



Ordinary Council Meeting

Agenda

13 December 2023



Our Vision

Where environment, lifestyle and opportunity meet

Community Aspirations



KEY THEME 1 **Environment**

An environment that is valued, conserved and enjoyed by current and future generations.



KEY THEME 2 **Lifestyle**

A place that is relaxed, safe and friendly, with services and facilities that support positive lifestyles and wellbeing.



KEY THEME 3 **Opportunity**

A vibrant City with diverse opportunities and a prosperous economy.



KEY THEME 4 **Leadership**

A Council that connects with the community and is accountable in its decision making.

NOTICE OF MEETING

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 13 December 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

30 November 2023

BEHAVIOUR PROTOCOLS

The City of Busselton values are:

- Listening
- Considered Decision Making
- Appreciation
- Respect
- Teamwork

In accordance with these values, the following outlines the behaviour expectations while attending a Council meeting, Community Access Session, or Public Agenda Presentation:

- Listen respectfully through the meeting or presentation
- Respect the Council process and comply with directions from the Presiding Member
- Use respectful language when addressing Council, staff, and other members of the public
- Behave in a manner that is respectful and non-confrontational
- Do not use offensive language or derogatory language towards others

The City values the diverse input of the community and seeks to ensure that all members of the community can attend a meeting and have their say.

Council members, Committee members and Candidates are bound by the City's Code of Conduct and agree to uphold the values of the City of Busselton and principles of good behaviour, maintaining and contributing to a harmonious, safe, and productive environment.

Anyone who does not behave in accordance with the above values and behaviours may be asked by the Presiding Member to leave the gallery.

CITY OF BUSSELTON

Agenda for the Council Meeting to be held on Wednesday 13 December 2023

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1. OFFICIAL OPENING

The City of Busselton welcomes Councillors, staff, guests and members of the public to the Ordinary Council Meeting of 13 December 2023.

The City of Busselton acknowledges the Wadandi and Bibbulmun people as the traditional custodians of this region and pays respects to Elders past and present.

This meeting will be audio recorded for minute taking purposes and will also be live streamed on the City of Busselton YouTube channel.

A prayer will be read out as part of the opening of this meeting.

2. ATTENDANCE

APOLOGIES

Nil at time of publishing	
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LEAVE OF ABSENCE

Cr Sue Riccelli	C2311/183
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APPLICATION FOR LEAVE OF ABSENCE

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3. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

4. DISCLOSURES OF INTEREST

DISCLOSURES OF FINANCIAL INTEREST

A declaration under section 5.65 of the *Local Government Act 1995* requires that the nature of the interest must be disclosed. An elected member or employee who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter on which the subject of the declaration without the approval of the Council in accordance with the Act.

DISCLOSURES OF IMPARTIALITY INTEREST

Elected members and employees are required, in addition to declaring any financial interest, to declare an interest that might cause or perceive to cause a conflict. If the elected member or employee declares that their impartiality will not be affected then they may participate in the decision-making process.

5. CONFIRMATION AND RECEIPT OF MINUTES

5.1. Ordinary Council Meeting 15 November 2023

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting 15 November 2023 be confirmed as a true and correct record.

5.2. Special Council Meeting 1 November 2023

RECOMMENDATION

That the Minutes of the Special Council Meeting 1 November 2023 be confirmed as a true and correct record.

5.3. Special Council Meeting 8 November 2023

RECOMMENDATION

That the Minutes of the Special Council Meeting 8 November 2023 be confirmed as a true and correct record.

5.4. Special Council Meeting 29 November 2023 - 9:30am

RECOMMENDATION

That the Minutes of the Special Council Meeting 29 November 2023 - 9:30am be confirmed as a true and correct record.

5.5. Special Council Meeting 29 November 2023 - 4:30pm

RECOMMENDATION

That the Minutes of the Special Council Meeting 29 November 2023 - 4:30pm be confirmed as a true and correct record.

6. PUBLIC QUESTION TIME

Public question time allows members of the public to participate in local government by asking questions of the Council in relation to issues affecting the City.

