131,124	2,330,343	100.0%	234,749
The YTD variance relates to timing issues in terms of how the budget has been spread. Based on YTD actuals when compared to the full year budget we are expected to be under by approximately \$100K by the end of the financial year, largely due to reduced vacation care, memberships, and swimming lesson revenue.						
<i>Planning and Development Services</i>		2,015,668	1,956,234	59,434	100.0%	(45,632)
1046	Building Services	572,964	595,657	(22,693)	100.0%	(7,168)
Fees income is determined by the volume and construction costs of building activity. Fee income is budgeted on a best estimate basis, but is inherently uncertain. Building activity has continued at elevated levels, but reduced slightly over the last few months.						
1048	Statutory Planning	744,499	616,417	128,082	100.0%	11,253
Fees income is determined by the volume and value of development activity. Fees income is budgeted on a best estimate basis, but is inherently uncertain. Development activity has continued at elevated levels so far in 22/23.						
1051	Environmental Health Services	394,533	438,326	(43,793)	100.0%	(44,499)
Fee income varies over the months due to a combination of volume of services required, and bulk processing of some annual fees in May which will lead to increasing monthly fees in June towards the end of the financial year.						
1054	Ranger and Emergency Management	139,976	156,189	(16,213)	100.0%	(1,664)
Principally due to overdue animal registration fees.						
<i>Engineering and Works Services</i>		8,885,503	8,381,816	503,687	100.0%	18,401
1020	Engineering Technical Management	122,143	81,622	40,521	100.0%	(8,511)
The increase in revenue for the Engineering and Technical Management area can directly be attributed to the increase in development. This is specific to the increased number of Traffic Management Plans approved, as well as an increase in Sub-Division Supervision Fees.						
1024	Waste and Fleet Management	8,765,648	8,295,726	469,923	100.0%	27,554
Positive variance due to increased revenue from additional rateable properties coming online, as well as Waste Facilities receiving volumes above the forecasted amounts.						

3. Other Revenue

Ahead of YTD budget by \$114K, or 37.3%, mainly due to the items listed in the table below:

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
<u>Finance & Corporate Services</u>		59,169	23,562	35,607	151.1%	(651)
1034	General Purpose Funding	22,137	7,336	14,801	201.8%	-
Timing variance due to budget spread and where it was previously allocated. The actual amount received is representative of prior year's ESL administration fees received.						
1037	Customer Service	32,486	15,597	16,888	108.3%	(284)
This account relates to Cemetery memorials, where there has been higher demand year to date, and the Sale of Number plates which has also had much higher demand than anticipated.						
<u>Community & Commercial Services</u>		54,149	1,868	52,281	2798.3%	(369)
1007	Airport Operations	37,930	706	37,224	5272.1%	(31)
The City is the airfield representative for ABP and on occasion will process fuel sales on their behalf. The funds are then paid onto ABP. There has been higher activity levels in this area than initially anticipated.						
<u>Planning & Development Services</u>		76,235	99,741	(23,507)	(23.6%)	(3,053)
1053	Regulatory Compliance	27,857	-	27,857	100.0%	440
This unbudgeted income relates to a Long Service Leave entitlement paid to the City from another Local Government entity, for an employee that had accumulated that entitlement at that other entity, and has now taken the leave.						
1054	Ranger & Emergency Management	33,893	92,613	(58,721)	(63.4%)	(3,532)
Main variances include: <ul style="list-style-type: none"> • Fire Prevention DFES – under \$18K: Change in allocation in budget – ESL commission is now allocated to Finance due to the administration of this funding sitting within the responsibilities of this business area. • Parking Control – \$23K under: income dependent on number of parking offences. There had been a decrease in scheduled patrols due to staff absences, also fewer patrols and infringements in Dunsborough due to road works resulting in temporary reduction in parking bays. • Animal Control – \$15K under: income dependent on number of animal control offences. There has been more of a focus on education, rather than an immediate issuance of infringements. Anecdotally, this emphasis on education has also seen lower actual infringement. 						
<u>Engineering & Works Services</u>		230,379	180,676	49,704	27.5%	(12,848)
1024	Waste & Fleet Management	222,171	164,168	58,004	35.3%	(2,783)
Positive variance due to increased revenue from Waste Facilities receiving volumes above the forecasted amounts.						

4. Interest Earnings

\$1.7M better than YTD budget due to much higher than expected interest rates, plus a higher than forecast cash on hand position in comparison to previous years. This is due mainly to the earlier than forecast application and receipt of the budgeted Saltwater construction project loans cash, and subsequent re-investment in term deposits (due to rising rates), until required for use in the project.

Expenses from Ordinary Activities

Expenditure from ordinary activities is \$9.4M, or 14.9%, more than expected when compared to the budget YTD. The expense line items on the face of the financial statement that have a YTD variance that meet the material reporting threshold are outlined below.

5. Materials & Contracts

\$5.6M, or 54%, over the budget YTD. The main contributing items are listed below:

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
<u>Finance and Corporate Services</u>		1,761,690	705,476	(1,056,214)	(149.7%)	(3,962)
1027	Finance & Corporate Services Directorate Administration	10,852	1,279	(9,574)	(748.6%)	82
YTD budget figures are not reflective of actual spend, but it is expected that actuals for the year will be on track to budget by year end.						
1028	Governance and Corporate Services	199,175	143,230	(55,945)	(39.1%)	(7,786)
The variance is timing related in terms of the spread of Computer and Software Licences which are being spread over the full year. The budget is allocated entirely in June.						
1033	Financial Services	83,056	68,056	(14,999)	(22.0%)	(1,542)
Apparent overspend relates to the budget allocation of Bank Charges, that does not align to where the actuals have been allocated. Over the whole organisation there is predicted overspend to budget on bank charges by approximately \$50K, largely due to an unrealistic budget being set.						
1034	General Purpose Funding	162,608	210,131	47,523	22.6%	9,141
This covers a variety of expenses in the Rates Administration area. Some costs are yet to be incurred and additionally budget timing does not match actual expenses in some cases (bank charges). It is expected that there will be an underspend to budget by year end, however much of this will have a nil impact on the Net Current Position as the activity with the majority of underspend (Consultancy for the Rates review project), is reserve funded.						
1036	Information Technology	1,005,152	57,065	(948,086)	(1661.4%)	(71,027)
The variance size is timing related allocation due to the budget spread not matching actual expenditure. Actuals for the full year are however expected to come in approximately \$100K over budget due to higher computer software licencing and consultancy costs.						
1039	Legal & Property Management	136,927	81,943	(54,984)	(67.1%)	78,380
The size of the variance is timing related due to the budget allocation not matching actual expenditure timing. Year to date actual expenditure is above year to date anticipated expenditure however, as a result of various legal matters requiring external advisors. There is a reasonable possibility of the full year budget being exceeded by between \$70K and \$100K. A budget amendment has been endorsed to pull funding from the reserve, set up for this purpose.						
1042	Aged and Community Housing	41,372	16,090	(25,282)	(157.1%)	(1,810)
The reason for the apparent overspend is due to how the budget has been spread. The year to date expenditure of \$41K is in fact an under spend compared to the estimated year to date expenditure of \$91K if the full year budget of \$109K was spread evenly. The "relative underspend" is partly timing related and partly due to less reactive maintenance undertaken year to date.						

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
<i>Community and Commercial Services</i>		2,113,159	779,624	(1,333,535)	(171.0%)	(117,551)
1002	Events and Cultural	35,858	12,127	(23,731)	(195.7%)	(2,880)
<p>\$13K of the over spend relates to a misallocation of costs for Art Geo Admin that should have been allocated against the Cultural Precinct, where the budget lies. The remaining \$14K relates to timing, with YTD budget figures not aligning to actual cost spends in BPACC Operations and Cultural Planning.</p>						
1003	Cultural Precinct	12,130	51,256	39,126	76.3%	10,970
<p>While underspent YTD, a cost overrun of approximately \$14K by year end in relation to an externally funded children's arts program that was omitted from the budget. This will be offset by underspends in other areas of the Events & Cultural budget.</p>						
1005	Library Services	89,365	72,589	(16,776)	(23.1%)	(2,363)
<p>The variance is related to timing variances with Computer Software Licensing and the expenditure budget being projected for month 12.</p>						
1007	Airport Operations	798,311	117,473	(680,838)	(579.6%)	(67,013)
<p>The size of the variance YTD is in part timing related, with some budget line items total expenditure being projected for months 11 and 12. Full year costs are however expected to exceed budget due to the higher than expected throughput at the airport, which is offset by the significantly higher fees & charges received for services.</p>						
1008	Economic and Business Development	42,713	3,696	(39,017)	(1055.7%)	(3,080)
<p>The variance is mainly due to timing of expenses in the Consultancy allocation and actual expense in Computer Software licences & cloud services for the Spendmapp expenditure (was allocated to IT budget in 2020/21 and not budgeted for in EBD).</p>						
1009	Community and Recreation Services Management	321,750	73,842	(247,908)	(335.7%)	(18,762)
<p>YTD variance is largely timing related, with the 22/23 contracted Lifeguard Services paid to Surf Life Saving WA in March, but budgeted for in June.</p>						
1011	Leisure Centres	391,551	36,290	(355,261)	(978.9%)	(25,149)
<p>The variance is timing related in terms of how the budget has been spread. Actual expenditure to date when compared against the full year 22/23 budget of \$423K, represents 93% expended to date. An even pro-rata of the annual budget to the end of January equates to an approximate \$40K overspend YTD. Whilst some expense lines will be exceeded (eg. repairs/maint, chemicals, cleaning) this will be offset by underspends in other areas, to fully expend budget by EOFY.</p>						
<i>Planning and Development Services</i>		950,718	1,106,360	155,642	14.1%	(38,116)
1043	Planning and Development Directorate	220,841	572,180	351,339	61.4%	61,078
<p>Underspend is timing related, with consulting costs in the Sustainability area not spent as yet compared to a \$110K budget YTD, and contractor costs still to come for the on-going Vasse River Restoration project of \$230K.</p>						
1048	Statutory Planning	33,137	2,555	(30,582)	(1197.2%)	(864)
<p>Timing variance related to the spread of the budget. Overall expenses are tracking to over-expend budget by approximately \$15K in consultancy.</p>						
1049	Strategic Planning	95,087	468	(94,620)	(20231.7%)	(9,494)
<p>Timing variance related to the spread of the budget. Expected to come in on budget by year end.</p>						
1051	Environmental Health Services	93,329	117,226	23,897	20.4%	544
<p>Materials & contracts related to environmental health services are primarily linked to expenditure related to treatments of mosquitoes. As there have been lower than usual number of illness carrying mosquitoes thus far this year, there have consequently been a lower number of treatments which has resulted in a lower than expected expenditure in material & contract costs.</p>						

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
1053	Regulatory Compliance	11,268	690	(10,578)	(1532.2%)	(1,210)
The variance relates to the timing of the budgets in consultancy and postage, with budgets expected to be met by year end.						
1056	Emergency Management	438,344	350,364	(87,979)	(25.1%)	(93,875)
Negative variance is largely timing related, with a large part of the budget slated for June, when in fact much of the activities have already occurred in April and May. It is expected that we will come in on budget by year end.						
Engineering and Works Services		11,091,352	7,743,105	(3,348,246)	(43.2%)	111,342
1015	Operations and Works Management	24,845	5,497	(19,348)	(352.0%)	(1,755)
This variance is due to both the spread of the budget across the year and posting allocation errors as staff adjust to the City's new Chart Of Accounts. A journal will be processed to reassign costs against alternative cost centres where the budget resides.						
1016	Construction and Maintenance	1,281,950	1,636,707	354,757	21.7%	(459)
Expenditure is tracking well to budget and with committed and planned works it is forecast that the total budget will be utilised come the end of the financial year.						
1017	Parks & Gardens	2,486,817	2,544,043	57,226	2.2%	140,912
Although slightly under budget YTD, it is anticipated that the Parks & Gardens operational budget will be fully utilised come June 30.						
1019	Facilities Maintenance	2,141,206	513,977	(1,627,228)	(316.6%)	(253,536)
The over spend to budget YTD is significantly and materially impacted by the budget spread. With the budget based on an even spread, expenditure is tracking at approximately \$222K over budget YTD. The Facility Services operational budget will be fully utilised come June 30.						
1020	Engineering Technical Management	421,830	664,828	242,998	36.6%	384,577
The YTD Expenditure varies with the Amended Budget YTD, mainly due to the timing of the implementation of these works. The item worth mentioning is the sand –renourishing that has been cash flowed towards the winter months, i.e. April-June 23, however 70% has already been spend to date on renourishment of the coast line. In summary this is a timing variance only.						
1024	Waste Management	2,394,552	2,076,109	(318,444)	(15.3%)	(10,982)
The most significant YTD over-expenditure to budget has been \$173K for the Domestic Collections, attributed to the timing of when contractor's invoices are received. There is also \$96K in costs that are over budget YTD relating to external waste disposal at Dardanup whilst the City's landfill (cell 2) is under construction. The remaining variance relates to the processing of higher than budgeted 15,500m3 volume of construction and demolition waste, which only occurs once every few years during the winter months. From a consolidated perspective endeavours are being made that any over expended items will be managed and offset by under expended items.						
1025	Fleet Management	1,923,430	2,500	(1,920,930)	(76837.2%)	(173,750)
The YTD budget figure is not correctly reflected in the accounts; that aside, 10/12 th of the annual budget equals \$1.91M and thus YTD costs would be tracking at \$12K over budget YTD. Fuel & Oil fleet costs have fluctuated throughout the year with an interim mid-year review indicating an estimated \$40-\$50k over budget position at that time. Historically the amount of diesel used across the City increase in the second half of the year, in line with an increase in civil construction activities. Thus, this variance may increase although the price of diesel seems to have moderated recently with some small decreases in price. Efforts will be made to plan and manage any over expenditure against other Fleet related costs that can be deferred.						

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
1055	Rural Verge and Firebreak Maintenance	386,374	288,888	(97,486)	(33.7%)	28,887
<p>\$463k has been budgeted for a phased approach to the creation of an in-house Tree Care team over two financial years. This being the first year, \$347K of the budget has been assigned to contractor based works until plant and equipment is procured. Due to extended lead times for plant procurement, material & Contract expenditure this financial year will be managed to the full \$463K budget (\$116K over the operational materials & contracts budget).</p>						

6. Utilities (Gas, Electricity, Water etc)

In total, over budget by \$219K YTD, broken down as follows:

Description	FY Budget Expense	YTD Budget Expenses	YTD Actual Expenses	YTD Variance
3500 - Electricity	1,814,016	1,249,545	1,527,088	(277,543)
3505 - Gas - Reticulated	4,971	3,046	1,541	1,505
3506 - Gas - LPG Bottled	16,041	0	18,774	(18,774)
3507 - Gas - Alinta Boiler Gas (BJTP)	5,843	3,669	3,423	246
3510 - Water Consumption	491,504	323,538	320,392	3,146
3511 - Water Meter Rental & Supply Charge	86,520	49,412	65,335	(15,923)
3513 - Sewerage Volume Charges	32,134	31,468	12,915	18,553
3514 - Sewerage Charge (Rates)	98,871	93,661	60,303	33,358
3520 - Office Telephones, Faxes & Internet	96,909	79,732	73,073	6,659
3521 - Public WIFI	40,693	33,104	36,053	(2,949)
3522 - Mobile Devices Costs	102,395	78,608	54,602	24,006
3524 - Other Telecommunication & Network Costs	86,783	64,974	55,900	9,074
	2,876,680	2,010,755	2,229,398	(218,643)

The electricity charges are significantly over budget YTD due to the entire year budgets for GLC and NCC being allocated to June (tracking well compared to full year budget of \$223K), as well as budget timing for Street Lighting. It is however expected that overall electricity charges for the City will be over budget in the vicinity of approximately \$50K. A portion of this will be offset by on-charges of variable outgoings to the various tenants of the City's buildings.

Gas is over budget due to the budget timing allocated to the end of the year. Spend is on track to meet or be under budget by year end.

Between Water Consumption & Water Rental & Supply charges, the YTD overspend to budget is also attributable to budget timing, with actual charges YTD on track to coming in under the full year budget by year end.

Sewerage charges and rates are significantly under budget YTD due to delays in allocating the annual notices, which have in fact been received and paid. This variance will rectify in the subsequent months.

Telecommunications, internet and network costs are under YTD due to billing lags in relation to the mobile account. It is expected to come in close to budget by year end.

7. Insurance Expenses

The full year budget for all insurance is \$1.32M, split \$652K in Insurance Expenses and \$672K in Employment Costs. Insurance costs that are categorised in the operational nature & type are \$234K over budget YTD due to the timing of the budget allocation and the fact that all premiums have been paid. This is however expected to be \$217K over by year end. Apart from rising insurance costs globally, the biggest cause for this over spend is the significantly higher than expected asset values, which are used by the insurers in setting premiums, that arose from the organisation wide independent asset revaluation conducted in early 2022.