6.1. RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

6.2. QUESTION TIME FOR PUBLIC

Public question time procedures and guidance

- The City will allocate a minimum of 15 minutes and a maximum of 30 minutes per Council meeting for public question time.
- Members of the public should register their intent to ask a question at a Council meeting by completing and submitting the [Public Question Time form](#) before 4pm the day prior to the relevant meeting.
- Members of the public will be invited to ask their question in order of registration.
- Questions will be limited to three per person. Additional questions may be permitted by the Presiding Member where time permits.
- Where a person is not present to ask their submitted question it will be responded to administratively as general correspondence.
- Questions may be taken on notice, to be responded to at a later time by the CEO in accordance with clause 6.7 of the Standing Orders.
- Public question time is for the tabling of questions, not for members of the community to make statements. For context, the Presiding Member may allow a short preamble.
- Questions containing defamatory remarks or offensive language, or that question the competency or personal affairs of Elected Members or employees may be ruled inappropriate by the Presiding Member subject to the Presiding Member taking reasonable steps to assist the member of the public to rephrase the question.
- There will be no debate or discussion on the response provided.

For further information, please see the [Meetings, Information Sessions and Decision Making Processes Policy](#).

7. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

7.1. PETITIONS

Extract from *City of Busselton Standing Orders Local Law 2018*

6.9 Petitions

- (1) A petition, in order to be considered by the Council, is to –
 - (a) be addressed to the Mayor;
 - (b) be made by the electors of the district;
 - (c) state the request of each page of the petition;
 - (d) contain the name, address and signature of each elector making the request;
 - (e) contain a summary of the reasons for the request;
 - (f) state the name of the person whom, and an address at which, notice to the petitioners can be given;
 - (g) be respectful and temperate in it's language.
- (2) Despite subclause (1), the Presiding member may allow a petition to be considered in circumstances where the petition complies with the majority if the requirements in subclause (1).
- (3) In response to a petition presented to it, the Council may determine –
 - (a) that the petition be received;
 - (b) that the petition be rejected;
 - (c) that the petition be received and referred to the CEO to prepare a report to Council or a committee; or
 - (d) that the petition be received and referred to the CEO for action.
- (4) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented at that meeting, unless –
 - (a) the matter is the subject of a report included in the agenda; and
 - (b) the Council has considered the issues raised in the petition.

7.2. PRESENTATIONS BY PARTIES WITH AN INTEREST

Extract from *City of Busselton Standing Orders Local Law 2018*

6.10 Presentations by parties with an interest

- (1) Once an agenda of a meeting of the Council has been issued, parties with a demonstrable interest in any item listed on the agenda for discussion may seek to present to the Council at the time during the meeting allocated for this purpose.
- (2) A person must demonstrate that they are a party with an interest in an item on the agenda by stating their name, the item to which they wish to speak, whether or not they are in agreement with the recommendation in the agenda and they are—
 - (a) the applicant or one duly authorised representative of the applicant;
 - (b) an adjoining neighbour sharing a common length of boundary or directly opposite neighbour of the affected property;
 - (c) one person duly representing a community-based organisation where an item on the

agenda has broad community impact and is associated with the objectives of the organisation; or

- (d) such other person as in the opinion of the presiding member has a significant direct interest or is duly representing those that have a significant direct interest in the item.
- (3) A person addressing the Council on an agenda item will be limited to a period of 5 minutes unless the person is granted an extension by the presiding member.
- (4) Where multiple parties wish to present on an item, the applicant (or their duly authorised representative) is to be given the opportunity to give the final presentation on the item.
- (5) Members may, through the presiding member, question a person addressing the Council on the item but no debate or general discussion will be permitted.

7.3. DEPUTATIONS

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

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

ADOPTION BY EXCEPTION RESOLUTION EN BLOC

Extract from the *City of Busselton Standing Orders Local Law 2018*

5.10 Adoption by exception resolution

- (1) In this clause adoption by exception resolution means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the committee or employee recommendation as the Council resolution.
- (2) The Council may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
 - (a) that requires a 75% majority or a special majority;
 - (b) in which an interest has been disclosed;
 - (c) that is a matter on which a member wishes to ask a question;
 - (d) that is a matter on which a member wishes to make a statement; or
 - (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.
- (4) A member who wishes to ask a question or make a statement in relation to a matter that would otherwise be within an adoption by exception motion should, as far as practicable, notify the CEO by 3pm on the day before the meeting.
- (5) A member who wishes to move a motion that is different to the recommendation in a matter that would otherwise be within an adoption by exception resolution should, as far as practicable, give notice of the motion that –
 - (a) is in writing;
 - (b) identifies the matter and gives the reason or reasons for the motion; and
 - (c) is given to the CEO by 3pm on the day before the meeting.
- (6) Where a member intends to move a motion referred to in sub-clause (5), the CEO must be given an opportunity to provide advice to the Council prior to consideration of the motion, in accordance with section 5.41 (b) of the Act .

The below recommendation is subject to any items subsequently removed in accordance with section 5.10(5) of the City of Busselton Standing Orders Local Law 2018.

Officer Recommendation

That the Committee Recommendations for items 10.1, 10.4, 10.6, and 10.7, and Officer Recommendations for items 12.1, 14.2 and 15.1 be carried en bloc.

Item	Report
10.1	Policy and Legislation Committee - 8 November 2023 - Local Planning Policy Review: Adoption following consultation - LPP 1.5 Coastal Setbacks
10.4	Policy and Legislation Committee - 8 November 2023 - Council Policy Review - Media and Public Statements

Item	Report
10.6	Policy and Legislation Committee - 8 November 2023 - Council Policy Review - Waste Management Facility and Plant Reserve
10.7	Policy and Legislation Committee - 8 November 2023 - Various Council Policy Reviews - Early Clearance of Subdivisions, Reinstatement Works in Road Reserves, Crossovers, Defects Liability Bonds for Subdivisions and Management and Removal of Asbestos
12.1	Capital Programs of Works
14.2	CEO KPI Reporting: Local Procurement
15.1	Elected Member Information Bulletin

Items to be considered by separate resolution.

Item	Report	Reason
10.2	Policy and Legislation Committee - 8 November 2023 - Dogs Local Law	Absolute Majority Required
10.3	Policy and Legislation Committee - 8 November 2023 - Council Policy Review - Bush Fire Brigade Management Policies	Disclosure of Impartiality Interest – Mayor Cronin
10.5	Policy and Legislation Committee - 8 November 2023 - Council Policy Review - Elected Member Training and Professional Development	Absolute Majority Required
10.8	Audit and Risk Committee - 29 November 2023 - 2022/23 Annual Financial Statements, Audit Report and Management Letter	Absolute Majority Required
13.1	Busselton Jetty Inc Short Term Lease of Ballaarat Room as Interim Marine Discovery Centre	Absolute Majority Required
14.1	Annual Report 2022-2023	Absolute Majority Required

10. REPORTS OF COMMITTEE

10.1 Local Planning Policy Review: Adoption following consultation - LPP 1.5 Coastal Setbacks

Strategic Theme:	OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy
Strategic Priority:	3.1 Work with key partners to facilitate the activation of our town centres, creating vibrant destinations and consumer choice.
Subject Index:	Development Control Policy
Business Unit:	Development Services
Reporting Officer:	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:	<ol style="list-style-type: none"> 1. Attachment A Proposed LPP 1.5 - Coastal Setbacks 1_1 [7.1.1 - 4 pages] 2. Attachment B Current LPP 1.5 - Coastal Setbacks 1_1 [7.1.2 - 3 pages] 3. Attachment C Map of Lots currently subject to LP P 1.5 1_1 [7.1.3 - 9 pages] 4. Attachment D Schedule of Submissions [7.1.4 - 13 pages]

This item was considered by the Policy and legislation Committee at its meeting on 8 November 2023, the recommendations of which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council:

1. Pursuant to Clause 4, Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopt as final LPP 1.5 Coastal Setbacks, as set out at Attachment A; and
2. Publish a notice of adoption in a newspaper circulating within the Scheme area in accordance with Clause 4, Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* of the Policy set out in 1 above.

OFFICER RECOMMENDATION

That the Council:

1. Pursuant to Clause 4, Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopt as final LPP 1.5 Coastal Setbacks, as set out at Attachment A; and
2. Publish a notice of adoption in a newspaper circulating within the Scheme area in accordance with Clause 4, Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* of the Policy set out in 1 above.

EXECUTIVE SUMMARY

Council is asked to consider final adoption of the amended draft *LPP 1.5 Coastal Setbacks – West Busselton* ('LPP1.5'), as set out in Attachment A, following public consultation in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations').

BACKGROUND

The *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations') provide that Local Planning Policies ('LPPs') may be prepared by a local government in respect of any matter relating to planning and development within the *City of Busselton Local Planning Scheme No. 21* ('Scheme') area.

The intention of an LPP is to provide guidance to applicants/developers and the community regarding the decision-making process, as well as to the local government when exercising discretion under the Scheme. An LPP must be consistent with relevant Scheme provisions, including *State Planning Policy 7.3 – Residential Design Codes* ('R-Codes'), and cannot vary development standards or requirements set out in a Scheme or impose other mandatory requirements upon development, unless there is a specific power to do so.