This is outlined in the table below:

Description	FY Budget Expense	YTD Budget Expenses	YTD Actual Expenses	Variance to FY Budget	Variance to YTD Budget
3565 - Art Works Insurance	1,969	1,801	8,547	(6,578)	(6,746)
3566 - Building Insurance	140,111	131,816	308,288	(168,177)	(176,472)
3568 - Electronic Equipment Insurance	1,298	1,298	4,036	(2,738)	(2,738)
3569 - Insurance Excess	0	0	1,000	(1,000)	(1,000)
3570 - Machinery Breakdown Insurance	796	796	22,139	(21,343)	(21,343)
3571 - Marine Crafts Insurance	251	0	1,654	(1,403)	(1,654)
3572 - Motor Vehicle & Plant Insurance	40,127	38,996	102,598	(62,471)	(63,602)
3573 - Multi Risk Insurance	21,747	16,846	35,989	(14,242)	(19,143)
3575 - Public Liability Insurance	398,824	398,993	339,962	58,862	59,031
3576 - Other General Insurance Costs	45,948	44,063	29,547	16,401	14,516
3577 - Cyber Liability	1,298	1,298	15,769	(14,471)	(14,471)
Total	652,369	635,907	869,528	(217,159)	(233,621)

8. Other Expenditure

\$2M, or 89%, over the budget YTD. The main contributing items are listed below:

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
<i>Executive Services</i>		47,619	27,778	(19,841)	(71.4%)	(5,270)
1000	Office of the CEO	47,619	27,778	(19,841)	(71.4%)	(5,270)
The overspend mainly relates to an unbudgeted amount of \$11.3K, which is the recognition of the contribution the City made to the COVID-19 clinic at the YCAB, by virtue of recognising the value of rent not charged. This is offset by the recognition of the revenue in Fees & Charges under YCAB, so has a nil cash impact. There is also a \$8.6K timing difference in the CEO discretionary line contributing to the YTD overspend.						
<i>Finance and Corporate Services</i>		693,993	754,406	60,413	8.0%	(5,439)
1028	Governance and Corporate Services	436,064	519,723	83,658	16.1%	(7,141)
The under spend relates to reduced civic events catering and YTD underspends across merchandising and public relation accounts. These will be used to fund a Regulation 17 Review – to be invoiced. The Members of Council budget is also underspent in catering (linked to the revised meeting schedule) and conferences and training.						
1030	Human Resources	34,266	6,490	(27,776)	(428.0%)	246
The over spend relates to Long Service Leave contributions paid to other LG's (which although are unable to be accurately budgeted, are fully funded from the LSL Reserve), and timing variances in the catering budget.						
<i>Community and Commercial Services</i>		3,205,998	1,248,831	(1,957,167)	(156.7%)	(1,362,401)
1002	Events & Cultural	65,075	151,633	86,558	57.1%	(1,745)
Events and Cultural other expenses is underspent mainly in BPACC (Saltwater), operations in the areas of marketing and event attraction. Spending in these areas has been delayed until there is increased certainty with event organisers to take bookings and the software system to handle payments is implemented. We are also waiting on the outcome of a conference bid and a large funding application which require contribution payments.						
1004	Events	998,894	965,683	(33,211)	(3.4%)	(9,693)
Events overspend is timing related with invoicing of round 1 funding of events and marketing initiatives happening in the first half of the financial year, but the budget has been allocated mainly to the back end of the year. Based on events that have been approved for funding YTD, it is expected that total spend will come in approximately \$33K under budget by year end.						
1007	Airport Operations	1,648,486	98,506	(1,549,980)	(1573.5%)	(1,326,923)
This is due to a timing variance with the Airline Attraction budget allocation being posted in month 12 and YTD actual expenses having being incurred to date.						
1008	Economic & Business Development	125,191	16,642	(108,549)	(652.3%)	629
This category is overspent mainly due to 2 line items - MRBTA visitor servicing for which the budget expenditure is projected for month 12 and the first two quarters payments having been made, and consultancy for which the budget expenditure is projected for month 12 and some expenditure has occurred YTD.						
1009	Community & Recreation Management	312,538	1,000	(311,538)	(31153.8%)	(24,187)
The variance is timing related with the total budget for the year allocated to June 2023. CAP funding payments are expected to exceed budget by end of year by approximately \$50-80K, offset somewhat by the savings of approximately \$50K in the You Choose program in Governance that will not be spent.						
1011	Leisure Centres	35,093	3,283	(31,810)	(968.9%)	(472)
The variance is timing related due to spread of the budget. Actual expenditure to date represents 67% of the budget and is actually underspent compared to 10/12 even spread of the full year budget of \$53K.						

Cost Centre Code	Cost Centre Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
<i>Planning and Development Services</i>		76,341	84,177	7,836	9.3%	(209)
1045	Planning Administration Support	-	30,780	30,780	100.0%	-
Funds are for the Busselton & Dunsborough Centres Refurbishment Subsidy Programme. The City has not undertaken an EOI programme this financial year, as a result, no applications for funding assistance have been received.						
1048	Statutory Planning	6,315	-	(6,315)	100.0%	-
The overspend relates to Long Service Leave contributions to other LG's for former employee's, which are unable to be accurately budgeted, but are fully funded from the LSL reserve.						
1054	Ranger & Emergency Services	20,002	4,482	(15,521)	(346.3%)	537
\$6K of the over spend relates to a contribution to another LG for LSL. The remainder relates to earlier than anticipated spending on supplies for the various brigades, compared to the months where the budget is allocated.						
<i>Engineering and Works Services</i>		126,435	78,081	(48,354)	(61.9%)	(8,803)
1019	Facilities Maintenance	38,945	18,212	(20,733)	(113.8%)	(4,028)
The variance in Facilities is due to greater ESL levies being paid than was originally budgeted for. The variance in Donations, contributions and subsidies is the contribution the City pays to MRBTA for our share of the cleaning costs – This is allowed for in the operational budget and an overall overspend is not anticipated.						
1024	Waste Management	62,828	42,629	(20,199)	(47.4%)	(4,987)
The over spend is due to water cost reimbursements paid to residents in relation to the Rendezvous issue. It is expected that these will be over budget by approximately \$15K by year end.						

9. Non-Operating Grants, Subsidies & Contributions

The positive variance of \$9.6M is mainly due to the items in the table below. It should be noted that any negative variance in this area will approximately correlate to an offsetting positive underspend variance in a capital project tied to these funding sources. This can be seen in the section below that outlines the capital expenditure variances. Where this is not the case, the reconciliation of the projects and the required funding to be recognised in revenue is not completed until closer to year end.

The overall positive variance however, due to certain projects in the table below, is due to a reimbursement of the municipal fund required for cashflow purposes a lot earlier than was initially budgeted.

Revenue Code	Revenue Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
<i>Finance and Corporate Services</i>		76,801	-	76,801	100.0%	-
1033	Financial Services	7,801	-	7,801	100.0%	-
1041	Land and Property Leasing	69,000	-	69,000	100.0%	-
<i>Community and Commercial Services</i>		1,094,255	188,665	905,590	480.0%	(188,665)
1007	Airport Operations	1,052,000	188,665	863,335	457.6%	(188,665)
1011	Leisure Centres	42,243	-	42,243	100.0%	-

Revenue Code	Revenue Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
<i>Planning and Development Services</i>		159,501	45,392	114,109	251.4%	-
1049	Strategic Planning Management	-	45,392	(45,392)	(100.0%)	-
1054	Ranger & Emergency Services	159,501	-	159,501	100.0%	-
<i>Engineering and Works Services</i>		9,164,631	1,470,504	7,694,127	523.2%	1,161,771
1014	Engineering and Works Directorate	773,609	-	773,609	100.0%	773,609
1016	Construction and Maintenance	661,300	1,470,504	(809,204)	(55.0%)	78,000
1017	Parks & Gardens	5,132	-	5,132	100.0%	-
1018	Major Projects Management	7,512,190	-	7,512,190	100.0%	310,162
1019	Facilities Maintenance	196,500	-	196,500	100.0%	-
1020	Engineering Technical Management	15,900	-	15,900	100.0%	-

10. Capital Expenditure

YTD there is an underspend variance of 23%, or \$7.2M, in total capital expenditure, with YTD actual at \$24.2M against the YTD budget of \$31.4M. A large portion of this positive underspend variance is offset by the negative variances in Non-Operating Grants, Contributions & Subsidies outlined above, with the remainder offset by the negative variances in Transfers From Reserves and Restricted Assets related to funds held aside for these projects. The attachments to this report include detailed listings of all capital expenditure (project) items, however the main areas of YTD variance are summarised as follows:

Project Code	Project Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
<i>Buildings</i>		10,197,560	13,330,182	3,132,622	24%	908,606
Various	Aged Housing Capital Works	111,737	129,000	17,263	13%	80,000
The variance is due to the scale and number of refurbishments year to date being less than what has been allowed for in the budget. Refurbishments generally only occur if a tenant vacates. This means it is very difficult to accurately budget for the timing and quantum of this capital expenditure item.						
Various	BPACC (Saltwater)	8,935,912	9,627,169	691,257	7%	451,909
Budgets, and timing thereof, for large projects such as Saltwater are very hard to predict with accuracy. The variance of actuals to budget for the construction project is a timing issue, with predicted cash flows being slightly misaligned. Professional fees are overspent YTD, again this can be viewed as a timing issue. The budget for the 23/24 year has been set with carried over elements from the 22/23 year in mind.						
10016	Civic and Administration Centre Minor Upgrades(C)	3,300	29,167	25,866	89%	2,917
Variance is due to timing. The budget is expected to be expended by the end of the financial year.						

Project Code	Project Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
10585	BMRA Hangars(C)	-	303,790	303,790	100%	-
This funding was originally to build three hangars however with price escalation, only 2 hangars are likely to be achieved. With current resourcing and lead times for construction the hangars will not be achieved in this financial year.						
10589	Airport Construction, Existing Terminal Upgrade(C)	386,373	304,920	(81,453)	(27%)	95,666
The terminal departures lounge expansion project has now been completed however the training/ office demountable project and ablution block projects that were projected to come out of this project code have not been completed and works are still to be done.						
10622	Bovell Construction of Change rooms(C)	84,663	72,394	(12,269)	(17%)	-
Project was completed in Dec. 2022, with an expected cost overrun of approximately \$15K.						
10642	Dunsborough Lakes Sporting Precinct- Pavilion/Changeroom F(C)	38,293	1,284,775	1,246,482	97%	(3,630)
The variance is attributable to the Pavilion being re-scoped with the project currently on hold. The City has recently been informed that it has not been successful in securing external State Government grant funding at this time. A future budget amendment will be prepared for Council covering all elements of this project, with the pavilion likely to be removed from this year's budget.						
10688	Depot Washdown Facility Upgrades(C)	-	76,700	76,700	100%	-
The YTD variance related to infrastructure upgrades to the City's Barlee St. Depot vehicle and plant wash-down bay, whereby new equipment will be purchased to treat and improve post wash-down water quality. RFQ documentation went out to market however no submissions were received. Although there are follow ups with suppliers underway, it is likely that this project will not be commenced by year end and will need to be carried over and re-listed in the 23/24 budget.						
10788	GLC Building Improvements(C)	210,217	384,829	174,612	45%	19,553
This is a timing issue only – the funds will be fully expended by EOFY.						
10972	Churchill Park Renew Sports Lights(C)	215,392	188,252	(27,140)	(14%)	-
This project is now complete with a \$27k budget overrun. City Officers will endeavour to offset this overspend against an equivalent underspend or net over and under spends between projects of a like type.						
12428	Re-use shop Busselton Transfer Station(C)	16,899	400,000	383,101	96%	241,625
The high, over-budget tendered price has resulted in the City declining all tender submissions. During a recent Briefing session when the councillors were informed of the Project status, the direction was to seek a variation from the funding body around a reduced scope of works, involving a smaller footprint and an alternative shop/related infrastructure design. Officers are currently seeking information to present to the funding body's request around a detailed plan, budget and timeline for the modifications. The intention is to still deliver an operational Reuse shop, however this may need to be carried over and re-listed in the 23/24 budget.						
12440	Energy Efficiency Initiatives (Various Buildings) (C)	48,576	115,242	66,666	58%	(7,766)
Variance is due to timing. The budget is planned to be expended by the end of the financial year.						

Project Code	Project Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
12457	Busselton Jetty Tourist Park Upgrade (C)	13,031	45,686	32,655	71%	-
The contractor is unlikely to complete/expend all allocated budget this FY.						
12791	Naturaliste Community Centre Fire Indicator Panel Renewal(C)	4,965	25,000	20,035	80%	2,500
Works are complete, with actual costs coming significantly less than anticipated. Unspent funds will remain in reserve.						
12795	Busselton Depot CCTV & Electronic Gate(C)	29,636	83,333	53,697	64%	17,083
Timing is variance related. The CCTV component of the total project budget (\$55K) is expected to be completed by the end of April, with \$30K committed. The remaining budget for the gate component is expected to be expended.						
12797	Dunsborough Hall Renewals(C)	1,856	22,288	20,432	92%	2,229
No further expenditure is anticipated – the scope of works was reduced after further consultation with user groups. Unspent funds will remain in reserve.						
12800	Old Courthouse and Jail Cells (C)	17,860	50,833	32,973	65%	5,083
No further expenditure is anticipated – there was some overlap between this project and project 12801 (see below), which will have an over spend.						
12801	Old Police Quarters - Roof Renewal(C)	-	50,000	50,000	100%	5,000
Variance is due to timing. The budget is expected to be overspent by the end of the financial year due to the inclusion of certain elements that overlapped with project 12800 above.						
12804	Airport Terminal Building(C)	4,836	26,489	21,653	82%	2,649
Further works have been carried out and there are likely to be some additional spend before the end of the FY.						
12942	Asbestos Removal & Replacement(C)	2,960	27,500	24,540	89%	2,750
No further expenditure is expected, with any unspent funds remaining in reserve.						
<u>Plant & Equipment</u>		1,065,706	1,295,606	229,900	18%	(14,392)
The \$230k underspend is due to delays in delivery of plant and equipment currently on order. Supply chains are still recovering from the turmoil of the past three years and will be slow to return to a new normal. There will be significant carryovers re-listed in the next budget.						
<u>Furniture & Office Equipment</u>		707,098	632,865	(74,233)	(12%)	50,064
10965	P&E - P&G Smart Technologies(C)	14,400	-	(14,400)	0%	-
This is a timing variance, with the full year budget of \$100K allotted to later in the financial year. Procurement is currently underway with full budget expenditure planned for this financial year						
12876	ICT Services - Equipment & Software Purchases(C)	287,348	219,845	(67,503)	(31%)	-
YTD variance is attributable to procurement of 50 laptops in 2021/22 financial year that were only delivered in the 2022/23 financial year. By year end however, other planned spends will be deferred so that we meet budget.						

Project Code	Project Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
12937	Community Resource Centre(C)	12,676	-	(12,676)	0%	(8,683)
Replacement of furniture at the CRC. Budget is allocated in June, hence the variance.						
14729	Events Furniture & Equipment(C)	251,335	200,000	(51,335)	(26%)	(11,516)
The over spend relates to work invoice for the additional cost of \$50,000 to upgrade the power supply to the new electronic billboard. These extra works were approved by Council (C2208/210), to be funded from the Marketing & Area Promotions Reserve.						
14730	Geographe Leisure Centre Fitness Equipment(C)	-	18,160	18,160	100%	-
Equipment procurement did not proceed this financial year. These funds will remain in reserve, and the project will be re-listed in next years budget.						
14731	Cultural Planning Furniture & Equipment(C)	50,578	78,185	27,607	35%	-
The underspend in Cultural Planning is due to a number of projects that are not yet fully expensed such as Sculpture by the Bay art prizes and the Ballarat Room digital interpretation. We expect the projects to be completed by the end of the financial year.						
14830	Airport Capital Furniture & Equipment(C)	-	36,805	36,805	100%	36,805
A PO has been raised for the furniture and equipment with a delivery/installation date of mid June.						
Infrastructure		12,220,696	15,763,484	3,542,788	22%	587,262
Various	Roads	3,708,960	7,576,313	3,867,353	51%	355,805
There remain some timing variances within this item. The \$3.8M YTD variance includes: <ul style="list-style-type: none"> • \$60K Wilyabrup Road Resheet (11193) – Balance of works planned for completion late June. • \$1.17M Bussell Highway (11199) – Construction commenced 29MAY with forecast completion late July. • \$227K Chapman Hill Road (11989) – Project complete and under budget. Fully grant funded. • \$40K Commonage Road Intersection (11991) – Works scheduled for June. • \$82K Gifford Rd – Construction commenced mid-May with forecast completion in June. • \$112K Koorup Rd – Project complete. • \$299K Payne Road (12005) – Project postponed until next financial year due to traffic management conflicts with bridge works on Koorup Road and reconstruction of North Jindong Road. • (\$463K) Sugarloaf Road (12010) – Project complete. Actual YTD aligned with amended budget. • \$755k North Jindong Road (12611) – Contract awarded and construction commenced in March and planned for completion early June. • \$584K Acton Park Road (12824) – Construction in progress and planned for completion in May. Forecast costs at completion to be under budget. • \$202K Commonage Rd – Works complete and under budget. • \$99K Ludlow-Hithergreen Rd – Works complete and pending final invoices. Forecast costs at completion to be under budget. • \$89K Metricup Rd (12836) – Works commenced in May. • \$414K Queen Elizabeth Avenue (12838) – Works complete and pending final invoices. Forecast costs at completion to be under budget. • \$46K Nuttman Rd (12842) – Contractor engaged with works planned for June. • \$99K Bussell Hwy (12851) – Stage 1 works complete. Stage 2 works pending MRWA approval. • \$50K Road Access Seal – Animal Care Facility (14817) – To be relisted next financial year. 						

Project Code	Project Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
Various	Bridges	378,385	-	(378,385)	0%	(222,181)
Actuals represent invoiced values from MRWA for the various bridge repair projects on budget. Costs are aligned with amended full year budget, but the budget timing allocation isn't (all in June).						
Various	Car Parks	219,501	441,373	221,872	50%	63,484
Delivery of projects within this item are on track for completion this financial year. Carpark Hotel Site 2 construction has commenced with forecast completion late June.						
Various	Footpaths & Cycleways	273,974	1,083,674	809,700	75%	(4,340)
There remain some budget timing variances within this item with delivery on schedule. The \$810K YTD variance includes: <ul style="list-style-type: none"> • \$45K Buayanup Drain Shared Path – Project complete and under budget. • \$31K Arnup Dr – Project complete and under budget. • \$100K Busselton CBD Footpath Renewal – RFQ being advertised. Carryover required. • \$95K Carey Street Footpath Construction (10742) – Works complete and pending final invoices. Forecast cost at complete under budget. • \$309K Causeway Road Shared Path (11986) – Contract awarded. Construction commenced May. • \$70K Coastal Principled Shared Path (12816) – Budget to offset Causeway Road Shared Path expenditure. • \$54k Prince Regent Drive (12817) – Works in progress and planned for completion in June. • \$57K Kaloorup Road (12818) – Works complete and under budget. 						
Various	Parks, Gardens & Reserves	4,173,424	4,898,318	724,894	15%	155,673
This category comprises 107 projects with a combined budgeted value totalling \$10.1m. There remain some budget timing variances within this item. Some of the \$725K YTD variance is attributable to: <ul style="list-style-type: none"> • \$489k Dunsborough Lakes Sporting Precinct (Stage 1). • \$185k Sport Oval Lighting - Vasse Ovals (12849) – works in progress, carryover required for Western Power scope. • \$144k Meelup Coastal Parking & Landscaping (10613) – will require relisting due to consultation delays. • \$133k Shade Sail Program (10967) – to be completed May/ June. • (\$309k) Townscape Works Dunsborough (12333) - Budget amendment endorsed by council 20APR. • (173k) Coastal Flood Risk Mitigation(C) – grant funded but budget not showing. 						
Various	Waste Services Capital Works	1,636,187	28,955	(1,607,232)	(5551%)	(379,801)
This variance is attributable to stage 2 of the lined landfill / cell development. The stage 2 budget totalling \$1.95M was loaded into the month of June 2023. Expenditure on this project YTD totals \$1.6M.						
Various	Drainage	316,401	562,487	246,086	44%	(52,579)
The City has three drainage projects planned for the year budgeted at \$705K in total. There remain some budget timing variances within this item with the \$246K YTD variance being mainly: <ul style="list-style-type: none"> • \$18K Carey St – Works complete and pending final invoices. Forecast cost at complete under budget. • \$37K High View – Works complete and under budget. • \$192K North Street – Relist next FY due to contractor availability and seasonal weather. 						

Project Code	Project Code Description	Actual YTD \$	Amended Budget YTD \$	Variance YTD \$	Variance YTD %	Change in Variance Current Month \$
Various	Regional Airport & Industrial Park Infrastructure	1,067,293	738,505	(328,789)	(45%)	657,372

The variance relates to the Airfield Stage 2 project, which includes the public car park expenditure (\$251K) and project expenses (\$750K) - both are a timing issue compared to YTD budget allocations. It is expected that total actual expenditure for the year will come in very close to the budgeted full year amount for this area of \$1.43M.