LPPs are given due regard in the assessment of development applications and are listed as a "Consideration of application by local government" when making determination of a development application under Schedule 2, clause 67 of the Regulations.

In March 2019, the City commenced the first stage of the LPP review. This stage was policy neutral and did not alter the intent or provisions within the LPPs. The LPPs were re-formatted into an easier-to-read template, taking the policies from a single manual structure and separating them into individual policies. These changes were adopted by Council at its meeting on 27 March 2019 (C1903/053).

The City commenced the second stage of the review process which included reviewing the substantive content of LPPs, but because of competing workload priorities, the review work has slowed. Instead the Statutory Planning team has had to prioritise the assessment of development applications. Nevertheless, some work on the policy review has been able to be progressed, albeit more slowly than had been anticipated in 2019. A focus has been on reviewing policies that have a more significant impact on workload.

LPP 1.5 originally formed part of the broader *Residential Design Guidelines Policy* which was adopted by Council on 17 October 2007 (C0710/236). The policy applied to low density coastal areas (coded R25 or less) that abut coastal foreshore reserves fronting Geographe Bay Road, or which directly abut Geographe Bay Road, but excludes Special Character Areas (e.g. Quindalup). Broadly the policy provisions can be split into two main elements: primary street setbacks (where affected lots front Geographe Bay Road); and rear setbacks (where lots directly abut the foreshore reserve).

A copy of the current LPP 1.5 is provided at Attachment B. A map indicating the lots which are currently subject to LPP1.5 is provided at Attachment C.

The Council had first adopted a draft new version of LPP 1.5 on 11 November 2020. The most significant change proposed was that the scope of the policy was reduced to cover only the section of West Busselton between Craig Street and Earnshaw Road. It was considered that the additional controls were not necessary in most of the area affected by the current policy, but because of the unusually narrow street verge and foreshore reserve in this section of the coast, it may still be

desirable to achieve bigger street setbacks, especially for development above the ground floor, in that part of West Busselton.

In addition, the following modifications to the policy were proposed:

- Objectives (purpose) were refined so that they are relevant and appropriate;
- Remove provisions that purport to vary the design principles of the R-Codes (noting that those provisions are *ultra vires* - i.e. 'outside the powers' of the Council);
- Introduction of interpretations for clarification;
- All rear setback provisions removed;
- Clarification that the policy applies to all sites adjoining Geographe Bay Road within the policy area, where previously corner lots where Geographe Bay Road was the secondary street were excluded;
- Introduction of a provision that allows for privacy screening;
- Introduction of diagrams to clarify setback provisions; and
- A change to the title, to reflect the much narrower scope proposed.

Community consultation took place in February 2021. As part of the consultation process, adverts were placed in a local newspaper, information placed on the City's website, and letters sent directly to all landowners within the area affected by the existing adopted policy. A total of eleven submissions were received, six of which objected to the proposed changes.

At its meeting on 25 January 2023 (C2301/11 refers) the Council resolved that, due to the amount of time that had lapsed since the public consultation period held in February 2021, further consultation was considered appropriate, with clarification to affected landholders of the ramifications and impacts of the draft policy. A total of ten submissions were received, three in support, six objecting and one was neutral. Discussion of issues raised in the submissions that were received during consultation is set out in the officer comment section of this report.

OFFICER COMMENT

In relation to the six submissions that were received which were opposed to the proposed changes, the key concern raised was regarding the loss of views and privacy because of proposed changes to front setback requirements. The requirements for measuring privacy setbacks are already considered by the R-Codes and the current Policy does not (and cannot) vary the provisions as set out in the R-Codes, as a result, this assessment will not change.

There is no specific protection or legal right to a view within the planning framework and loss of view is nearly always not a valid planning consideration when making a planning decision. Furthermore, it is noted that the original purposes of LPP1.5 was not for the protection of views. It was to maintain a certain residential character and reduce the dominance of built form in the coastal setting.

The area that is proposed to be retained within the Policy Area was selected due to the generally narrow coastal and road reserves and the proximity of the dual path to the lot boundaries. Between Craig Street and Earnshaw Road, the dual use path is located on the back of kerb and there is only a very narrow stretch of coastal reserve with setbacks of approximately 20m – 38m from the front boundary of the affected lots and the edge of the beach as there is no, or very little, dune system or foreshore reserve as well as generally narrow street verge widths. The impact of building bulk on these three street blocks is noticeable because of the proximity of dwellings to both the dual use path and the beach. It is considered reasonable in this location that additional setbacks be encouraged through the policy to reduce the impact of new development on the users of the adjacent dual use path and beach.