11. Proceeds from Sale of Assets

There is a YTD negative variance of \$139K, due to delays in asset sales, as a result of supply chain issues in the trade-in/purchase relating to the changeover and replacement of various vehicles and other plant items. A number of these budget items will be removed via budget amendment which will appear in the YTD budget figures in ensuing months.

12. Proceeds from New Loans

There is an YTD variance \$6.5M as the budgeted final draw down on the borrowing for the Saltwater project occurred earlier than forecast due to the increasing interest rates.

13. Transfer to Restricted Assets

There is an YTD variance in transfers to Restricted Assets of \$23.6M because there is no budget at all for this item. The transfers are not possible to predict, and are fully reconciled only at year end.

At the time of budgeting it is not possible to predict what grants, contributions or developer bonds will be received, and in what timeframe, nor when they will be spent and hence potentially transferred to Restricted Assets (or unspent portions thereof).

Transfers to restricted assets are offset by the incoming receipt, be it a grant, contribution, subsidy or even loan proceeds, so the net impact on the Net Current Position is always nil (once full reconciliation has occurred at year end).

YTD, loans of \$9.7M were restricted for BPACC (following receipt of grant funds and the final tranche of borrowing), until utilized, as well as \$11.5M in various government grants, plus \$1.4M in Roadwork Bonds, \$527K in BJTP deposits, \$436K in developer contributions and \$37K in various other deposits and bonds.

14. Transfer from Restricted Assets

YTD, there has been \$15.5M transferred from Restricted Assets into the Municipal Account. The transfers are usually not possible to predict, and are fully reconciled only at year end. This was attributable to \$4.1M of the BPACC loan funding utilised, \$9.4M of grant money for works completed and reconciled, \$1.3K of Roadwork Bonds returned, \$601K of BJTP deposits utilised or returned, and \$99K of various other bonds and deposits returned or utilised.

15. Transfer from Reserves

YTD, there has been \$9.1M more transferred from reserves than budgeted YTD, due to reconciliation of completed reserve funded works occurring earlier than forecast (usually done at year end), for some particularly large projects, due to unrestricted cashflow requirements.

Investment Report

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

As at 30th April 2023 the value of the City's invested funds decreased from at \$118.6M as at 31st March 2023 to \$113.0M. The decrease is a result of the closure of two term deposits totalling \$7M and \$1.5M additional funding transferred back to the 11am Account.

As at 30th April 2023 the 11AM (an intermediary account which offers immediate access to the funds compared to the term deposits) account balance is \$14.0M, with increase of \$1.5M from 31st March 2023.

During the month of April seven term deposits totalling the amount of \$24.5M matured. Of these, two were closed and the remaining five were re-invested for a further 300 days at 4.46% on average.

The official cash rate remained the same during the month of April 2023 at 3.60%. Further movement in the cash rate is currently uncertain. This may effect interest earnings for the City, and future borrowings also.

Borrowings Update

During the month no new loans were drawn, with \$449K of principal and \$72K of interest repaid on existing loans. The attached Loan Schedule outlines the status of all existing loans YTD.

Chief Executive Officer – Corporate Credit Card

Details of transactions made on the Chief Executive Officer's corporate credit card during April 2023 are provided below to ensure there is appropriate oversight and awareness.

Date	Payee	Description	\$ Amount
1/04/2023	HARVEY NORMAN AV/IT	MOBILE ACCESSORIES- CEO PHONE	372.84
4/04/2023	SENSATIONS CAFE	PORT GEO MEETING- CEO/MAYOR	11.50
7/04/2023	AMPOL BUSSELTON	FUEL - CEO VEHICLE	134.90
13/04/2023	WEST AUSTRALIAN	DIGITAL SUBSCRIPTION	28.00
19/04/2023	TICKETS- STATE BUDGET LUNCH MRCCI	STATE BUDGET LUNCH 12 MAY- CEO	56.88
20/04/2023	TICKETS- STATE BUDGET LUNCH BGCC	STATE BUDGET LUNCH 12 MAY- MAYOR HENLEY	90.00
20/04/2023	TICKETS- SEGRA FOUNDATION	NATIONAL REGIONAL & ECONOMIC DEVELOPMENT SUMMIT 2023-MAYOR HENLEY	792.00
21/04/2023	TICKETS- STATE BUDGET LUNCH BGCC	STATE BUDGET LUNCH 12 MAY- Cr PAINE, Cr LOVE, Cr RICHARDS	270.00
21/04/2023	JETSTAR FLIGHTS - BSN TO MELB	FLIGHTS FOR NATIONAL REGIONAL & ECONOMIC DEVELOPMENT SUMMIT- MAYOR HENLEY	550.33
24/04/2023	TICKETS- STATE BUDGET LUNCH MRCCI	STATE BUDGET LUNCH 12 MAY- Cr CRONIN	56.88

Date	Payee	Description	\$ Amount
26/04/2023	TICKETS- STATE BUDGET LUNCH MRCCI	STATE BUDGET LUNCH 12 MAY- Cr COX	56.88
26/04/2023	TICKETS- STATE BUDGET LUNCH MRCCI	STATE BUDGET LUNCH 12 MAY- Cr RYAN	56.88
30/04/2023	MAILCHIMP	ELECTRONIC NEWSLETTER PR	378.09
		TOTAL	2,855.18

Donations & Contributions Received

During the month no non-infrastructure asset (bridges, roads, POS etc), donations or contributions were received.

Statutory Environment

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

Relevant Plans and Policies

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

Financial Implications

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

Stakeholder Consultation

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

Risk Assessment

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

Options

The Statements of Financial Activity are presented in accordance with Section 6.4 of the Act and Regulation 34 of the Regulations and are to be received by Council. Council may wish to make additional resolutions as a result of having received these reports.

CONCLUSION

As at 30 April 2023, the City's net current position stands at \$7.7M, and cash reserve balances remain sufficient for their purposes.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not applicable.

12.9 Finance Committee - 7/6/2023 - RATE EXEMPTION - FREE REFORMED CHURCH OF BUSSELTON INC

STRATEGIC THEME	OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy
STRATEGIC PRIORITY	3.2 Facilitate an innovative and diversified economy that supports local enterprise, business, investment and employment growth.
SUBJECT INDEX	Rating Exemption
BUSINESS UNIT	Rates
REPORTING OFFICER	Rates Coordinator - David Nicholson
AUTHORISING OFFICER	Acting Director, Finance and Corporate Services - Sarah Pierson
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Rate Exemption Application  Attachment B Rate Exemption Statutory Declaration  Attachment C Rate Exemption Covering Letter  Attachment D Free Reformed Church of Busselton Inc Constitution  Attachment E Free Reformed Church of Busselton Inc 2022-23 Budget 

This item was considered by the Finance Committee at its meeting on 7/6/2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council:

1. Grant rate exemption to Free Reformed Church of Busselton Inc. for 10 Pettit Crescent West Busselton, effective 20th January 2023, under section 6.26(2)(g) of the *Local Government Act 1995*;
2. Agree that this rate exemption is to continue where Free Reformed Church of Busselton continue to own and use the property as stated in the application at Attachment A;
3. Continue to advocate, through the South West Zone of WALGA, for a review of Rating Exemptions; and
4. Continue to note in the City's Annual Report the annual total cost to the City of rating exemptions.

OFFICER RECOMMENDATION

That the Council:

1. Grant rate exemption to Free Reformed Church of Busselton Inc. for 10 Pettit Crescent West Busselton, effective 20th January 2023, under section 6.26(2)(g) of the *Local Government Act 1995*;
2. Agree that this rate exemption is to continue where Free Reformed Church of Busselton continue to own and use the property as stated in the application at Attachment A;
3. Continue to advocate, through the South West Zone of WALGA, for a review of Rating Exemptions; and
4. Continue to note in the City's Annual Report the annual total cost to the City of rating exemptions.

EXECUTIVE SUMMARY

The Free Reformed Church of Busselton Inc. (FRCBI) lodged a rate exemption application in March 2023 for 10 Pettit Crescent, West Busselton, a property that they purchased on the 20th January 2023. On the basis of the application, this report recommends that the application for exemption be granted effectively from the 20th January 2022 in accordance with Section 6.26(2)(d) of the *Local Government Act 1995*.

BACKGROUND

The FRCBI is a religious organisation that is endorsed by the Australian Taxation Office for charity tax concessions and is registered as a charity under the Charities Act 2013 for the charitable purpose of advancing religion. The object of FRCBI are (as per their constitution)

- a) the preaching and practice of the Christian gospel according to the doctrinal standards and liturgy of the Free Reformed Churches of Australia; and
- b) the provision of facilities for the worship of God, including places of worship.

They are registered as a charity under the Charities Act 2013 for the charitable purpose of advancing religion.

The constitution also states that:

'the property and income of the Church shall be applied solely towards the promotion of the objects of the Church and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to Members, except in good faith in the promotion of those objects or purposes.'

The property at 10 Pettit Crescent, West Busselton was purchased by FRCBI in December 2022 from Australasian Conference Association Ltd (Seventh Day Adventist Church) with ownership transferring on the 20th January 2023. The property, up until FRCBI ownership, was rate exempt due to it being used by the Seventh Day Adventist Church for religious purposes. Rate exemption was not automatically applied upon FRCBI taking ownership as an application that included stipulating the property use was required to be lodged.

The property will mainly be used by the FRCBI for public worship services every Sunday and also for special celebration days. The hall will be used as overflow space for worship services, and for fellowship events organised by the church. It will also host bible study groups for adults and youth, catechism courses for youth and introduction courses for interested persons during the week. The Church facilities will be made available for family events such as weddings and funerals. No payments will be received for any services provided to the congregation.

Upon request only, the church and hall may be made available for use by members of the public for events such as weddings and funerals, for a minimal fee of \$75/half day to cover any associated costs. The church will also be leased back to the Seventh Day Adventists for the next 12 months for worship use on Friday evenings and Saturdays, with the intention that the any fee covers cleaning and utility costs.

Engagement with Western Australian Local Government Association (WALGA)

With respect more broadly to rate exemptions for charitable organisations, following a Council resolution in May 2019, the Mayor raised this issue with the South West Zone of WALGA (SWZ) at its meeting, also in May 2019. The SWZ supported the City of Busselton's view unanimously and resolved as follows:

That the SWZ:

1. *Request that WALGA continue to lobby the State Government to consider the removal of rate exemptions for charitable organisations under the Local Government Act 1995 and that an alternative position may be implementing a rebate similar to the Pensioners and Seniors Rebate Scheme.*

In response to the SWZ's resolution, WALGA advised that the SWZ's position is consistent with the following long-held sector position that:

1. *There is a need to amend the Local Government Act to clarify that Independent Living Units should only be exempt from rates where they qualify under the Commonwealth Aged Care Act 1997; and*
2. *Either:*
 - a. *amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or*
 - b. *establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates.*

WALGA to the State Government following the consultation on phase 2 of the review of the Act:

Request that a broad review be conducted into the justification and fairness of all rating exemption categories currently prescribed under Section 6.26 of the Local Government Act.

WALGA's advocacy position has not changed in relation to this issue and it continues to push for meaningful legislative change in this area. Until then, however, the current approach to rate exemptions due to charitable purpose remains in place.

OFFICER COMMENT

In accordance with Section 6.26(2)(d) of the Act, land is not rateable if it is used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood.

Rate exemption applications need to be considered in two parts. The first part is to assess whether the use itself is "charitable" and the second part is to determine whether the property is being used "exclusively" for charitable purposes.

In considering the first part, that is, are the operations of the association considered to be a charitable use, legal opinions are consistent in defining charitable purpose as land used for:

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

It is considered that the services being provided by FRCBI would meet all part 3 of these definitions and as such the property at 10 Pettit Crescent, West Busselton would be eligible for rate exemption under section 6.26(2)(d) of the Act.

In considering the second part, that is, 'is the property being exclusively used for a charitable purpose'; this criteria is being met by FRCBI as they occupy and use the property for religious purposes.

No physical inspection of 10 Pettit Crescent, West Busselton has been undertaken based on its known use and the provided statutory declaration (Attachment B), which is considered to be sufficient.

Statutory Environment

Section 6.26(2)(d) of the Act specifically states that land used exclusively for religious purposes is not rateable.

Relevant Plans and Policies

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

Financial Implications

Granting rate exemption effective 20th January 2023 will result in a \$1,331.70 reduction to the rating income for the 2022/23 financial period. In future years this represents a lost opportunity for rating income of approximately \$3,000 plus any budgeted increases where 10 Pettit Crescent, West Busselton continues to be owned and used by FRCBI for the purposes as stated in the rate exemption application.

Stakeholder Consultation

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

Risk Assessment

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

That being said, if Council chooses to not grant rate exemption, then staffing and/or legal costs may be incurred if the applicant refers the matter to the State Administrative Tribunal (SAT) for a review of the decision. It is considered a high probability that SAT will reverse Council's decision.

Options

As an alternative to the proposed recommendation the Council could decline the rate exemption application on the basis that it considers the property to be rateable under the Act. As stated above, this is not recommended based on the risks associated with declining the application:

CONCLUSION

It is considered that the services provided by FRCBI from 10 Pettit Crescent, West Busselton are charitable in nature and would be eligible for rate exemption under section 6.26(2)(d) of the Act.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If rate exemption is granted on 10 Pettit Crescent, West Busselton then it would be applied effective from the 20th January 2023, instead of the date of the rate exemption application as a concession.

12.10 Finance Committee - 7/6/2023 - AMENDMENT TO ADOPTED SCHEDULE OF FEES AND CHARGES FOR THE 2023/2024 FINANCIAL YEAR

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.5 Responsibly manage ratepayer funds to provide for community needs now and in the future.
SUBJECT INDEX	Fees and Charges
BUSINESS UNIT	Waste and Fleet Services
REPORTING OFFICER	Manager Waste and Fleet Services - Mark Wong
AUTHORISING OFFICER	Director, Engineering and Works Services - Oliver Darby
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Nil

This item was considered by the Finance Committee at its meeting on 7/6/2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council endorses the following amendment to the adopted Schedule of Fees and Charges – 2023/24, effective from and including 1 July 2023, for waste disposal charges at the Busselton Transfer Station and Dunsborough Waste Facility:

1. Domestic Waste and Commercial Waste
 - (a) Single Axle Trailers: \$8.50 changed to \$8.00
 - (b) Tandem Trailers: \$15.50 changed to \$15.00
2. Domestic Green Waste and Commercial Green Waste
 - (a) Single Axle Trailers: \$8.50 changed to \$8.00
 - (b) Tandem Trailers: \$15.50 changed to \$15.00
3. Domestic Bricks and Concrete and Commercial Bricks and Concrete
 - (a) Single Axle Trailers: \$6.50 changed to \$6.00
 - (b) Tandem Trailers: \$15.50 changed to \$15.00
4. Car Tyres: \$8.50 changed to \$8.00

OFFICER RECOMMENDATION

That the Council endorses the following amendment to the adopted Schedule of Fees and Charges – 2023/24, effective from and including 1 July 2023, for waste disposal charges at the Busselton Transfer Station and Dunsborough Waste Facility:

1. Domestic Waste and Commercial Waste
 - (a) Single Axle Trailers: \$8.50 changed to \$8.00
 - (b) Tandem Trailers: \$15.50 changed to \$15.00
2. Domestic Green Waste and Commercial Green Waste
 - (a) Single Axle Trailers: \$8.50 changed to \$8.00
 - (b) Tandem Trailers: \$15.50 changed to \$15.00

3. Domestic Bricks and Concrete and Commercial Bricks and Concrete
 - (a) Single Axle Trailers: \$6.50 changed to \$6.00
 - (b) Tandem Trailers: \$15.50 changed to \$15.00
4. Car Tyres: \$8.50 changed to \$8.00

EXECUTIVE SUMMARY

In accordance with Regulation 5(2) of the *Local Government (Financial Management) Regulations*, a local government is to undertake a review of its fees and charges regularly, and not less than once in every financial year.

This report provides Council with an amendment to the adopted 2023/24 Schedule of Fees and Charges to apply for the financial year commencing on 1 July 2023, subsequent to the conclusion of the required statutory advertising period.

BACKGROUND

Council adopted the Schedule of Fees and Charges for the 2023/24 year on 19 April, 2023 (Item 12.3).

This report seeks to amend various charges in the Engineering and Works Services Directorate, regarding Waste Disposal and Sanitation Fees for the Busselton Transfer Station (BTS) and Dunsborough Waste Facility (DWF).

OFFICER COMMENT

The previously adopted 2023/24 Schedule of Fees and Charges included a number of fees applicable to both the Busselton Transfer station and the Dunsborough Waste Facility, that were increased by a nominal amount of 50c due to the application of the CPI rate. Internal Gatehouse staff at both the BTS and the DWF encounter issues with sourcing loose change and request that the fees be amended downward so as to remove the need to handle 50c pieces, and also having to return loose change from whole dollar amounts submitted by customers.

Instead of increasing the Fees and Charges by nominal, CPI-based amounts each year, the intention from then on, is to increase the amount by whole dollar values (at the appropriate time), before holding that new whole dollar-increased value until such time as to increase the Fee or Charge to the next whole dollar-value.

Statutory Environment

Sections 6.16 to 6.19 of the *Local Government Act 1995* (the Act) refer to the imposition, setting the level of, and associated administrative matters pertaining to fees and charges. The requirement to review fees and charges on an annual basis is detailed within Regulation 5 of the *Local Government (Financial Management) Regulations*.

Section 6.16 of the Act states that a local government may impose and recover a fee or charge for any goods or services it provides or proposes to provide, other than a service for which a service charge is imposed.

Section 6.17 of the Act further states that in determining the amount of a fee or charge for goods and services, a local government is to take in to consideration the following factors:

- a) The cost to the local government of providing the service or goods;
- b) The importance of the service or goods to the community; and
- c) The price at which the service or goods could be provided by an alternative provider.

Section 6.18 of the Act clarifies that, if the amount of any fee or charge is determined under another written law, then a local government may not charge a fee that is inconsistent with that law.

Relevant Plans and Policies

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

Financial Implications

The proposed pricing reduction to the line items mentioned above is expected to reduce revenue from the facilities' gate fees in the vicinity of \$11,000 to \$14,000 for the financial year, based on the total number of transactions of these types at the waste facilities in the previous 12-month period (about 22,000).

Stakeholder Consultation

This was a result of feedback from staff on-the-ground; no external stakeholder consultation was undertaken in relation to this matter. As part of the next price appraisal, consultation may occur with other local government authorities, along with a review of prices offered by alternate service providers (pursuant to section 6.17 of the Act).

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could recommend alternatives to the proposed amendments to the Adopted 2023/2024 Schedule of Fees and Charges as it deems appropriate.

CONCLUSION

Council adopted the 2023/2024 Schedule of Fees and Charges on April 19, 2023 (Item 12.3). The Schedule included fees that would require staff to handle 50c pieces and return loose change from whole dollar amounts submitted by customers. This has been identified as an area of risk and an area to improve customer service in; therefore it is proposed to amend the fees downward so that minor coins do not need to be handled

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Following the adoption by the Council, the amendment will be subject to a statutory advertising period and any revised fees will be effective 2 weeks subsequent to the advertising period commencing, but no earlier than 1 July. Given the statutory advertising requirements, it is anticipated that the amendment will not be able to be enacted until sometime into July.