In other coastal areas, however, relatively wide verges and/or foreshore reserves significantly reduce the potential for residential buildings to be visually dominant in the streetscape, as they would generally be no higher than two storeys. Between Guerin Street and Ford Road, the verge can be as great as 37m, as such, the existing controls which impinge on landowners' capacity to develop their properties, are not considered to have a clear planning basis and an assessment of development applications within this area are adequately controlled by the design principles of the R-Codes.

In addition to the above, which has been set out in similar form in earlier reports on this matter, it is considered appropriate to outline two further important considerations with respect to the current policy -

1. The impact that LPP1.5 has on the development potential of affected land, and whether there is a need to continue to restrict that potential because there have been attempts to restrict that potential in the past; and
2. The inherent tension between what are understood to be the original aims of LPP1.5 and the actual operation of the R-Codes (which provide the most important head of power for LPP1.5).

Each of these considerations is outlined and discussed below.

In terms of the first consideration noted above, in essence, one of the rationales for retaining LPP1.5 is understood to be on the basis that it has applied in the past and, in some cases, owners have built to the greater setbacks supported by the policy, and it would be unfair to not continue to impose those greater setbacks on future owners/developers. The imposition of greater setbacks does, though, reduce the development potential of private land, and the fact that greater setbacks have been required in the past should not, in and of itself, justify the continued imposition of those greater setbacks. There needs to be an underlying planning rationale for continuing to do so.

As set out in a little more detail below, there is actually considered to be more of a case to apply lower, rather than greater, setback requirements to most of the lots affected by the current policy - when compared with other lots with the same density coding. That is because the primary purpose of front setback requirements is about streetscape, and avoiding a sense that buildings are overly dominant in the streetscape in relatively low-density residential areas. All of the areas affected by the street setback requirements of the current policy, however, are streets where there is private land and therefore houses on only one side of the street and where street verges are generally wider than what would normally be the case. As such, the potential for buildings to dominate the street is actually less than in a more typical 'two-sided' street with relatively narrow street verges.

In terms of the second consideration outlined above, it is noted that the R-Codes provides 'two paths' for approval. The first path is the 'deemed-to-comply' pathway. If a proposed development meets a relevant deemed-to-comply standard, then it must be deemed to be acceptable, with respect to the matters/issues that are covered by that standard. Under the R-Codes, a policy can be adopted to modify some of the deemed-to-comply standards, including front setback requirements.

If a proposed development does not meet one or more of the relevant deemed-to-comply standards, however, it does not mean that the development is not appropriate. It means that an assessment is required in the context of the relevant 'design principles'. Whilst deemed-to-comply standards are generally quantitative and objectively verifiable, the design principles are generally not quantitative standards, they are more in the form of broad objectives, requiring the exercise of considered planning judgement – what is often referred to as 'discretion'. Under the R-Codes, a local government cannot vary the design principles.

That means that, notwithstanding that a local government may adopt a policy that varies the relevant deemed-to-comply standard, if that standard is not met, then the proposal must be assessed against the same design principles as would apply in the absence of the policy. In drafting the R-Codes, however, the State has already identified that, if the relevant deemed-to-comply standards have been met, then it should be considered that the relevant design principles are already met. That points towards a position where a policy that varies deemed-to-comply standards in such a way that they are relaxed could be implementable in practice, but a policy that varies those standards so that they are tightened may not be implementable. That is particularly the case where a local government is seeking to do so in contexts where, when judged against the relevant design principle, there is a stronger case for smaller rather than greater street setbacks. Note the main relevant design principle is as follows -

P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:

- *contribute to, and are consistent with, an established streetscape;*
- *provide adequate privacy and open space for dwellings;*
- *accommodate site planning requirements such as parking, landscape and utilities; and*
- *allow safety clearances for easements for essential service corridors.*

No changes are proposed to the version of the Policy proposed for adoption from what was initiated by Council and advertised. It is, therefore, recommended that the Policy as set out in Attachment A be adopted as final.

Statutory Environment

The key statutory environment is set out in the *Planning and Development Act 2005* and related subsidiary legislation, including the City of Busselton Local Planning Scheme No. 21 (the Scheme) and the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), especially Schedule 2 (Deemed Provisions) of the Regulations, which form part of the Scheme.

Division 2 — Local planning policies

3. Local planning policies

- (1) The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.*
- (2) A local planning policy —*
 - (a) may apply generally or in respect of a particular class or classes of matters specified in the policy; and*
 - (b) may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.*
- (3) A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.*
- (4) The local government may amend or repeal a local planning policy.*

- (5) *In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.*

4. Procedure for making local planning policy

- (1) *If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows –*
- (a) *publish in accordance with clause 87 the proposed policy and a notice giving details of –*
 - (i) *the subject and nature of the proposed policy; and*
 - (ii) *the objectives of the proposed policy; and*
 - (iii) *how the proposed policy is made available to the public in accordance with clause 87; and*
 - (iv) *the manner and form in which submissions may be made; and*
 - (v) *the period for making submissions and the last day of that period;*
 - (b) *if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*
 - (c) *give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*
- (2) *The period for making submissions specified in a notice under subclause (1)(a)(v) must not be less than the period of 21 days after the day on which the notice is first published under subclause (1)(a).*
- (3) *After the expiry of the period within which submissions may be made, the local government must –*
- (a) *review the proposed policy in the light of any submissions made; and*
 - (b) *resolve to –*
 - (i) *proceed with the policy without modification; or*
 - (ii) *proceed with the policy with modification; or*
 - (iii) *not to proceed with the policy.*
- (3A) *The local government must not resolve under subclause (3) to proceed with the policy if –*
- (a) *the proposed policy amends or replaces a deemed-to-comply provision of the R-Codes; and*
 - (b) *under the R-Codes, the Commission’s approval is required for the policy; and*
 - (c) *the Commission has not approved the policy.*
- (4) *If the local government resolves to proceed with the policy, the local government must publish notice of the policy in accordance with clause 87.*
- (5) *A policy has effect on publication of a notice under subclause (4).*

(6) *The local government must ensure that an up-to-date copy of each local planning policy made under this Scheme that is in effect is published in accordance with clause 87.*

(7) *Subclause (6) is an ongoing publication requirement for the purposes of clause 87(5)(a).*

5. Procedure for amending local planning policy

(1) *Clause 4, with any necessary changes, applies to the amendment to a local planning policy.*

(2) *Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.*

Relevant Plans and Policies

State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes)

The purpose of the R-Codes is to provide a comprehensive basis for the control of residential development throughout Western Australia.

The R-Codes provide for residential development of an appropriate design for the intended residential purpose, density, context of place and Scheme objectives.

Local Planning Scheme No. 21 (the Scheme)

Relevantly, the purposes of the Scheme are to control and guide land use and development; and to set out procedures for the assessment and determination of applications for development approval.

Financial Implications

Not applicable.

Stakeholder Consultation

After the Council meeting in January, further consultation was undertaken in April/May of this year. The consultation comprised of writing to 1289 landowners/occupiers outside the policy area and 88 landowners/occupiers within the policy area. The consultation included graphics explaining the proposed changes for both areas. In addition to letters, the proposed changes were advertised in the newspaper, Yoursay and on-line workshops.

The public consultation period commenced on 8 May 2023 and closed on 29 May 2023. Ten submissions were received in relation to the proposed changes to LPP1.5. Of the ten submissions:

- Three submissions were in support of the proposed changes;
- Six submissions were opposed to the proposed changes; and
- 1 submission was neutral.

A summary of all submissions received is provided at Attachment D.

In accordance with the Regulations, it is proposed that a notice be placed in the local newspaper advising that *LPP 1.5 Coastal Setbacks* has been adopted as final.

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 medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Retain the existing policy;
2. Modify the policy recommended to be adopted and for these changes to be re-advertised; or
3. Revoke the policy in its entirety.

CONCLUSION

It is recommended that Council consider the discussion set out in this report and resolve to adopt the amended LPP 1.5.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Implementation of officer recommendation	Within one month of Council endorsement

10.2 Dogs Local Law

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Legal Officer - Briony McGinty
Authorised By:	Director of Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Legislative: adoption of "legislative documents" such as local laws, local planning schemes and local planning policies.
Voting Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Dogs Local Law (marked-up) [7.2.1 - 18 pages] 2. Dogs Local Law (clean) [7.2.2 - 18 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 8 November 2023, the recommendations of which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council:

1. Resolves to make the City of Busselton Dogs Local Law 2023 in accordance with section 3.12(4) of the *Local Government Act 1995*.
2. Authorises the Chief Executive Officer to carry out the processes required to make the City of Busselton Dogs Local Law 2023 in accordance with section 3.12(5) and section 3.12(6) of the *Local Government Act 1995*.