12.11 Finance Committee - 7/6/2023 - REVIEW OF THE FINANCE COMMITTEE

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Review of Committees
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Acting Director, Finance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER	Chief Executive Officer - Tony Nottle
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Finance Committee Terms of Reference Proposed Edits 

This item was considered by the Finance Committee at its meeting on 7/6/2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council:

1. notes the outcome of the evaluation of the Finance Committee's (the Committee) effectiveness, in accordance with clause 8 of the Committee's Terms of Reference;
2. acknowledge that while the Committee is operating effectively, increased information and training for members and more strategic involvement in LTFP and budget preparation would further improve its effectiveness and requests the CEO to consider how these can be actioned;
3. endorses the amendments proposed to the Committee's Terms of Reference as per Attachment A.

OFFICER RECOMMENDATION

That the Council:

1. notes the outcome of the evaluation of the Finance Committee's (the Committee) effectiveness, in accordance with clause 8 of the Committee's Terms of Reference;
2. acknowledge that while the Committee is operating effectively, increased information and training for members and more strategic involvement in LTFP and budget preparation would further improve its effectiveness and requests the CEO to consider how these can be actioned;
3. endorses the amendments proposed to the Committee's Terms of Reference as per Attachment A.

EXECUTIVE SUMMARY

Under its Terms of Reference, the Finance Committee (the Committee), at a meeting prior to the ordinary Local Government Elections, is to undertake a review to evaluate its effectiveness. Committee Members and City officers have reviewed the effectiveness of the Committee and this report presents the outcomes of that review for the Committee's consideration.

BACKGROUND

Following the 2021 Council elections, and in accordance with clause 2.2 of the City of Busselton Standing Orders Local Law 2018, Council resolved to (re-)establish the Committee and adopted its Terms of Reference (ToR), which states:

8. EVALUATION OF COMMITTEE'S EFFECTIVENESS

8.1. *At the meeting of the Committee prior to the ordinary Council elections, the Committee shall undertake review to evaluate its effectiveness, and as a guide the following should be determined:*

- a. *are the Committee's purpose and objectives being met?*
- b. *should the purpose and objectives be amended?*
- c. *is the Committee functioning effectively and as per the requirements of the Act?*
- d. *are the Committee members regularly attending meetings?*
- e. *review the Terms of Reference, including membership.*

With Council elections to be held in October this year, officers initiated the review process.

OFFICER COMMENT

In order to facilitate the review a survey link was opened to the Committee and Deputy Committee Members of the Committee from Friday 28th April until Monday 1st May 2023. Each Member was asked to respond to the following questions and provide comments where appropriate or required:

- a. Do you feel the Committee's purpose and objectives are being met? – Yes / No / Partly.
- b. In your opinion, is the Committee functioning effectively? If no, how could this be improved?

In addition to the questions asked of Committee Members, City officers assessed the following questions through a review of attendance and minutes:

- a. Is the Committee functioning as per the functions of the Act?
- b. Are committee members' regularly attending meetings?

The table below sets out the collated responses:

Question	Collated Response
Do you feel the Committee's purpose and objectives are being met?	3 responses Yes 1 response Partly <ul style="list-style-type: none"> • 1 response was unsure whether the Committee has been involved in 2.1 b, c or d of the terms of reference.
In your opinion, is the Committee functioning effectively?	4 responses Yes

If no, how could this be improved?	<p>More strategic considerations in LTFP and budget preparation discussions.</p> <p>The ToR be amended to insert the following <i>"Following Council elections, the CEO is to ensure those councillors elected to this Committee are provided with the current Terms of Reference, Local Government Act, Regulations, or Guidelines along with copies of any policy, local law, or document related to this Committee which will enable the member to fully understand the his/her role and function on this Committee".</i></p> <p>Any relevant documents added as a link at the bottom for easy reference.</p>
Is the Committee functioning as per the functions of the Act?	Yes, the Committee has been established in accordance with the Act and meets all requirements of the Act
Are committee members' regularly attending meetings?	Yes

Based on the responses provided, it is recommended that the Committee is operating effectively.

The suggestion with respect to additional training is noted and able to be provided. With respect to amending the ToR to require relevant reference documentation to be provided to Committee members, the reference documents noted are available on the hub for Councillors. Ensuring they are more readily available to Committee members through training and having them more directly linked to the Finance Committee folder is something that can be incorporated. It is not however recommended that a specific reference is added to the ToR as the ToR set out more the purpose and objectives along with the membership and meeting frequencies of the Committee.

Increased strategic involvement with respect to Long Term Financial Planning and Budget preparation is something officers agree would be of benefit.

With respect to the ToR the following amendments are proposed (Attachment A):

- Amendment to point 3.4 to provide for appointment of new members at either the next ordinary or a special council meeting post the election. With changes to the election process (preferential voting) flexibility is required;
- Removal of the delegation to schedule and endorse dates, times and locations of meetings held by the Committee. Officers do not believe this requires a delegation.
- Amendment of point 8 evaluation of the committee's effectiveness to provide for one single Committee review report to be presented to Council as opposed to each Committee evaluating their own effectiveness. For many years officers have undertaken a review of the committees and their terms of reference (ToR) (along with working groups) and provided a report to Council with Council then determining which Committees are to continue and any changes to ToR's. This has worked efficiently and has provided Council with the opportunity to review their Committee structure. It is therefore recommended that this process be used;
- Replacement of 'shall' with 'will'.

Statutory Environment

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

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could choose to evaluate the effectiveness of the Committee differently and / or make different of further amendments to the ToR.

CONCLUSION

An evaluation of the Committee's effectiveness is required under the Committee's ToR. This report presents an evaluation for the Committee's endorsement and recommendation to Council.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The recommendation will be implemented in time for the local government elections.

13. PLANNING AND DEVELOPMENT SERVICES REPORT

13.1 PROPOSED AMENDMENT 56 TO LOCAL PLANNING SCHEME 21 SPECIAL CHARACTER AREA - CONSIDERATION FOR INITIATION FOR ADVERTISING

STRATEGIC THEME	LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing
STRATEGIC PRIORITY	2.8 Plan for and facilitate the development of neighbourhoods that are functional, green and provide for diverse and affordable housing choices.
SUBJECT INDEX	Local Planning Scheme 21 Amendments
BUSINESS UNIT	Development Services
REPORTING OFFICER	Planning Officer - Justin Biggar
AUTHORISING OFFICER	Director Planning and Development Services - Paul Needham
NATURE OF DECISION	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Pennock vs City of Busselton Judgement  Attachment B Examples of Affected Properties 

OFFICER RECOMMENDATION

That the Council:

1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) initiates Amendment 56 to the City of Busselton Local Planning Scheme No. 21 (the Scheme) for community consultation for the purposes of:
 - (a) Amending clause 5.7.3 to read as follows:
 - (i) *5.7.3 Where such objectives, provisions and/or controls are specified in Schedule 4 in relation to a designated Special Character Area, those objectives, provisions and/or controls act in conjunction with the other provisions of this Scheme relevant to that area.*
2. Pursuant to r.35(2) determine that Amendment 56 is a ‘standard amendment’ as it is:
 - (a) An amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
 - (b) An amendment that does not result in any significant environmental, social, economic or governance impacts on land in the Scheme area; and
 - (c) Any other amendment that is not a complex or basic amendment.
3. That as the amendment is in the opinion of Council, consistent with Part V of the *Planning and Development Act 2005* (the Act) and the Regulations made pursuant to the Act, that upon preparation of the necessary documentation, refer the amendment to the Environmental Protection Authority (EPA) and upon receipt of a response that the amendment is not subject to formal environmental assessment, advertise the proposal for a period of 42 days. Where the EPA determines the amendment is to be subject to formal environmental assessment, the assessment is to be prepared prior to advertising of the draft amendment.
4. Council note that the City will proceed with the following further stages for review of the Special Character Areas:
 - (a) Undertake a broader review of the Special Character Area framework which includes the related Scheme provisions and suite of local planning policies.

- (b) **As part of the review, the City will engage with the community to inform the preparation of revised planning controls consistent with the contemporary planning framework.**
- (c) **Incorporate the findings of the stage 2 review within the planning framework.**

EXECUTIVE SUMMARY

The Council is requested to consider initiating Scheme Amendment 56 for the purposes of reinstating discretion to vary development standards for those portions of land included within the Special Character Areas as identified in Schedule 4 of *Local Planning Scheme No. 21* (the Scheme).

The requirement for the amendment has arisen from a recent decision of the Supreme Court (*Pennock v City of Busselton [2021] WASC 29*) which determined that there was no discretion under the Scheme applicable to development controls contained in Schedule 4. Prior to that decision, having sought and considered legal advice on multiple occasions, the City had long been of the view and practice that discretion did exist.

As discussed in greater detail below, discretionary decision making is a core component of the planning system that allows local government to appropriately address the individual merits of each planning application. The lack of discretion currently is having real and significant implications for landowners wishing to develop their properties, placing arbitrary constraints on development and preventing the exercise of reasonable planning judgement, and in some instances creating significant uncertainty.

If initiated and then finally approved, would result in planning controls in practice being essentially the same as what applied prior to 2021. The amendment is accordingly recommended to be adopted for the purposes of public advertising.

BACKGROUND

The Scheme identifies five Special Character Areas, being Quindalup, Yallingup, Old Dunsborough, Adelaide Street and Eagle Bay. Clauses 5.7.1 – 5.7.3 operate in conjunction with Schedule 4 and the applicable local planning policies to establish baseline development standards that are different to those that would otherwise apply, given the applicable zoning. The standards vary across the different areas but commonly include controls on building height, setbacks and subdivision potential.

Originally, Special Character Areas were created through the various local planning policies attaching to each locality. Later, due to a desire to include these development standards in a higher order planning instrument, they were incorporated into the Scheme. However, it was not intended that the provisions would operate as standards which were incapable of variation. This is evidenced by the City's application of the Schedule 4 controls from the period since the inclusion of Special Character Area provisions into the Scheme up until the *Pennock* decision – a period of approximately 20 years. During this period external legal advice was provided supporting the City's view and practice..

In 2018, the City granted development approval for a single house in the Yallingup Special Character Area with a portion of the roof at a height of 10.61m, varying the 10m building height requirement as contained in Schedule 4. Due to the definition of 'natural ground level' (NGL) that applied at the time of assessment, there was inherent uncertainty about the NGL across the site. However, through investigation of past approvals which demonstrated cut and retaining had been undertaken, the City was satisfied the NGL and building height provided by the applicant was reasonably accurate (within a range of confidence of +/- 0.5m. Having considered the merits of the application, discretion was applied as per cl 4.5.1 of the Scheme which provides a 'global discretion' to vary the standards prescribed by the Scheme.

The owners of a neighbouring property then sought judicial review of the City's decision in the Supreme Court. The application for judicial review was dismissed, principally on the basis that it was 'out of time,' with Allanson J also noting the City was not unreasonable in its exercise of discretion (see Attachment A) However, commentary regarding the substantive issue, being whether the City had discretion to approve a building over 10m, has consequences for the City given the comments made by Allanson J concerning the City's construction of the Scheme.

In his opinion, Allanson J noted that while the City's construction was open and reasonable, it was not one with which he agreed. The bolded sentence in the quote below has the effect of overriding all clauses of the Scheme, including cl 4.5.1, which was relied on to permit the exercise of discretion within Special Character Areas -

*"5.7.3 Where such objectives, provisions and/or controls are specified in Schedule 4 in relation to a designated Special Character Area, those objectives, provisions and/or controls act in conjunction with the other provisions of this Scheme relevant to that area **with the exception that the provisions of Schedule 4 will take precedence over any other provisions of this Scheme.**"*

Whilst the State has subsequently changed the definition of NGL, on the basis of the earlier NGL definition, the effect of that position is that the height controls in Schedule 4 were absolute and unvariable but from a sometimes uncertain and unknowable base. Accordingly, to reinstate discretion, as per the original intent of the Scheme, the amendment proposes to remove the wording in bold as contained above. Once removed, cl 4.5.1 (i.e – application of discretion) would apply when determining applications within a Special Character Area.

It is noted the proposed amendment does not alter the development standards applicable to each Special Character Area. In the assessment of any application, the development controls specific to each Special Character Area as contained in Schedule 4 and relevant policies will still take precedence over more general provisions contained elsewhere in the Scheme.

If the officer recommendation is supported, the process will need to be followed through to completion – being either the adoption or refusal of the amendment by the Minister for Planning. That is, once initiated by Council for advertising, the final determination on the amendment will be the decision of the Minister, not Council.

It is noted the proposed amendment is intended to form the first stage of a broader review of the Special Character Areas, the associated Scheme provisions and local planning policies. The amendment is intended to operate as an initial remedy to address the issue raised by the *Pennock* decision with the broader review to occur concurrently with the local planning scheme review process.

OFFICER COMMENT

The below section outlines the key considerations and circumstances that have informed the formulation of Amendment 56, as contained in the Officer Recommendation. First, the importance of discretionary decision making to a modern planning framework is outlined, with a further discussion of the operational impacts of the loss of discretion. The second part of the Officer Comment section outlines the rationale for a broader review of the Special Character Areas which is recommended to occur concurrently with the Scheme review process.

Discretionary decision making

For reasons elaborated below, it is considered the current planning framework that has flowed from the *Pennock* decision is intrinsically unworkable and unfair and has resulted in perverse planning outcomes that were never the intent of the Schedule 4 provisions.

The intent of the Schedule 4 provisions are to reflect the character of each identified Special Character Area through a number of conservative development controls, including such elements as building height and setbacks. As with any development standard and as demonstrated in past application by City officers and Council, these controls were not intended to be absolute but to be subject to discretionary decision making.

Discretionary decision making is at the core of good planning practice and rightly allows for individual contexts to be taken into consideration. For example, a development site may have constraints related to lot shape, easements or bush fire risk. In this instance, absolute controls can prohibit otherwise acceptable development that satisfies the outcome the control is intended to achieve. It is important that development controls be treated as a mechanism to achieve a desired outcome and not be conflated or confused with the outcome itself. Within Special Character Areas, discretionary decision making and variations to development standards are guided by the Scheme and the *Planning and Development (Local Planning Scheme) Regulations (Regulations)*.

As the local planning framework currently applies following the *Pennock* decision, landowners with development plans that propose any type of variation, no matter how minor, have been advised not to lodge their application as the City cannot legally exercise discretion. While a 'wait and see' approach was originally adopted, it is now clear that reasonable development proposals are unable to be supported.

There are a number of examples of development (either as pre-application enquiries or development applications) impacted by the loss of discretion, resulting in either costly redesigns, applications being cancelled or put on hold, or simply not lodged, until such time as the planning framework is modified (see Attachment B). It is considered the current situation risks reputational damage to the City by contributing to lengthy delays in some instances and the perception of unnecessary bureaucracy.

Consideration has been given by officers to leaving cl 5.7.3 unchanged and addressing the discretion issue through the preparation of Local Planning Scheme No. 22. Alternatively, proposed changes to the Regulations are expected to introduce a uniform discretion clause into the Deemed Provisions to provide consistency across local planning schemes. As such, even were the City not to act now to reintroduce discretion, it is almost certain it will occur at some point.

It is also considered the length and uncertainty of time frame in finalising the new planning scheme (two plus years) or gazettal of changes to the Regulations is detrimental to landowners entitled to have their applications assessed and determined in a timely manner consistent with previous applications, as well as the potential reputational risks discussed above. Accordingly, it is considered important to reintroduce discretion for the effective day to day operation of the planning framework and for the current Scheme to best reflect accepted modern planning practice as established by the Regulations.

Broader review of the Special Character Area

If the amendment is initiated and adopted by Council, it is intended to form the first part of a wider review of the Special Character Areas which will occur concurrently with the preparation of Local Planning Scheme No 22. The review is anticipated to be addressed in the following stages:

1. Undertake a broader review of the Special Character Area framework which includes the related Scheme provisions and suite of local planning policies.
2. As part of the review, engage with the community to inform the preparation of revised planning controls consistent with the contemporary planning framework.
3. Incorporate the findings of the stage 2 review within the planning framework.

While the current planning framework has reached a period of review, clause 67 of the Deemed Provisions informs discretionary decision making until such time as the new scheme is implemented. Clause 67 sets out matters to be taken into consideration when exercising discretion and is read in conjunction with Scheme provisions, existing planning policies (both State and Local) and relevant case law to guide appropriate discretionary decision making. The Department of Planning Lands and Heritage has also recently announced a review into the practice of discretionary decision making and has foreshadowed some potential changes to the deemed provisions of the Regulations.

Stage 2 is an important next step having regard to the layering of planning controls that has occurred over time since the introduction of the Special Character Areas. For example, Eagle Bay contains a number of statutory documents (structure plan, local planning policy and Scheme requirements) that are not all consistent with each other.. This creates uncertainty and confusion for both planning staff and the community in the expected design requirements for the area.

Statutory Environment

The key statutory documents relevant to this proposal include the *Planning and Development Act 2005*, the *Planning and Development (Local Planning Schemes) Regulations 2015* and the relevant objectives and provisions of the City of Busselton Local Planning Scheme No. 21. Each is discussed below under appropriate subheadings.

Planning and Development Act 2005

The *Planning and Development Act 2005* (P&D Act) outlines the relevant considerations when preparing and amending local planning schemes and will inform the preparation of the new planning scheme. The relevant provisions of the Act have been taken into consideration in preparing and processing this Amendment.

Planning and Development (Local Planning Schemes) Regulations 2015

The *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), which came into operational effect on 19 October 2015, identify three different levels of amendments – basic, standard and complex. The resolution of the local government is to specify the level of the amendment and provide an explanation justifying this choice. This Amendment is considered to be a ‘standard’ amendment for reasons outlined in the recommended council resolution.

Local Planning Scheme No. 21

As discussed in the Officer Comment section, due to the recent *Pennock* decision, a Scheme amendment is required to reintroduce discretion for the determination of applications within the Special Character Areas. It is noted the scheme is currently undergoing review as directed by the WAPC with LPS22 to be gazetted in 2025 based on the current timeframe estimate.

While the proposed amendment will provide a quick remedy to the *Pennock* decision outcome, the wider review to be undertaken concurrently with the Scheme review will offer opportunity to revisit the nature and appropriateness of the controls applied to the Special Character Areas.

Relevant Plans and Policies

The key policies relevant to the proposed amendment are as follows:

- State Planning Policy 3.7 Planning in Bushfire Prone Areas
- State Planning Policy 7.3 Residential Design Codes Volume 1 (2023)
- City of Busselton Local Planning Strategy (2019)
- Council Policy Partial Moratorium on Scheme Amendments

State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP 3.7) and Guidelines for Planning in Bushfire Prone Areas

SPP 3.7 directs how land use should address bushfire risk management in Western Australia. It applies to all land which has been designated as ‘bush fire prone’ by the Fire and Emergency Services Commissioner as highlighted on the ‘Map of Bush Fire Prone Areas.’ The accompanying Guidelines for Planning in Bushfire Prone Areas provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP 3.7, providing advice on how bushfire risk is to be addressed when planning, designing or assessing a planning proposal within a designated bushfire prone area.

The portions of land that form the Special Character Areas predominantly fall within the bushfire prone area mapping. The ongoing review of the Special Character Areas and related suite of policy documents will need to take into consideration of bush fire risk during their formulation.

State Planning Policy 7.3 Residential Design Codes Volume 1 (2023)

The latest version of SPP 7.3, applicable from September 2023, provides design parameters for low and medium density residential development and builds upon the principles established in State Planning Policy 7.0 Design of the Built Environment. These policies continue the shift away from prescriptive controls and allow development to be assessed against performance criteria where required. The intent of the updated framework is to provide flexible design-centric policy settings that incentivise functional, sustainable and contextual dwelling design rather than a cookie cutter approach to house design. The ability for local government to exercise discretion in assessing applications is a key element in the successful implementation of the policy.

Local Planning Strategy (LPS)

The LPS sets the broad planning direction for the City of Busselton and provides the strategic rationale for decisions related to the progressive review and amendment of LPS21 and the current formulation of LPS22. The broader review of the Special Character Areas to be undertaken as stage 2 should ensure consistency with the LPS, particularly Theme 1, Objective C and Theme 4, Objective C, as per below:

- Theme 1, Objective C – *“The creation of compact, liveable and sustainable settlements that provide their residents with housing and lifestyle choice and affordability, a high quality of life, health and wellbeing and convenient access to high quality employment and services.”*
- Theme 4, Objective C – *“Preserve and enhance the natural, rural and urban landscapes of the District.”*

Partial Moratorium on Scheme Amendments

Council recently adopted the aforementioned policy establishing a moratorium on scheme amendments to ensure no substantive changes to the planning framework could occur that would potentially impact formulation of the new scheme. The policy sets out the limited range of circumstances in which 'standard amendments' would be permitted, including whether it is urgent from an operational standpoint and does not adversely affect the progression of the draft Local Planning Scheme No. 22.

Amendment 56 is considered to satisfy the criteria outlined in the policy for when a standard amendment can be progressed. Noting the lengthy time frame for the adoption of the new scheme (approximately 2025), it is considered leaving clause 5.7.3 unaltered would impact the effective operation of the planning framework and result in a local planning scheme that does not meet the expectation of a modern planning document.

Financial Implications

There are no direct financial implications associated with the officer recommendation.

Stakeholder Consultation

Initial consultation was undertaken with residents of the respective Special Characters Areas, both in person and via email correspondence throughout 2023 and prior.

On 1 February 2023, the respective resident groups were advised the scheme amendment would probably not be pursued with the issue of discretion to be addressed through the preparation of Scheme No. 22. Due to reasons outlined in the Background and Officer Comments section, this position subsequently changed and was conveyed to the key residents' groups during a meeting of April 24. The timing of the amendment (i.e. June 21 meeting) was further advised to residents' groups via email correspondence on 1 June 2023.

If Council resolves to initiate the Amendment, the relevant documentation will be referred to the EPA for formal assessment under Part IV of the Environmental Protection Act 1986. Where the EPA resolves that the Amendment does not require formal assessment, the document will be advertised for 42 days in accordance with clause 47 of the Regulations. As the City is the proponent for the amendment, however, it is proposed that a somewhat longer advertising period, of 60 days, be undertaken. There would also be community information sessions – most likely one in-person, in Dunsborough, and another online, noting the significant number of non-resident ratepayers in the Special Character Areas.

The wider review of the Special Character Areas will necessitate targeted consultation and workshops with affected landowners to formulate planning documents to guide development and achieve the desired outcome for each area.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve to decline the request to initiate the Amendment in its entirety and provide a reason for such a decision; or
2. Resolve to seek further information before making a decision; or
3. Resolve to initiate the Amendment subject to modification(s)

CONCLUSION

Officers consider the proposal reflects best planning practice and consistency with the objectives of the planning framework and therefore recommends Amendment 57 be initiated for public consultation.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will occur within 28 days, being commencing the advertisement process as per the requirements of the Regulations. The broader review of the Special Character Areas provisions will occur concurrently with the overall Scheme review process.

13.2 PROPOSED ABBEY SOUTH STRUCTURE PLAN AND ASSOCIATED AMENDMENT NO. 55 TO LOCAL PLANNING SCHEME NO. 21 - CONSIDERATION FOR FINAL APPROVAL

STRATEGIC THEME	LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing
STRATEGIC PRIORITY	2.8 Plan for and facilitate the development of neighbourhoods that are functional, green and provide for diverse and affordable housing choices.
SUBJECT INDEX	Local Planning Scheme 21 Amendments
BUSINESS UNIT	Strategic Planning
REPORTING OFFICER	Strategic Planner - Noah Scott-McDonald
AUTHORISING OFFICER	Director Planning and Development Services - Paul Needham
NATURE OF DECISION	Regulatory: To determine an application/matter that directly affects a person's right and interests e.g. development applications, applications for other permits/licences, and other decisions that may be reviewable by the State Administrative Tribunal
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Aerial Photograph  Attachment B Advertised Abbey South Structure Plan  Attachment C Advertised Scheme Amendment  Attachment D Schedule of Agency Submissions  Attachment E Schedule of Public Submissions  Attachment F Published Under Separate Cover Confidential Table of Submitter Names and Full Addresses Attachment G Schedule of Modifications  Attachment H Leeuwin-Naturaliste Sub-regional Strategy Plans  Attachment I Caves Road Intersection Concepts 

OFFICER RECOMMENDATION

That the Council:

1. Pursuant to Part 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), adopts the Abbey South Structure Plan at Attachment B for final approval, in accordance with the modifications proposed in the Schedule of Modifications at Attachment G.
2. Pursuant to r.50 of the Regulations, adopts Amendment No. 55 to Local Planning Scheme No. 21 for final approval, in accordance with the modifications proposed in the Schedule of Modifications shown at Attachment G, for the purposes of:
 - (a) Inserting 'Special Provision Area No. 76' to read as follows –

No	Particulars of Land	Zone	Special Provisions
SP76	As identified on the Scheme map	Urban Development	<ol style="list-style-type: none"> 1. A single structure plan is to be prepared for the entire Special Provision Area. 2. In addition to the information to be included in a structure plan outlined in Clause 16 of the Deemed Provisions, the structure plan is to set out the following:

			<ul style="list-style-type: none">i. A water management report that takes into consideration the land to the south and addresses all water-related matters relevant to the proposal.ii. Measures to manage risk from coastal inundation.iii. Open space requirements.iv. Measures to retain, manage, and enhance environmental values associated with the Special Provision Area including remnant vegetation, potential habitat for Commonwealth and State listed threatened fauna species, ecological linkages and wetlands, within 'public open space', road reserves, and/or conservation areas (as identified on the Structure Plan). Such measures are required to also address linkages and connectivity with contiguous areas of similarly important remnant vegetation on land adjoining the special provision area as well as management measures to ensure the habitat functions of these areas are maintained and, where possible, enhanced.v. The provision of vegetated buffers to ensure appropriate visual screening and separation of development from main roads adjoining the Special Provision Area.vi. Measures to provide for the safe and efficient movement of pedestrians and cyclists to, from, and within the Special Provision Area, including crossings of main roads adjoining the Special Provision Area.
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			<p>3. A Local Development Plan is to be prepared on Lots 12 and 402 Caves Road and Lots 14 and 15 Bussell Highway to address :</p> <ul style="list-style-type: none"> i. Location of car parking, pedestrian access and vehicular/service access areas for development where adjacent or located on Lot 402; ii. Landscape values and visual management considerations.
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- 3. Pursuant to r.53 and Part 4 of Schedule 2 of the Regulations, endorses the Schedules of Agency and Public Submissions at Attachments D and E respectively, which have been prepared in response to the public consultation process undertaken in relation to the Abbey South Structure Plan and associated Amendment No. 55.**
- 4. Advise the Western Australian Planning Commission that Amendment No. 55 is considered a 'standard' amendment pursuant to r.34 of the Regulations as it is:**
 - (a) an amendment that is consistent with a Local Planning Strategy for the Scheme that has been endorsed by the Commission; and**
 - (b) an amendment that does not result in any significant environment, social, economic or governance impacts on land in the scheme area.**
- 5. Upon preparation of the necessary documentation, refers the adopted Amendment No. 55 to the Western Australian Planning Commission for consideration and determination in accordance with the Planning and Development Act 2005.**

EXECUTIVE SUMMARY

Amendment No. 55 (the Amendment) to *Local Planning Scheme No. 21* (the Scheme) was initiated for advertising by Council on 16 November 2022. At this meeting Council also considered the Abbey South Structure Plan (SP) and provided further guidance for high level revisions which were addressed prior to advertising.

The purpose of the SP is to guide subdivision and development in the SP area (Refer to Attachment A: Aerial Photograph). The purpose of the Amendment is to introduce an appropriate zone to guide the preparation of SP and enable its implementation.

The purpose of this report is to set out recommendations relating to the final adoption of the SP and the Amendment, following consideration of the submissions received through the advertising process. The proposals would then be further considered by the Western Australian Planning Commission (WAPC), and the Amendment with require final endorsement by the Minister for Planning.

BACKGROUND

The SP area is located on the south-western side of Caves Road opposite the Monaghan's Corner local centre at the Bussell Highway / Caves Road intersection in Abbey. It has an area of approximately 30.5 hectares and comprises Lots 4, 12 and 402 Caves Road and Lots 14 and 15 Bussell Highway. The area is currently zoned 'Rural' and 'Conservation' in the Scheme.

The proposal seeks to facilitate the subdivision and development of the SP area in a manner that is consistent with the applicable State and Local level strategic planning frameworks, namely the *City of Busselton Local Planning Strategy (LPS)* and the *Leeuwin-Naturaliste Sub-regional Strategy 2019 (LNSRS)*. Officers have also worked with the proponent prior to submission of the proposal which has resulted in the concurrent submission of an amendment and structure plan and following Council initiation formal WAPC consent for the preparation of a structure plan has been obtained. This is further discussed below.

Leeuwin-Naturaliste Sub-Regional Strategy and the City's Local Planning Strategy

The LNSRS was approved by the WAPC in May 2019, and identified Abbey South as a Planning Investigation Area (PIA) (Attachment 1 – LNSRS Strategy Map and Abbey description). The primary purpose of the LNSRS is to manage and plan for growth in the sub-region and to inform a review of *State Planning Policy No. 6.1 Leeuwin-Naturaliste Ridge (SPP 6.1)*. The scope of the document and the purpose is broadly defined as follows:

- An overarching plan for growth within the Leeuwin-Naturaliste area (i.e. Shire of Augusta Margaret-River and the City of Busselton) which considers development pressures in the context of landscape and the environment.
- Protect agriculture and food production areas and acknowledge the cumulative development impacts within rural and landscape areas and focus development in the larger settlements in the context of the sub-region over a 20+ year timeframe.
- Provide a local context and more detail for actions set out in the WAPC South West Regional Planning and Infrastructure Framework.

Previous Council decisions regarding the preparation of both the LPS and the LNSRS included in-principle support for the classification of Abbey South as an urban growth area. It was considered that the area was notable as the last undeveloped land near the coast within the Busselton-Vasse Urban area, and that its development would 'round off' existing residential development and consolidate the settlement around the Monaghan's Corner Local Centre. Further, it was considered that the area would be well serviced by schools, community infrastructure, public transport and utilities.

The LNSRS, as originally adopted, identified that the Abbey PIA required further investigation to determine if the land is suitable or appropriate for urban development. Key considerations for the Abbey PIA were identified as follows:

- Biodiversity values (adjacent wetlands and floodway to the south).
- Provision of land for employment generating activities.
- Transition/interface with adjacent tourist uses (Caravan Park to the west, boutique uses to the east).

In October and December 2021 the WAPC resolved to make a range of changes to the LNSRS, including the removal of the Abbey PIA. Abbey South was instead designated as part 'Urban' and part 'Open Space Investigation', with a requirement for the preparation of a single structure plan for the area.

As per a Council report on the LNSRS PIA areas (15 March 2023), the WAPC made changes to the LNSRS having considered the findings of a confidential report prepared by the Department of Planning, Lands and Heritage (DPLH).

In obtaining a copy of one of those reports through a Freedom of Information (FOI) process the following text is noted:

The Abbey PIA is well suited to more intensive forms of urban development...an opportunity exists for the Abbey PIA to respond to the looming land supply issues, and to ensure an adequate supply of affordable land, promoting a variety of housing choice remains available to the Busselton community as it continues to grow.

It is noted that the LPS identifies that the determination of the LNSRS PIAs was to occur in conjunction with the preparation of 'Townsite Strategies' for Vasse and Dunsborough. This process was intended to occur prior to the SP and Amendment process a, and would have considered, among several factors, physical boundaries and the separation of settlements. Ultimately the preparation of the Townsite Strategies was not supported by the WAPC and the requirement was removed from the LNSRS.

The investigation process for the PIAs was subsequently combined with the SP and Amendment process. It is considered that the absence of clear town site strategies and the designation of the Vasse North urban area in the LNSRS presents a risk to the ongoing physical separation of settlements as required in SPP 6.1. However, the same risk is not considered to exist with respect to Abbey South as the area is mostly not visible from the regional road network, and does not require screen vegetation or noise bunds to any significant degree and is relatively high land in comparison with Vasse North.

Submission of draft Structure Plan and Amendment 55 to Scheme 21

In August 2022 the City received the proposed SP and Amendment (lodged for concurrent consideration) along with supporting technical reports from a planning consultant (Rise Urban) acting on behalf of the key landowners. With respect to the Open Space Investigation area, Rise Urban has provided an Assessment and Investigation Report with the SP documentation.

At its meeting of 16 November 2022 Council considered the proposal and resolved to adopt the Amendment for advertising, with modifications, and to seek approval from the WAPC to consent to a Structure Plan being prepared in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015* (LPS Regulations). This has been obtained from the WAPC. Council also noted that the City required further matters to be addressed with agreement of the applicant:

- (a) Incorporating vegetated buffers within the Structure Plan area to ensure sufficient screening to Caves Road and Bussell Highway;
- (b) Applying a range of R-Codes to Lots 12 and 402 Caves Road and Lots 14 and 15 Bussell Highway, Abbey, to accommodate an increased diversity of development opportunities;
- (c) Improving permeability of Lots 12 and 402 Caves Road and Lots 14 and 15 Bussell Highway, Abbey, through the modification to the proposed network of roads / paths / reserves; and
- (d) Identification of a higher order cycle path through the Structure Plan area that connects to the City's existing and planned network.

Following resolution of the above matters, the SP was adopted for advertising on 30 January 2023 under delegation. The proposal was referred to the EPA which advised that assessment was not required under the *Environmental Protection Act 1986*. The EPA did provide written advice on environmental matters as included in Attachment E.

A total of 104 written submissions were received (14 Agency and 90 Public). Late submissions were accepted for an additional week following the 42 day advertising period to allow for further community feedback.

OFFICER COMMENT

The proposal was advertised for 42 days commencing on 4 February 2023 and ending on 17 March 2023. Key matters raised in agency submissions relate to water management, coastal inundation, environmental matters and the movement network.

The public submissions raised concerns with the proposed road designs (particularly pedestrian, cyclist and traffic safety), clearing of vegetation, loss of habitat, and the density of the proposed development being at odds to the surrounding areas (e.g. Abbey and Cambridge). The public also raised concerns with the rezoning of land from 'Environmental Conservation' to 'Urban Development' and potential inconsistencies with SPP 6.1. The key issues relevant to the proposal area outlined and discussed below.

Major Roads, Traffic and Access

A number of submissions, including the submission from Main Roads WA, raised concern with the design of the proposed connections to Caves Road, and to a lesser extent to Bussell Highway. The following concerns were raised in submissions:

- The ability of the road network to safely and efficiently accommodate the increase in vehicle usage resulting from the development.
- The location and design of the intersections.
- Lack of pedestrian and cycling crossing facilities and the lack of footpaths. Desire for expanded foot path / cycle path network and safe crossings along / across major roads to link the development to surrounding area and amenities.
- Potential access impacts for properties fronting Caves Road.
- Concerns about noise and trucks associated with construction.
- Potential tree removal required to accommodate road widening and the impact on Western Ringtail Possums (WRP).
- Increase in noise and light pollution that may eventuate from increased vehicle traffic and road upgrades.
- Vehicle speeds and lack of gaps in traffic during peak periods.
- Communication between Main Roads and the local community.
- Desire for Vasse - Dunsborough Link (VDL) to be constructed in support of the development.
- Desire for improved access to public transport.

Officers highlighted many of the above issues in the 16 November 2022 report to Council, and noted that the City does not manage or control the major roads impacted by the proposal. The City has been involved in ongoing discussions with the proponent and Main Roads in order to improve traffic, safety and property access outcomes, as well as providing safe and efficient crossing facilities for pedestrians and cyclists.

Unfortunately the proponent and Main Roads have not yet been able to fully resolve these issues within the statutory timeframes that the City is required to provide a recommendation on the proposal. Specifically, Main Roads is currently unable to support the proposal on the basis that it does not satisfactorily address a number of network planning concerns, particularly the proposed external road connections onto Caves Road and Bussell Highway. Updated Caves Road intersection concept designs (prepared by Main Roads WA and the proponent) are shown at Attachment I. It is noted that these are working documents only and have no formal status.

Officers do not support a roundabout intersection design as it fails to comply with the Amendment Special Provision requirements 2 iv, v and vi, as it would impact existing vegetation excessively, and would not provide for safe and efficient pedestrian crossing facilities. Furthermore, officers do not support a secondary eastern access to Caves Road, nor unnecessary road widening impacting Lots 12 and 402, Caves Road.

The following modifications (included in Attachment G) have been developed in response to the above matters raised in submissions, and are expected to provide for the safe and efficient access and egress to the SP area:

- A single vehicle access full movement T-Intersection at the location of the existing access point to Lot 4, 63 Caves Road ABBEY WA, that:
 - Provides safe access/egress to the Structure Plan Area for users including pedestrians.
 - Minimises loss of vegetation through the implementation of small footprint design.
 - Minimises disturbance to WRP habitat and includes remedial works (Possum rope bridges and tree planting) where disturbance is unavoidable.
 - Minimises impact to property access on northern side of Caves Road.
- Deletion of vehicle access to Caves Road from Lot 12 Caves Road ABBEY WA 6280 (Retention of Pedestrian and Cycle path access).
- The provision of safe and efficient crossing facilities across main roads for pedestrians and cyclists at convenient intervals.
- A path network that provides safe and direct access to public transport (bus stops).
- A higher order shared path on the northern side of Caves Road adjacent the Structure Plan area.
- Extension of the higher order cycle path so that it connects to the Bauanyup Drain Shared Path from the south western corner of the site, with an alignment and / or design that mitigates the impacts of the floodway on the functioning of the path.
- The requirement for all internal and external connecting path infrastructure (cycle and pedestrian) to be funded and constructed by the proponent as part of the subdivision works.
- Updated intersection design addressing access to Bussell Highway developed to the satisfaction of Main Roads WA prior to WAPC determination of the Structure Plan.