OFFICER RECOMMENDATION

That the Council:

1. Resolves to make the City of Busselton Dogs Local Law 2023 in accordance with section 3.12(4) of the *Local Government Act 1995*.
2. Authorises the Chief Executive Officer to carry out the processes required to make the City of Busselton Dogs Local Law 2023 in accordance with section 3.12(5) and section 3.12(6) of the *Local Government Act 1995*.

EXECUTIVE SUMMARY

Council resolved on 16 August 2023 to initiate the law-making process for the City of Busselton Dogs Local Law 2023 (Proposed Local Law). The matter is now brought back before Council to enable consideration of the submissions made, and to determine whether to make the Proposed Local Law in accordance with section 3.12(4) of the Local Government Act 1995 (the Act).

STRATEGIC CONTEXT

The provision of appropriate local laws in relation to dogs within the City supports the good governance of the district, whilst also facilitating a safe community.

BACKGROUND

The *Dog Act 1976* (the Dog Act) provides for the control, registration, ownership and keeping of dogs. Under the Dog Act, local governments may make local laws providing for, amongst other things:

- a) establishment and maintenance of dog management facilities,
- b) detention, care and release or disposal of dogs seized,
- c) licensing, use and inspection of approved kennel establishments; and
- d) requirements that premises where dogs are kept must be fenced in a manner capable of confining the dog.

Significant amendments to the Dog Act and associated regulations came into effect in 2013. Those amendments included the capacity for local governments to determine dog exercise and dog prohibited areas via Council resolution (rather than through an amendment to its local law). As a result, several provisions in the City's then "Dog by-laws" became obsolete. In 2014 the City adopted the Current Local Law to be consistent with the new Dog Act.

Section 3.16 of the Act requires that a local government should review its local laws every 8 years to determine whether they should be repealed or amended. The Current Local Law was gazetted in 2014 and was further amended in 2015. The Current Local Law is based on the WALGA model and has operated well since its inception. However, City officers conducted an internal review which resulted in proposed changes. Those changes were incorporated into the Proposed Local Law which was presented to Council for consideration.

On 16 August 2023 the Council resolved:

That the Council:

1. *Commences the law-making process for the City of Busselton Dogs Local Law 2023; the purpose and effect of the local law being as follows:*

Purpose: *To repeal the Dogs Local Law of 2014 and make provisions about dogs which are permitted under the Dog Act 1976.*

Effect: *To provide Council with controls and regulatory measures in relation to matters such as the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs.*

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.*

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.*

The Proposed Local Law was advertised in accordance with the Act. The results of that consultation are discussed further below under External Stakeholder Consultation.

OFFICER COMMENT

State legislation provides for a three-tiered system for regulating the care for and control of dogs, as outlined below:

Dog Act

Under the Dog Act local governments are provided with legislative controls in relation to matters such as:

- a) registration and identification of dogs;
- b) power to seize dogs;
- c) dogs to wear collars and registration tags;
- d) declaring of and dealing with dangerous dogs; and
- e) what constitutes a dog nuisance and how to deal with such a nuisance.

Local Laws

The Dog Act also extends to local governments the power to regulate, by way of a local law, matters such as:

- a) impounding of dogs;
- b) number of dogs that can be kept;
- c) establishment of approved kennels;
- d) manner in which dogs are to be confined by the occupier of a premises; and
- e) creation of offences for non-compliance with certain provisions of a local law.

Council resolutions

Local governments can determine dog exercise areas and areas where dogs are prohibited by an absolute majority decision after giving 28 days' notice of its intention to do so.

This report only deals with the local law-making power.

The City's Current Local Law is based on the WALGA model and is consistent with those of many other local governments. However, in reviewing the Current Local Law several changes were identified as appropriate, to achieve a more contemporary local law. For administrative ease, it is proposed to repeal the Current Local Law and replace it with the Proposed Local Law (rather than present an amendment local law), found at Attachment B.

The Proposed Local Law is divided into parts, described further below:

Part 1

The preliminary section deals with matters of a more technical nature including the official title of the local law, the commencement date, the area to which the local law shall apply, repealing the Current Local Law and defining terminology used in the local law.