Officers are confident that a design solution can be achieved in accordance with the above modifications prior to final WAPC determination.

It is noted that Caves Road has sufficient capacity to accommodate average traffic volumes expected from the development independent of the VDL. The location and design of intersections and pedestrian crossing points will be key to achieving safe and efficient access to the site. Nonetheless, the City continues to support the progression of the VDL project in a timely manner, noting that once other regional road projects are complete, it is likely that the VDL will become the subject of greater advocacy by the City and the community.

Modifications have also responded to significant concerns raised in submissions about the provision of footpaths and cycle paths, particularly regarding the provision of safe and efficient access to and from the SP area, and across major roads. This is the standard applied for vehicle access and should not be overlooked for sustainable transport modes.

Environmental Impact

The SP area largely consists of cleared agricultural (pastoral) land, and the City has worked with the proponent to retain existing trees, and in some cases, to preserve habitat corridors. However it is noted that there is a limit to the number of trees and wetland areas that can be retained within the SP area.

Submissions included broad concerns regarding the environmental impacts associated with the proposal including vegetation removal, habitat and wetland destruction, and displacement of fauna. Common matters raised include:

- Opposition to the loss of peppermint trees / Western Ringtail Possum (WRP) habitat, and the increased risk of vehicles hitting WRPs.
- Desire for the provision of vegetated buffers, habitat corridors and tree retention.
- Concerns regarding the loss of wetland areas, with a desire for their retention and conservation.
- Opposition to changing the 'Conservation' zone to 'Urban Development'.
- Heritage concerns.

It is noted that the Amendment introduces 'Special Provision 76', which requires that the proposal include measures to retain, manage, and enhance remnant vegetation, potential habitat for Commonwealth and State listed threatened fauna species, ecological linkages and wetlands, within Public Open Space (POS), road reserves, and/or conservation areas. However, to address issues raised in submissions, officers recommend modifications to the SP (included in Attachment G) to further minimise environmental impacts associated with the proposal. These include:

- Provision of a single full movement T-Intersection connecting to Caves Road in order to minimise the land requirements (and vegetation loss) associated site access.
- Revegetation and implementation of Possum rope bridges where clearing is unavoidable.
- A 10 metre to 30 metre wide landscaped buffer around the floodway.
- A 10 metre wide vegetated buffer to improve visual separation from Vasse North and the adjoining Caravan Park.
- The realignment of an internal road, running north to south adjacent to the eastern boundary, in such a manner that incorporates and preserves existing vegetation along the boundary fence line.

Officers have worked extensively with Main Roads WA and the proponent to minimise the environmental impact from road related vegetation clearing. This would now be reduced by the removal of one of the proposed intersections connecting to Caves Road, at the north east of the site.

The wetlands within the site are categorised as Multiple Use which do not typically require buffers and are not typically required to be retained for ecological or conservation purposes with specific management objectives or requirements. Notwithstanding that, the proposal would retain much of the native vegetation, and protect the hydrological functions of the features within the site. The buffer areas are primarily located in the area identified as 'Open Space Investigation Area' in the LNSRS, and will be appropriately revegetated with native plant species to enhance their function as wildlife corridors. This may provide for improved water quality outcomes and assist in stormwater management, whilst also providing habitat.

However, officers do not support the areas of residential development proposed by the SP in-between the floodway area (on the peninsula) and in close proximity to the floodway boundary, as it would result in hard development edges being introduced within a natural area. Further, the narrow shape of the 'peninsula' area would make it very difficult to accommodate residential lots with compliant asset protection zones (APZs) within the lot boundaries and provide road and drainage services. In addition, maintaining the natural integration of the floodway with urban areas would also be problematic in this location as hard edges of development (such as retaining) would likely be required. Accordingly, a modification to the SP is proposed to limit development in this location to retain only the existing farm house within a single, relatively large lot, but with most of the land being reserved as POS and revegetated/rehabilitated.

It is noted that the Conservation zone generally reflects the floodway and flood fringe features on the southern portion of the SP area, along with the area identified as having an increased risk of acid sulphate soils occurring within 3m of the natural soil surface. Officers are of the understanding that the Conservation zone was introduced by Scheme 20 and that the boundaries of the Conservation zone were revised following public consultation and, at the detailed level, were somewhat arbitrary.

Officers remain supportive of urban development within parts of the southern portion of the SP area. It is considered that SP76 of the Amendment and the SP modifications regarding the use of buffers and POS will achieve a suitable balance between protection and enhancement of natural features, enhanced areas of open space for public use, and urban development to provide for land supply.

With respect to submissions about the impacts (if any) on Aboriginal heritage sites. The referral documents note that a lodged Aboriginal Heritage Site (ID: 5337) slightly overlaps a western portion of the amendment area and is likely to be associated with the Bauyanyup Drain. The EPA recommends appropriate consultation, investigation and relevant management plans be undertaken prior to subsequent stages of planning to address potential impacts to Aboriginal heritage values. This was not deemed necessary at structure plan stage and would be further considered at subdivision stage.

Abbey Planning Investigation Area and SPP 6.1

Several submissions raised concerns that the development of Abbey South, especially if considered in conjunction with the development of Vasse North, would directly contradict SPP 6.1. SPP 6.1 identifies the area of the proposal as landscape character unit 'western coastal' and landscape class predominately as 'travel route corridor'. Further SPP 6.1 designates the area as a 'wetland amenity area' that recommends:

- Rural landscape and coastal reserve buffers between Abbey, Vasse and Dunsborough will serve as a natural separation of settlements to avoid urban sprawl and create distinct communities.
- Subdivision development to complement the existing landscape character.
- Protection of the environmental and recreation values of the area.

These matters have informed the preparation of the LNSRS (as amended) and the LPS, both of which contemplate urban development for Abbey South. These strategies have been developed more recently than SPP 6.1, and thus provide contemporary direction in the context of modern planning requirements. As such, the LNSRS is considered to be the WAPC's most relevant planning position when considering the proposal.

It is noted that the Vasse North and Abbey South urban growth areas both have adjacent areas of 'Open Space Investigation'. The preparation of a town site strategy, as discussed in the background section of this report, would have allowed for a more appropriate mechanism to address the critical task of managing development in the area between Vasse and Abbey.

This would be undertaken by containing the extent of residential development at Vasse to the southern side of Bussell Highway, an established Council position, and consistent with earlier WAPC positions, when the WAPC appeared to understand the critical need to manage landscape impacts along regional road routes in the District.

Open Space Investigation areas are defined in the LNSRS as follows:

- *Land that may be suitable for open space (nature/passive recreation) purposes but requires further investigation to determine its suitability and/or refine its area.*
- *Further investigation is to consider factors that may be relevant to the intended open space purpose, such as wetland buffer and flood management requirements. The final extent of land required for open space purposes is to be determined through the investigation process and informed by appropriate studies, and may be larger, smaller or the same size as the area designated as 'Open Space Investigation'.*

The definition allows for a reduction in the size of the investigation area, and thus a reduction in the distance separating Vasse and Abbey. Urban development at Abbey South has been supported in-principle by Council. However in light of the 2021 amendments to the LNSRS, two matters require further consideration as follows:

- Potential for residential development at Vasse North is concerning. Conceptual plans have been provided during public consultation by the Vasse JV which show intentions to develop Vasse North within the both the Urban area and the Open Space Investigation area. This includes large areas of low-lying areas designated as floodways and flood fringe. In addition, the plans identify the construction of a road network which links to the Abbey South area. Should this occur the Abbey and Vasse settlements would no longer be separate and there could be significant impact from a visual perspective, particularly from Bussell Highway, due to Vasse North being low lying with no existing vegetation to screen development. Based on this, the Vasse North Open Space Investigation area and potentially a portion of the urban area is not considered suitable for development.
- Available guidance on the assessment of Open Space Investigation areas is very limited. The LNSRS requires the 'investigation' to be undertaken during SP preparation, however, there is limited guidance on how this is to be undertaken particularly in the context of requirements already set out by the LPS Regulations and the planning framework. As a result the investigation has been concurrently undertaken by the proponent, and it has concluded that the Open Space Investigation area is generally suitable for urban purposes, predominately residential development.

In considering the two matters above, officers conclude that the SP area is generally suitable for urban purposes, with some exceptions, as follows:

- There is no need by the City for district open space in this location which would amount to more significant open space requirements than are otherwise required through the planning framework.
- The northern and south eastern corner of the Open Space Investigation area are suitable for Urban development as they are well screened, well elevated (~3.0m AHD) and clear of vegetation except for narrow corridors and isolated pockets.
- A majority of the vegetation can be protected within road reserves and POS.

- The areas around the floodway, within the south western area of the Open Space Investigation area are not considered suitable for urban development as residential development has servicing and bushfire implications that are not easily resolved, and will create hard development edges which do not enhance the natural features of the area in accordance with SP76.
- Increased buffer areas within POS are required within the south western portion of the Open Space Investigation area.

Proposed modifications to the SP are set out in Attachment G to reflect the view outlined above.

Coastal Management

The LNSRS and SP76 require the consideration of measures to manage the risk from coastal inundation. This has been considered in the context of the City's *Coastal Hazard and Management Adaptation Plan* (CHMRAP) and the requirements of *State Planning Policy 2.6 State Coastal Planning Policy* (SPP 2.6). A key consideration of this proposal is the impact of coastal inundation (flooding) in an extreme weather event.

Identified in the CHRMAP as MU 11 (Abbey), the northern extent (approximately one third) of the proposal has been identified in the CHRMAP as being potentially impacted by coastal erosion within the next 100 years if the coast is not protected, and also by inundation from a one-in-five hundred event. The CHRMAP identifies a protect response for coastal erosion through the future strategies of groynes, beach nourishment and a buried seawall. The CHRMAP identifies upgrades of the eastern bank of the Buayanyup drain to the approximately height of 3.5m – 4.0m AHD to be undertaken within the 2043-2073 timeframe. The SP proposes site works would allow for future development to a finished floor level (FFL) of 3.0m AHD.

As set out in the assessment of submission Department of Planning, Lands and Heritage – Coastal (DPLH) have raised that works associated with the Buayanyup drain should be undertaken and Amendment 55 modified to include the requirement for 3.0m (FFL). The CHRMAP, however, recommends that further modelling is undertaken to inform decisions about coastal inundation, but that in the absence of that, indicates that in areas where there is not a long-term, integrated coastal inundation protection strategy, that minimum FFLs for new development should be 3.4 AHD to accommodate coastal inundation hazard (note that figure includes 0.9m allowance for projected sea level rise).

The CHRMAP does recommend a long-term, integrated coastal inundation protection strategy for the Abbey area, consisting of foreshore works to raise and reinforce the coastal foreshore reserve, together with the raising and reinforcing of the eastern bank of the Buayanyup Drain. The CHRMAP recommends that occur in the medium-term, meaning that the minimum FFL for new development be set at approximately 2.7 AHD. At this point, however, the additional modelling recommended by the CHRMAP has not been undertaken – although it is underway – and there is no clear or detailed plan for implementation of a long-term, integrated coastal inundation protection strategy. Importantly, the costs associated with such a strategy are not known, and nor is there a funding strategy. On that basis, especially where greenfields (rather than infill) development is concerned, a conservative approach should be taken.

Whilst the coastal modelling project currently underway could provide a basis for a lower minimum FFL, at this stage it is considered that the minimum FFL should be set at 3.4 AHD.

Water and Drainage

Several water and drainage issues were raised in submissions, in particular from relevant state agencies including the Department of Water and Environmental Regulation (DWER) and the Water Corporation. Key issues raised include the following:

- Local Water Management Strategy (LWMS) issues including:
 - Requirement to adequately demonstrate containment of the flows from a one in one-hundred-year storm event on site.
 - Potential cumulative impacts on adjacent floodway (should Vasse North development proceed).
 - Storm water modelling assumptions and how this may affect proposed storm water infrastructure sizing.
 - Modelling of 1-100 year flood events and wastewater upgrades.
- Lack of a secured water supply to irrigate POS.
- Alignment of higher order cycle path through floodway.
- The interface between the floodway and the development area.

Modifications are proposed to address water and drainage issues and are included in Attachment G, in particular the requirement for reticulated POS and the provision of a turfed POS area of between 3,000m² and 5,000m² be able to accommodate unrestricted open space. Further, the requirement for the lots within the SP area to retain a 1 in 100 year event is not supported by City officers as it would place a significant, unenforceable and potentially unachievable burden on individual lots.

Proposed modifications to modelling would allow this to be resolved and are supported and proponent has further advised that sensitivity testing is underway in consultation with DWER. A buffer adjacent the floodway area would allow for a natural interface (i.e. swales not constructed retained edges) and would be appropriately revegetated with native plant species to enhance its function as wildlife corridors in accordance with SP76 of the Amendment. Proposed modifications to the SP are set out in Attachment G to reflect the view outlined above.

Housing Density and Character

A number of submissions expressed a desire for the proposal to be in keeping with the existing housing density and character of Abbey, and to a lesser extent, Cambridge Estate. Several of these submissions considered that the proposal does not align with the existing character of Abbey. Matters raised include:

- Concerns that smaller lots sizes will attract holiday homes and / or rentals.
- Concerns about overcrowding and that the infrastructure and services of the local area cannot support the population associated with R40 and R60 densities.
- Concern about poor design outcomes associated with R30 – R40 including house frontages dominated by parked cars and garages.
- Some concerns about the R60 coded areas which were considered as broadly unsuitable for the area.
- Concerns about the ability of small lots to accommodate trees.
- Concerns about the impact of density on the environmental and as a contributing factor to climate change.

- General desire for the development to be above the 'average' with regard to sustainability, potentially including higher building standards / design guidelines, and the retention of existing trees on lots.

It is noted that the majority of the site is proposed coded R20 – R40 which is a common coding for new residential areas and is broadly in keeping with the existing character of the locality, i.e. detached residential dwellings. In accordance with the SP, R40 sites are to be located adjacent POS, at the end of street blocks, or where lots are serviced by rear laneways.

Lots coded R60 make up a small portion of the overall site area, and are located exclusively within the Monaghan's Store walkable catchment, in accordance with the LPS, which states that the inclusion of 'housing choice' and 'urban consolidation' are to be considered. Further, as this is the last near-coastal land with significant development potential in the Busselton-Vasse Urban Area. It is seen as appropriate that as many people as reasonably possible should be able to be accommodated for.

A single submission sought to increase the density of an R60 lot to R80. Officers consider at R60 achieves the most appropriate balance between intensification (as per the LPS), the existing amenity and character of the area, and the access constraints associated with the lot in question. Accordingly, R80 is not supported.

The area proposed for R10 is proposed to be modified to R2.5. The introduction of a 10 metre to 30 metre wide buffer from the boundary of the floodway renders the area currently proposed as R10 Residential unsuitable for intensive development. A coding of Residential R2.5 provides an option to retain the existing dwelling.

It is noted that the Department of Planning, Lands and Heritage (DPLH) is currently in the process of implementing a new medium density housing code. This will assist to guide medium density R40 and R60 coded development towards improved design outcomes including single width car ports / garages, promotion of tree planting and retention, better water infiltration, and management of heat island effect. The provision of low to medium density development would provide for a range of lot sizes, design typologies, and price points which would provide opportunities for a range of potential buyers and investors.

Finally, the requirement for a street tree implementation plan has been included as a modification in Attachment G, to ensure that the Streetscape Planting Strategy contained in the SP is enacted to the satisfaction of the City. This requirement, combined with the vegetated buffers that have been required along selected SP boundaries, would contribute to the minimisation of any perceived character impacts affecting existing residential areas.

Local Centre

One submission requested an expansion of the allowable floorspace at Lot 402 Caves Road, to 1,000m². This is more than double the floorspace of the existing 400m² of shop retail floorspace at the adjacent Monaghan's Corner local centre. An expansion of this size would potentially undermine the existing settlement / retail hierarchy, and does not appear to sufficiently consider the sustainability and potential future expansion of Monaghan's Corner and the nearby Broadwater local centre.

To address this, the LPS includes an Activity Centre Framework which states that the approximate maximum potential size of the local centre is to be determined by more detailed planning processes and following retail sustainability analysis. As such, the SP limits retail floor space within the proposed SP area Local Centre zone to not more than 300m² gross floor area. Accordingly, any increase in floor space is not supported at the SP stage and should instead be considered at the LDP or Development Application stage, and must be supported by a retail sustainability analysis.

With respect to the LDP requirements, further modification are recommended to the amendment text of SP 76 to remove provisions referring to the requirement to prepare an LDP to address amenity of the surrounding locality. This has been recommended as LDP requirements within the structure plan are considered sufficient to warrant removal of this text.

Infrastructure

Several submissions raised broad concerns that local services and supporting infrastructure would not cope with the population increase associated with the development. This included impacts on schools, internet, hospitals, electricity, water, and impacts on the Abbey Foreshore, including:

- Parking.
- Boat ramp access.
- Impacts on the dunes and vegetation.
- Footpaths.
- Toilets (lack of).
- Increased rubbish.
- Illegal parking on the bike path.

Relevant service providers and Government agencies were consulted during the public advertising period and none raised significant issues with the proposal outside of roads and water (addressed previously). The Abbey Foreshore is located outside of the project area, and it is noted that the primary driver for the increased usage of the Abbey Foreshore is likely associated with the much larger and ongoing development of the residential areas of Vasse.

Finally, it is noted that the City is undertaking a separate project to select a new site and design for a regional recreational boating facility between Abbey and Dunsborough. This would ultimately provide additional capacity and reduce pressure on existing facilities.

Bushfire

The Department of Fire and Emergency Services (DFES) identified a number of minor issues regarding vegetation classification, exclusions, and vehicular access. These are not considered to be significant and can be addressed through modifications (included in Attachment G) to the Bushfire Management Plan (BMP).

Statutory Environment

The key statutory documents relevant to this proposal include the *Planning and Development Act 2005* (the Act), the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) and the relevant objectives and provisions of the City of Busselton Local Planning Scheme No. 21 (LPS 21). Each is discussed below under appropriate subheadings.

Planning and Development Act 2005

The Act outlines the relevant considerations when preparing and amending local planning schemes. The relevant provisions of the Act have been taken into account in preparing and processing this Amendment.

Planning and Development (Local Planning Schemes) Regulations 2015

The Regulations came into operational effect on 19 October 2015 and introduced deemed provisions for the preparation, advertising and approval of structure plans. Local governments are to have 'due regard' to approved structure plans when making decisions relating to subdivision and development.

The Regulations identify three different levels of amendments – basic, standard and complex. The resolution of the local government is to specify the level of the amendment and provide an explanation justifying this choice. This Amendment is considered to be a ‘standard’ amendment.

Local Planning Scheme No. 21

LPS 21 sets out the aims for the Scheme area, and controls, regulates and guides orderly and proper land use and development. A local planning scheme is to be read in conjunction with the Regulations.

At present LPS 21 zones the majority of the SP area, including the entirety of Lots 12, 402, 14 and 15 and the northern half of lot 4 as ‘Rural’. The Rural zoned portion of the Structure Plan area is not affected by any special control areas or similar. The southern portion of Lot 4, along with the lower lying land to the south is zoned ‘Conservation’. The Amendment proposes to rezone the area to the ‘Urban Development’ zone; thereby providing a head of power for the SP to proceed and be determined.

Special Provision Area No. 76

Prior to public advertising, the Amendment was adopted with modifications to designate Special Provision Area No. 76 (SP76) over the site. SP76 transfers the intent of the LNSRS to LPS21, and supports the inclusion of buffer areas with the SP area and the retention and enhancement of native vegetation within POS and road reserves.

Relevant Plans and Policies

The key plans and policies most relevant to the proposal include:

1. State Planning Policy 6.1 Leeuwin-Naturaliste Ridge (SPP 6.1)
2. Leeuwin-Naturaliste Sub-regional Strategy 2019 (LNSRS)
3. Liveable Neighbourhoods (2009)
4. City of Busselton Local Planning Strategy (2019) (LPS)
5. State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP 3.7)
6. State Planning Policy 2.9 Water Resources (SPP 2.9)
7. State Planning Policy 2.6 State Coastal Planning Policy (SPP 2.6)

Each is discussed under appropriate subheadings.

1. State Planning Policy 6.1 Leeuwin-Naturaliste Ridge

State Planning Policy 6.1 Leeuwin-Naturaliste Ridge (SPP 6.1) provides the strategic planning framework for the Leeuwin-Naturaliste Region establishing the greater vision and guidance for land use distribution. The policy promotes sustainable development, conservation and land and resource management. The SP area is identified as a Wetland Amenity Area under SPP 6.1. Wetland Amenity Area Policies relevant to the proposal include:

- LUS 3.30 Rural landscape and coastal reserve buffers between Abbey and Vasse, and Dunsborough and Abbey will be maintained to avoid urban sprawl and to create distinct communities.
- LUS 3.33 The landscape separation of Abbey, Vasse and Dunsborough will be maintained.

2. *Leeuwin-Naturaliste Ridge Sub-Regional Strategy 2019*

The *Leeuwin-Naturaliste Ridge Sub-Regional Strategy* (LNSRS) is an overarching strategic land use planning document outlining the WAPC approach to future planning and development within the City of Busselton and Shire of Augusta-Margaret River for the next 20 years. The LPS identifies the majority of the Site as 'Urban' and the southern section of the Site as 'Open Space Investigation'. The degree to which the proposal aligns with the 'Open Space Investigation' area will be determined by the WAPC.

3. *Liveable Neighbourhoods (2009)*

Liveable Neighbourhoods is the primary policy for the design and assessment of structure plans and subdivision for new and infill urban areas. The policy promotes an urban structure of walkable neighbourhoods. Community facilities and services are accessed by walking, cycling and public transport through an efficient, interconnected movement network. Employment opportunities and economic sustainability are facilitated through a coherent hierarchy of activity centres. The SP has been designed to address certain principles of Liveable Neighbourhoods including the urban form, road hierarchy, public open space distribution and urban water management.

4. *City of Busselton Local Planning Strategy*

The City of Busselton LPS sets out the long term planning direction for the City and provides an overarching, strategic rationale for decisions related to the planning and development of the District. The LPS identifies the Site as a PIA, subject to PIA Assessment via the WAPC process. The north east corner of the Site is identified in the catchment of the Monaghan's Corner Local Centre and as being suitable for urban consolidation.

5. *State Planning Policy 3.7 Planning in Bushfire Prone Areas and Guidelines for Planning in Bushfire Prone Areas*

State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP 3.7) and the associated Guidelines assist in reducing the risk of bushfire to people, property and infrastructure by encouraging a conservative approach to strategic planning, subdivision, development and other planning proposals in bushfire prone areas. The proposal has had due regard to SPP 3.7 and demonstrates that bushfire risk can be managed within the Site.

6. *State Planning Policy 2.9 Water Resources*

State Planning Policy 2.9 Water Resources (SPP 2.9) and the associated Water Resources Guidelines provide guidance for the implementation of integrated water resource management principles and protection, and management and consideration of water resources. The proposal has had due regard to SPP 2.9 and includes a Local Water Management Strategy (LWMS) that takes an integrated water cycle management approach and application of Water Sensitive Urban Design (WSUD) principles to provide improvements in the management of water.

7. *State Planning Policy 2.6 State Coastal Planning Policy*

State Planning Policy 2.6 State Coastal Planning Policy (SPP 2.6) and the associated Guidelines provide guidance for decision-making within the coastal zone including managing development and land use change; establishment of foreshore reserves; and to protect, conserve and enhance coastal values. The proposal has had due regard to SPP 2.6 and the City's CHRMAP.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

The proposal was advertised for 42 days and closed on March 17 2023. Late submissions were accepted for an additional week to allow for further community feedback. A total of 105 written submissions were received (13 Agency and 92 Public).

Risk Assessment

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

Impact of Major Road Connections			
Risk Category	Risk Consequence	Likelihood of Consequence	Risk Level
Environmental	Moderate	Possible	Medium
Reputation	Minor	Possible	Low

Inundation Risk			
Risk Category	Risk Consequence	Likelihood of Consequence	Risk Level
Financial	Moderate	Possible	Medium
Reputation	Minor	Possible	Medium

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve to not adopt the SP and/or the Amendment for final approval (and provide a reason for such a decision).
2. Seek further information before making a decision.
3. Seek to make additional or different modifications.

CONCLUSION

It is recommended that the Council adopt the SP and Amendment for final approval (subject to the recommended modifications) and forward them to the WAPC and Minister for Planning for consideration.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will involve the referral of the SP and Amendment to the WAPC for final approval. This will occur within one month of the resolution.

14. ENGINEERING AND WORK SERVICES REPORT

14.1 RFT 06/23 MECHANICAL SERVICES

STRATEGIC THEME	LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing
STRATEGIC PRIORITY	2.12 Provide well maintained community assets through robust asset management practices.
SUBJECT INDEX	Tender
BUSINESS UNIT	Facilities Services
REPORTING OFFICER	Facilities Maintenance Coordinator - John Farrier Project Administration Officer – Joshua Friis
AUTHORISING OFFICER	Director, Engineering and Works Services - Oliver Darby
NATURE OF DECISION	Contractual: To enter into a contract e.g. a lease or the award of a tender etc.
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Published Under Separate Cover Confidential RFT 06/23 Evaluation Report - Mechanical Services

OFFICER RECOMMENDATION

That the Council

- 1. endorses the outcome of the evaluation panel’s assessment of RFT06/23 Mechanical Services and**
- 2. accepts the tender from CBRE (GWSLA) Pty Ltd in respect of SP1 Mechanical Services to the City of Busselton Administration Building and SP2 Mechanical Services to all City of Busselton owned facilities and buildings (excluding the Administration building) as the most advantageous tender.**

EXECUTIVE SUMMARY

The City issued RFT06/23 Mechanical Services to City owned facilities including the Administration Building. This report recommends that Council endorse the outcome of the evaluation panel’s assessment and accept the tender from CBRE (GWSLA) Pty Ltd for each separable portion.

BACKGROUND

The City of Busselton’s Building/Facilities Maintenance Working Budget includes provision for the scheduled maintenance to the City’s mechanical services. The City of Busselton is committed to maintaining high levels of maintenance to the heating, ventilation and air-conditioning systems (HVAC) at all City owned facilities and buildings.

The City invited suitably qualified and experienced contractors to make submissions to enter into a contract for the provision of these services in the following separable portions:

- 1. Separable Portion 1 Mechanical Services to the City of Busselton Administration Building (SP1);**
- 2. Separable Portion 2 Mechanical Services to all City of Busselton owned facilities and buildings (excluding the Administration building) (SP2)**

The request for tender documentation outlined the service expectations, specifications and standards associated with providing mechanical services to City owned buildings.

OFFICER COMMENT

On 4 March 2023 a request for tender was invited via VendorPanel and publicly advertised in the West Australian newspaper. Tenders closed on 28 March 2023. The City received a total of four submissions across the two separable portions as follows:

	Tenderer	Location	SP1	SP2
1.	CBRE (GWSLA) Pty Ltd (CBRE)	Belmont	✓	✓
2.	Busselton Refrigeration and Air-conditioning	Busselton	✓	✓
3.	Grosvenor	Bunbury	✓	✓
4.	Mechanical Project Services	Bunbury	✓	✓

Assessment process

In accordance with the City's procurement practices and procedures, assessments were carried out by an evaluation panel comprising City officers with relevant skills and experience. The assessment process included:

- (a) Assessing submissions received against relevant compliance criteria. The compliance criteria were not point scored. Each submission was assessed on a Yes/No basis as to whether each criterion was satisfactorily met. All tenders were deemed compliant; and
- (b) Assessing submissions received against the Qualitative Criteria weighted as detailed below.

	Criteria	Weighting
(a)	Relevant Experience	20%
(b)	Local Content	5%
(c)	Respondent's Resources	10%
(d)	Demonstrated Understanding	15%

Summary of Assessment Outcomes

The tender evaluation for SP1 and SP2 resulted in CBRE (GWSLA) Pty Ltd being ranked first for the qualitative criteria, second on price, and first overall. CBRE (GWSLA) Pty Ltd is considered to be most advantageous to the City for the two separable portions of the contract. The Evaluation Panel recommends that the below Tenderer be appointed for each separable portion:

- CBRE (GWSLA) Pty Ltd for SP1 Mechanical Services to the City of Busselton Administration Building
- CBRE (GWSLA) Pty Ltd for SP2 Mechanical Services to all City of Busselton owned facilities and buildings (excluding the Administration building)

Statutory Environment

Section 3.57 of the *Local Government Act 1995* (the Act) requires a local government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods and services. Part 4 of the *Local Government (Functions and General) Regulations 1996*:

- requires that tenders be publicly invited for contracts where the estimated cost of providing the required goods and/or services exceeds \$250,000; and

- under Regulations 11, 14, 18, 20 and 21A, provides the statutory framework for inviting and assessing tenders and awarding contracts pursuant to this process.

The officer recommendation complies with the above-mentioned legislative requirements. The estimated expenditure is in excess of \$500,000 which is above the Chief Executive Officer's delegated authority.

Relevant Plans and Policies

The City's Purchasing policy, Regional Price Preference, occupational health and safety and asset management policy and were all relevant to the Tender, and have been adhered to in the process of requesting and evaluating tenders.

Financial Implications

The estimated total value over the full contract term including three optional twelve month contract extensions at the time of going to market was \$600,000 excluding GST. This estimate considers both reactive and scheduled maintenance services.

As part of the Tender process, tenderers were requested to provide itemised costs under the two separable portions. Over the life of the contract including options to extend (five years in total), the scheduled maintenance portion totals \$241,583.34.

Stakeholder Consultation

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

Risk Assessment

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

CBRE (GWSLA) Pty Ltd has been assessed as being capable of delivering the services to a suitable service level and in line with the agreed maintenance schedule.

Options

As an alternative to the proposed recommendation the Council could:

1. Determine to award the Tender either in full or in separable portions to an alternative tenderer(s). In the view of the Officers this could result in the Tender being awarded to a Tenderer that is not most advantageous to the City.
2. To not award the Tender. This would mean going back out to tender, resulting in significant delays to the contract award and the provision of cleaning services to City owned facilities.

CONCLUSION

The submission from CBRE (GWSLA) Pty Ltd is considered the most advantageous to the City. It is recommended that CBRE (GWSLA) Pty Ltd be awarded the contract for ongoing mechanical services to the City resulting from RFT06/23 in respect of separable portion 1 and 2.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If endorsed by Council, and subject to any minor variations, it is expected the City will enter into a contract with CBRE (GWSLA) Pty Ltd by end June 2023. It is intended that commencement of the contracts for SP1 and SP2 will both begin consecutively on 1 July 2023.

15. COMMUNITY AND COMMERCIAL SERVICES REPORT

15.1 BUSSELTON CULTURAL PRECINCT STRATEGY

STRATEGIC THEME	LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing
STRATEGIC PRIORITY	2.5 Facilitate events and cultural experiences that provide social connection.
SUBJECT INDEX	Cultural Precinct
BUSINESS UNIT	Community Services
REPORTING OFFICER	Manager, Events and Cultural Services - Maxine Palmer
AUTHORISING OFFICER	Acting Director, Community and Commercial Services - Dave Goodwin
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Busselton Cultural Precinct Strategy 

OFFICER RECOMMENDATION

That the Council adopt the Busselton Cultural Precinct Strategy as a guide to future planning.

EXECUTIVE SUMMARY

The Precinct is home to some of Western Australia's oldest buildings and marks historic moments in time, including the post-settlement establishment of civic life, through the Old Courthouse and Police Complex.

In early 2024, the City of Busselton will have a new art gallery, performing arts and convention venue (Saltwater) in the Precinct. The purpose of the Busselton Cultural Precinct Strategy is to highlight opportunities and identify options for future usage of the heritage listed spaces within the Precinct that will enhance the Saltwater development and grow both our local community and our visitor's cultural experiences.

BACKGROUND

The Busselton Cultural Precinct (the Precinct), is located at the northern end of Queen Street, bounded by Marine Terrace and Adelaide Street. It is a short walk from two of the City's major activity drivers: the city centre and the foreshore, including Busselton Jetty, however currently presents as somewhat disconnected from both.

A strategy to realise the potential of the Cultural Precinct potential as a heritage tourism attraction and an events, arts and culture hub has been in development for several years. The Busselton Cultural Interpretation Strategy formulated in 2020 started a process of consultation to understand cultural values the community associate with the Precinct area. This shaped the name for Saltwater, the City's new Performing Arts and Convention Centre, due to open in 2024 and revealed the area's deep connection to the town's history, the bay and jetty.

Other consultation with local businesses for the formation of Building Busselton Town Team identified the key role the Precinct has in connecting visitation to the Central Business District. More recently consultation in reviewing the City's Event Strategy and ongoing visitor and stakeholder feedback have all shaped the key focus areas of the draft Busselton Cultural Precinct Strategy.

Through a consolidated approach to cultural interpretation, place branding, and programming and by leveraging the development of Saltwater, the Precinct has the potential to shift from being a place of some interest to one that is a key attraction and activity driver in its own right.

OFFICER COMMENT

The Strategy contains a vision for the Busselton Cultural Precinct to be a thriving village of artists, makers and community groups, as well as a hub for the wider creative community of Busselton. It is an economic driver for the businesses in the CBD and an entertainment hub, igniting the night-time economy. A place that belongs to the people of Busselton and is for everyone. A place for sharing stories and gathering together. A place that is welcoming. A place that inspires us.

To support this vision the Strategy contains five key focus areas:



With the construction of Saltwater, the Precinct site will expand and although the new facility will undoubtedly be a driver of visitation, it is crucial to invest in a vision for the entire Precinct. The Precinct's multi-layered past is a significant asset in terms of delivering an authentic and distinctive place experience to visitors, the potential of which remains largely untapped. The history and appeal of the site needs to be brought fully to life in a way that enriches, rather than constrains, its present and future.

Statutory Environment

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

Relevant Plans and Policies

The Cultural Precinct Strategy aligns with the following social and economic objectives in the City of Busselton Strategic Community Plan 2021 -2031:

- Recognise, respect and support community diversity and cultural heritage.
- Facilitate and plan for event and cultural experiences that provide social connection.
- Provide well maintained community assets through robust asset management practices.
- Work with key partners to facilitate the activation of our town centres, creating destinations and consumer choice.
- Continue to promote the District as the destination of choice for events and unique tourism experiences.

The Busselton Cultural Precinct Strategy support the recently adopted City of Busselton Events Strategy Goals to:

- Offer year round events for both community and visitors with an inclusive, diverse and vibrant event calendar,
- Celebrate unique cultural social and economic strengths by engaging with local content, characters and infrastructure and
- An event program that showcases the City's unique venues and natural environment as a sustainable competitive advantage.

The Busselton Courthouse and Police Complex Conservation Management Plan undertaken by Hocking Heritage Studio in 2020 identifies a clear plan for the conservation of the buildings within the complex. The City needs to ensure the spaces are activated and used to their fullest potential by the community and visitors, otherwise there is little value in conserving the buildings.

In community consultation for the development of the Busselton Cultural Precinct Cultural Interpretation Strategy three key themes of People of the Bay, Boola Murrijo (Journey) and On Show emerged and summarised the cultural values of our community. These are expressed through the programming and development focus areas of the Strategy.

Financial Implications

There are no financial implications associated with the officer recommendation. Implementation of the Strategy will be achieved through Council's adoption of the annual budget, whereby other organisational priorities and the priorities of the Strategy can be considered.

Stakeholder Consultation

During late 2020, the City undertook the biennial review of the Strategic Community Plan, of which a total of 1,658 people participated. A combination of random sampling and targeted engagement was used to obtain a diverse representation from our community. Support was expressed for arts and culture opportunities including a performing arts centre, creating more things for young people to do, indoor activities, nightlife activation, vibrancy, concerts and local community based events. There was also significant commentary around the need to focus on industry diversification and increased employment opportunities, a reduction in empty shops and activation of the CBD. This feedback was considered in the development of the Strategy.

In January 2019, as part of a review of the City's Event Strategy, a survey was conducted which received 154 responses.

- 81% valued or highly valued our vision to be 'Events Capital WA'.
- 85% think that we have adequate number of events or would like to see more.
- When asked what other events they would like in the City of Busselton, the most popular responses were – concerts/live music, cultural events (theatre, comedy, pop/classical music, ballet), family/youth events, food truck events, winter festivals, New Year's Eve celebrations, water based events (stand up paddle, canoe, sailing).
- 75% said that they may, or would definitely, attend more events if the City had a purpose built indoor performing arts facility.

This feedback has informed the programming strategy for the Cultural Precinct.

Engagement to inform the Cultural Interpretation Strategy was undertaken between May and August 2020 involving 250 community members and key stakeholders across arts, heritage, tourism, business and creative industries; Traditional Owners and the wider community.

Aboriginal culture featured strongly in community consultation for the development of the Busselton Cultural Precinct Cultural Interpretation Strategy. Overall three key themes emerged which summarise the cultural values of our community, which can be expressed through programming and development of the Busselton Cultural Precinct.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, no risks of a medium or high rating were identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Seek to make changes to the draft Busselton Cultural Precinct
2. Choose not to adopt the Strategy at this time and request further consultation is conducted.

CONCLUSION

Busselton Cultural Precinct has the potential to become a tourism destination in its own right with a unique offering to attract visitors locally, nationally and internationally. It can become a hub of creativity and entertainment in the Southwest, showcasing the City's rich local talent, unique heritage and culture. The Busselton Cultural Precinct provides for carefully planned phases of development, to achieve a vision that will realise the full potential of this one-of-a-kind location.

Officers recommend the Strategy is adopted by Council to guide and provide direction for the future development of the Precinct.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Information sessions and opportunities to discuss details about the Strategy will commence within one month of Council's adoption of the Strategy. Feedback can help prioritise actions and how they may be approached for implementation planning. Outcomes will be reported back to Council at an annual briefing session or more regularly as required.

15.2 COMMUNITY ASSISTANCE PROGRAM 2022/2023 ROUND 4 OUTCOMES

STRATEGIC THEME	LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing
STRATEGIC PRIORITY	2.1 Recognise, respect and support community diversity and cultural heritage.
SUBJECT INDEX	Community Assistance Program 2022/2023 Round 4 Outcomes
BUSINESS UNIT	Community Development
REPORTING OFFICER	Community Development Officer - Jessica Watts
AUTHORISING OFFICER	Manager, Events and Cultural Services - Maxine Palmer
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Nil

OFFICER RECOMMENDATION

That the Council endorse the allocation of funding for the Community Assistance Program 2022/2023 Round 4 as outlined in the table below:

Applicant	Requested	Recommendation
Naturaliste University of the Third Age	\$697.98	\$697.98
Dunsborough Community Garden	\$4,363.64	\$4,363.64
Dunsborough Greenfield Community Group	\$5,100.00	\$0-
TOTAL	\$10,161.62	\$5,061.62

EXECUTIVE SUMMARY

Each year the City of Busselton provides financial assistance to community groups and not-for-profit organisations through the Community Assistance Program (previously known as Community Bids). This assistance is provided for programs, services and projects that contribute to the social, environmental and cultural development of the City of Busselton.

This report provides a summary of recommendations from the Community Assistance Advisory Panel meeting held on 10 May 2023 and seeks formal endorsement of the submissions to be funded in the fourth round of the 2022/2023 financial year.

BACKGROUND

In April 2020 (C2004/104), Council endorsed a refocused financial assistance program, the Community Assistance Program, in response to the COVID-19 pandemic and its repercussions on the City of Busselton community.

In September 2021 (C2109/201), Council endorsed the establishment of a Community Assistance Advisory Panel to assess and make recommendations to Council on the applications received through the Community Assistance Program. The program was also reviewed and updated into the following three funding categories:

1. Assistance Grant – for programs, services or activities that aim to assist residents with a focus on the following sectors of the community; seniors, youth, disadvantaged, early childhood and families, volunteers, sport, recreation and environment.
2. Revitalisation Grant – for infrastructure development, facility maintenance, facility upgrades, and the revitalisation of places and spaces.

3. Revitalisation Plus Grant – for contributions towards significant infrastructure development and when external funding is being sourced.

Applications for Round 4 of the Community Assistance Program 2022/2023 closed on 1 May 2023 with a total of four (4) applications received and considered. This included one (1) application for the Assistance Grants (up to \$10,000) and two (2) applications for the Revitalisation Grants (up to \$10,000). One application was received for the Revitalisation Plus Grant (over \$10,000) which has since been withdrawn.

Applications were assessed by the Community Assistance Advisory Panel on 10 May 2023 with representation from three (3) Councillors (Mayor Grant Henley, Councillor Paul Carter, and Councillor Mikayla Love), Community Development Officer, and Acting Recreation and Community Development Coordinator. The outcomes of the Panel Assessment meeting form the basis of the officer recommendations in this report.

OFFICER COMMENT

Supporting the social, environmental and cultural development of the City of Busselton, the Community Assistance Program promotes capacity building amongst community groups and not-for-profit organisations. At the Community Assistance Advisory Panel meeting held on 10 May 2023 four (4) requests for funding were received, with one (1) application since withdrawn.

Requests for Funding – Community Assistance Program 2022/2023 – Round 4

The applications were assessed against the following criteria:

- Does the project meet an identified community need;
- The degree to which the project will have an impact on the community;
- The degree that the community organisation or sporting group is contributing to the broader community and the level of service it provides;
- The use of local suppliers (where possible);
- Is the project complementary to any relevant City strategies

The following request was received for an Assistance Grant:

Naturaliste University of the Third Age (U3A)

The applicant is seeking to acquire two microscopes to provide an opportunity for practical work in the classroom for seniors involved in U3A's environmental science courses, providing for people who find themselves, through age or disability, restricted to 'armchair biology' and complementing government strategies to keep seniors active and engaged.

The applicant received an evaluation score of 22 out of 25. On that basis, funding of \$697.98 is recommended.

The following requests were received for Revitalisation Grants:

Dunsborough Community Garden

The applicant is seeking to purchase and install 6 quality colour bond metal raised garden beds that are filled with soil, irrigated and ready to use. The project also involves the supply and installation of limestone paths surrounding the garden beds to improve access, particularly for seniors and people with disability.

The applicant received an evaluation score of 25 out of 25. On that basis, funding of \$4,363.64 is recommended.

Dunsborough Greenfield Community Group

The applicant is seeking to install solar panels to Dunsborough Men's Shed to lower electricity costs for all groups on the site (Dunsborough Lions Club, Dunsborough Men's Shed, Dunsborough Community Gardens and Dunsborough Greenfield Community Group).

The applicant received an evaluation score of 17 out of 25.

The quote received from Stinson Air and Solar indicated concern about power demand allocated to the property with guidance on applying for an 'Increase in Demand' with Western Power. The potential cost associated with Western Power is unknown, and although the installation of solar panels is overall a good idea and generally supported there is not enough information at this point in time. On that basis, funding is not recommended.

In summary, the following applicants are recommended for funding:

Applicant	Requested	Recommendation
Naturaliste University of the Third Age	\$697.98	\$697.98
Dunsborough Community Garden	\$4,363.64	\$4,363.64
Dunsborough Greenfield Community Group	\$5,100.00	\$0
TOTAL	\$10,161.62	\$5,061.62

Statutory Environment

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

Relevant Plans and Policies

The City's Sponsorship Arrangements Council Policy sets out the Community Bids Program (now known as Community Assistance Program) as one of the programs through which sponsorship may be provided.

The Community Assistance Program is an opportunity for community groups and not-for-profit organisations to seek assistance to implement initiatives that benefit the wider community and is a program contained within the City's Community Development Plan.

Financial Implications

Funds currently committed from the 2022/2023 Community Assistance Program totals \$218,670.92. If all funding recommendations included in this report are accepted, the balance of committed funds will increase to \$223,732.54.

This is covered within the 2022/2023 budget from the Community Assistance Program (allocate funds of \$212,057) and additional funding (\$100,000) which was incorrectly allocated to the You Choose program (the You Choose Program is not scheduled to run again until 2023/2024). The You Choose program is a biennial program and Council has previously resolved that in years where it is not running the funds should be left in the Community Assistance Program budget.

Stakeholder Consultation

Round 4 of the Community Assistance Program 2022/2023 was advertised on the City's Facebook page on 6 April and 13 April 2023, the City of Busselton website, and in the City Connect section of the local newspaper. Community groups and sporting clubs in the City of Busselton were also notified by email and at relevant network meetings and workshops prior to the closing date.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could choose not to support the recommendations made by the Community Assistance Advisory Panel and resolve not to endorse part or all of the recommendations. This would result in the community groups not being able to go ahead with their proposed projects and would likely need to re-apply and be reconsidered in Round 1 of 2023/2024 which is planned for July 2023.

CONCLUSION

The Community Assistance Program is constantly evolving and aims to meet community needs with funding available to progress priority goals and objectives identified in the Community Development Plan. It is recommended that Council endorse the funding allocations outlined in the officer recommendation, as supported by the Community Assistance Advisory Panel.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

All Community Assistance Program applicants will be individually advised in writing of the outcomes immediately following Council's resolution.

16. FINANCE AND CORPORATE SERVICES REPORT

16.1 REQUEST FOR VARIATION SUBLEASE RAVENSTHORPE NOMINEES PTY LTD

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.3 Make decisions that respect our strategic vision for the District.
SUBJECT INDEX	Leasing
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Senior Leasing and Property Officer - Ann Strang
AUTHORISING OFFICER	Acting Director, Finance and Corporate Services - Sarah Pierson
NATURE OF DECISION	Contractual: To enter into a contract e.g. a lease or the award of a tender etc.
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Nil

OFFICER RECOMMENDATION

That the Council resolves to vary the sublease dated 1 July 2016 between the City of Busselton and Ravensthorpe Nominees Pty Ltd subject to the Minister of Lands consent to exclude the original building component (348m²) from future market rent reviews and to apply CPI rent reviews instead of the market rent review.

EXECUTIVE SUMMARY

The City received a request to vary the rent review clause for the sublease dated 1 July 2016 between the City of Busselton (City) and Ravensthorpe Nominees Pty Ltd (Ravensthorpe) for the premises at 1 Foreshore Parade, Busselton, which operates as the Equinox, for a term of 25 years with a further 24 year option (Sublease).

This report recommends that the rent review clause in the Sublease be varied so that the component of the rent attributable to the original buildings constructed by the City are indexed by CPI (but not exceeding 5%) and not subject to market rent reviews.

BACKGROUND

The land

The land at 1 Foreshore Parade, Busselton more particularly described as Lot 555 on Deposited Plan 408338 being the whole of the land contained in certificate of title Volume LR3167 Folio 351 (Land) is owned by the State of Western Australia and leased to the City.

Prior to being excised in 2016 the Land was part of Reserve 38558 being crown land under management order to the City. The Land currently includes the premises subleased to Ravensthorpe, which operates as the Equinox, as well as public toilets.

Building history

In early 1990 the City constructed a building known as the Busselton Kiosk with an area of approximately 180m². In 1995, the City extended the building by approximately 168m², with the new component known as the Equinox. Together the buildings constructed by the City are referred to in this report as the original building component (OBC).

On or about 2001 Ravensthorpe undertook a redevelopment extending the building footprint to approximately 768m². In 2016 a further extensive redevelopment was undertaken by Ravensthorpe modifying the existing buildings (including the OBC) and extending the footprint to approximately 1,155m².

Leasing history

Prior to the year 2000 the OBC was subject to various leasehold interests. On 13 December 2000, the Council approved the assignment of lease from Anya Holding Pty Ltd to Ravensthorpe. With less than 5 years remaining on the lease, the Council also endorsed a new lease to Ravensthorpe for a term of 21 years.

A 21 year lease was entered into with Ravensthorpe on the 16 November 2001, with an expiry date of 15 November 2022. The leased premises included the OBC and the redevelopment area. The rent commenced at \$49,360.00 and was to be reviewed annually by CPI.

On 1 July 2016, following a Council Resolution in December 2015 and the excision of the Land from the Reserve, the City entered into a Head Lease with the State of WA over the Land for a term of 49 years at a nominal rent and the Sublease. The annual rent commenced at \$88,374 with annual CPI increases (but not exceeding 5%) and a market rent review every 5 years.

Request from Ravensthorpe

Ravensthorpe have submitted a request to the City to vary the market rent review clause in the Sublease due to concerns with how this clause is applied in relation to the OBC. Ravensthorpe indicated a preference that the OBC be excluded from the rent review provisions in the Sublease.

OFFICER COMMENT

The Sublease contemplates annual rent reviews either by:

- CPI rent review (but not exceeding 5%); or
- Market rent review (every five years).

The Sublease requires that market rent reviews be undertaken on the ground lease area and the OBC. Given that the OBC was substantially incorporated into the 2016 redevelopment officers acknowledge that there are difficulties associated with a valuer determining and assigning a market value to that component. Despite these difficulties two separate valuers been used different methodologies to determine a market valuation for the rent attributable to the OBC.

Valuation methodologies

The initial rent for the Sublease was determined by valuation conducted by LMW Hegney as follows:

“In determining the fair market rental for the subject we have taken into consideration the original building component which is owned by the City of Busselton together with the ground lease area which comprises the additions undertaken and to be undertaken by the Tenant.

We have determined the rental value for the original building component at 40% of normal market levels which takes into consideration the demolition works and alterations / improvements which are to be undertaken to this building component as part of the overall redevelopment. This 40% assessment applies only to the building and not the underlying land component. Therefore based on an assessed rental of \$270 / m² for the original component including land and an assessed land component value of \$50 / m² the building component equates to \$220 / m². Adopting a rental for the built component of 40% a market rental of \$88 / m² is assessed plus GST and outgoings.

For the whole of the proposed land area a rate of is assessed plus GST and Outgoings. Our calculation as to the assessed market rental is therefore as follows:

Original Building Component (building only):	$348 \text{ m}^2 @ 88 / \text{m}^2 = \$30,624$
Ground Lease Rental:	$1,155 \text{ m}^2 @ \$50 / \text{m}^2 = \$57,750$
Total Assessed Rental:	\$88,374''

The 2021 market rent review adopted a different methodology to determine the current market rental of the OBC based on depreciated value. This market rent review ultimately did not recommend an increase to the annual rent in that year.

Recommendation

To simplify the calculation of rent associated with the OBC and to provide greater certainty to all parties it is recommended that the Sublease be varied so that the component of the rent attributable to the OBC is no longer subject to market rent reviews and is instead only indexed annually by CPI (but not exceeding 5%).

This acknowledges the difficulty associated with assigning a market value to a portion of a building that was substantially incorporated as part of a redevelopment but retains the original intent that the tenant pay a commercial rent for a portion of an existing building constructed by the City.

To enact this a deed of variation will be prepared and the rent for the ground sublease and the rent for the OBC will be separated. The rent for the ground sublease will continue to be reviewed annually by CPI except on market rent review dates (every 5 years) and the rent on the OBC will be reviewed annually by CPI.

Statutory Environment

Any variation to the Sublease will require the consent of the Minister for Lands in accordance with section 18 of the *Land Administration Act 1997*.

Relevant Plans and Policies

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

Financial Implications

If the Officer Recommendation is accepted then for the remainder of the term of the Sublease the rent for the OBC will be indexed by CPI (but not exceeding 5%). The OBC will no longer be subject to market rent reviews.

There are no financial implications for the preparation and execution of a variation to the Sublease.

Stakeholder Consultation

No external stakeholder consultation has been undertaken.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could choose not to vary the Sublease.

CONCLUSION

Officers recommend that the rent review clause in the Sublease be varied so that the component of the rent attributable to the original buildings constructed by the City are indexed by CPI (but not exceeding 5%) and not subject to market rent reviews.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If Council endorse the Officer recommendation, Officers will seek approval from the Minister for the variation then arrange execution by all parties. This is anticipated to take approximately 6 – 8 weeks.

17. CHIEF EXECUTIVE OFFICERS REPORT

17.1 COUNCILLORS' INFORMATION BULLETIN

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Councillors' Information Bulletin
BUSINESS UNIT	Executive Services
REPORTING OFFICER	Reporting Officers - Various
AUTHORISING OFFICER	Chief Executive Officer - Tony Nottle
NATURE OF DECISION	Noting: The item is simply for information purposes and noting
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	<p>Attachment A Current Active Tenders </p> <p>Attachment B State Administrative Tribunal Reviews </p> <p>Attachment C Letter from Mayor to Director General : Community Housing Busselton </p> <p>Attachment D Response from Director General : Community Housing Busselton </p> <p>Attachment E Letter from Chief Executive Officer to Hon Simone McGurk : Vasse Ministerial Taskforce </p> <p>Attachment F Letter from Hon Simone McGurk : Appointment of new Chair of Vasse Ministerial Taskforce </p> <p>Attachment G Letter of thanks : Busselton Dunsborough Volunteer Centre </p> <p>Attachment H City of Busselton response to WA Planning Commission </p>

OFFICER RECOMMENDATION

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

- 17.1.1 Minor Donations Program – May 2023**
- 17.1.2 Current Active Tenders**
- 17.1.3 State Administrative Tribunals Reviews Update**
- 17.1.4 Correspondence regarding Community Housing: Letter from Mayor to Director General Mike Rowe and response**
- 17.1.5 Correspondence regarding the appointment of a new Chair to the Vasse Ministerial Taskforce**
- 17.1.6 Correspondence: Busselton Dunsborough Volunteer Centre**
- 17.1.7 Correspondence: Concerns Related to Recent Modifications to the Leeuwin-Naturaliste Sub-Regional Strategy**

EXECUTIVE SUMMARY

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

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

INFORMATION BULLETIN

17.1.1 Minor Donations Program – May 2023

The Council allocates an annual budget allowance to the Minor Donations Program. This is provided such that eligible groups and individuals can apply for and receive sponsorship to assist them in the pursuit of endeavors that bring direct benefit to the broader community. Allocation of funds is delegated to the Chief Executive Officer, in accordance with the published guidelines and funding availability.

5 applications were approved throughout May 2023, totalling \$958.50 as outlined below:

Recipient	Purpose	Amount
Koby Stewart	Koby has been selected to represent WA as part of the U14 Boys WA Futures Regional team at the regional championships being held in Queensland on 3 to 7 July. This donation will assist with covering the costs associated with attending the competition.	\$500.00
Dunsborough and District Country Club	Dunsborough and District Country Club (DDCC) are hosting the GolfWA Regional Seniors event on 25 to 26 May 2023. The event will have 160 participants from various areas of WA. The DDCC have requested a donation to cover the cost of bus hire to transport participants to and from their dinner event. This donation was supported due to the event attracting visitors to the region, resulting in a benefit for local businesses.	\$250.00
Cancer Council WA – Life Now Tai Chi Program	Cancer Council WA offers a Life Now Tai Chi program for cancer patients and their carers throughout various locations in WA and has requested a donation to cover the cost of running the program in Busselton for eligible residents. Over the past financial year the Busselton Cancer Support has provided support to 121 new clients living in Busselton. This donation will fund a face to face program for cancer patients and their carers living in Busselton for 6 weeks.	\$814.50
Zonta Club of Dunsborough	The Zonta Club of Dunsborough are hosting their annual Bridge Day tournament and have requested a donation to cover the cost of room and kitchen hire at the Naturaliste Community Centre. Funds raised from the event are used to support local school programs and other local community based organisations.	\$458.50
Hayley Tabor	Hayley has been selected to represent WA as part of the Girls 12s AFL team at the School Sport Australia National School Championships being held in NSW on 5 – 11 August 2023. This donation will assist with covering the costs associated with attending the competition.	\$500.00
Total		\$958.50

Donations approved as of 31 May 2023 total: \$30,815.97

17.1.2 Current Active Tenders

The tender update as at 31 May 2023 is provided at Attachment A.

17.1.3 State Administrative Tribunal Reviews Update

The Current State Administrative Tribunal Reviews is at Attachment B.

17.1.4 Correspondence regarding Community Housing Petition: Letter from Mayor to Director General Mike Rowe and response

As an outcome of a recent presentation to Council from concerned residents, a letter was sent from the Mayor to the Director General, Mike Rowe. A copy of this correspondence (redacted) is provided at Attachment C and the response from Mr Rowe is provided at Attachment D.

17.1.5 Correspondence regarding the appointment of a new Chair to the Vasse Ministerial Taskforce

A copy of the letter sent from the Chief Executive Officer to Minister for Water, Hon Simone McGurk regarding the appointment of a new Chair to the Vasse Ministerial Taskforce is provided at Attachment E. The response from Minister McGurk is provided at Attachment F.

17.1.6 Correspondence: Busselton Dunsborough Volunteer Centre

Correspondence from the Busselton Dunsborough Volunteer Centre is provided at Attachment G.

17.1.7 Correspondence: Concerns Related to Recent Modifications to the Leeuwin-Naturaliste Sub-Regional Strategy

A copy of the letter sent from the Chief Executive Officer to David Caddy, Chairman, Western Australian Planning Commission is provided at Attachment H.

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. URGENT BUSINESS

20. CONFIDENTIAL MATTERS

Nil

21. CLOSURE