Part 2

This section deals with the impounding of dogs. It provides for fees, charges and costs to be imposed and determined by Council in relation to the seizure and impounding, release and/or destruction and disposal of a dog and the times at which an authorised person (previously referred to as “pound keeper”) has to be in attendance at the animal management facility (previously referred to as “pound”).

Part 3

This section requires from an occupier of a premises on which a dog is kept to cause the relevant portion of such premises to be fenced in a manner capable of confining the dog. It also limits the number of dogs which may be kept on any premises (other than an approved kennel establishment), to 2 dogs and the young of those dogs under the age of 3 months. The Proposed Local Law also includes a provision where, if located in an area zoned rural, then the limit of dogs which may be kept without a permit under section 26(3) of the Dog Act increases to 4. This is consistent with the WALGA template (with minor wording changes). The purpose of this change is to remove the necessity for owners of rural premises to apply for a permit for the keeping of 3 or 4 dogs, which, based on the experience of City rangers, will likely be granted in any event due to the size of the property.

Part 4

This section regulates the process for obtaining and transferring a license for an approved kennel establishment and its cancellation. It requires an applicant to give notice of the proposed use of the premises as a kennel establishment (notice to be given in a newspaper circulating in the district and to owners and occupiers of adjoining premises). It also provides for payment of fees in relation to applying for and issuing of a license for an approved kennel establishment.

Part 5

Under this section a dog must not excrete on a public place or on privately owned land without the consent of the occupier of such land. It also requires from a person in control of such a dog to immediately remove excreta, failing which such a person commits an offence.

Part 6

This section of the Proposed Local Law deals with enforcement. A range of modified penalties (specified in Schedule 3 of the local law) are created and persons responsible for enforcing the Proposed Local Law are authorised to issue infringement notices. The modified penalties for offences have not been updated since the Current Local Law’s inception in 2014. Given the maximum modified penalty that can be imposed in a local law is \$500 per offence, the new general modified penalty of \$200 per offence is seen as appropriate (and in line with other local governments). This is an increase from the previous penalties of between \$40-\$100. A higher penalty for failing to provide means for effectively confining a dog that has been declared dangerous

is already provided for in the Regulations (given the potential consequences of such a failure). Therefore, based on advice from the DLGSCI, a separate penalty for this is not provided.

Schedules

Schedule 1 of the Proposed Local Law consists of a template application for a licence for an approved kennel establishment. Schedule 2 contains draft conditions which could be imposed on a licence for an approved kennel establishment. Under Schedule 3 the offences in respect of which modified penalties apply, are specified.

Statutory Environment

Dog Act 1976

Section 51 of the Dog Act specifies the dog related matters in relation to which local governments may make local laws.

Local Government Act 1995

Section 3.16 of the Act requires that every 8 years a local law should be reviewed to determine whether it should be repealed or amended.

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.

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 repeal the Dogs Local Law of 2014 and make provisions about dogs which are permitted under the Dog Act 1976.
- Effect:** To provide Council with controls and regulatory measures in relation to matters such as the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs.

Local public notice must 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 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 it complies with the abovementioned criteria.

Relevant Plans and Policies

Not applicable.

Financial Implications

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

External Stakeholder Consultation

The Proposed Local Law was advertised publicly in local newspapers, on the City's website, on social media and on public notice boards for a minimum of 6 weeks in accordance with the requirements under section 3.12(3)(a) of the Act.

In accordance with section 3.12(3)(b) of the Act a copy of the Proposed Local Law was forwarded for consideration and comment to the Minister for Local Government.

The DLGSCI responded on behalf of its Minister and made some minor editing suggestions which have been incorporated in the Proposed Local Law before Council, as seen at Attachment A.

The consultation period did not result in any public submission being received, despite being advertised through a number of platforms including Facebook, City Connect and Your Say.

Risk Assessment

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

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. Further, if any changes are of a significant nature the local law would need to be re-advertised.

CONCLUSION

It is recommended that the Council makes the Proposed Local Law at Attachment B and authorises the CEO to carry out the actions required to give effect to that resolution.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Gazettal of Local Law	Within 1 month of adoption
Provision of required material to the JSC	Within 10 days of gazettal
Placement of Local Law on website	14 days after gazettal

10.3 Council Policy Review - Bush Fire Brigade Management Policies

Strategic Theme:	Key Theme 1: Environment 1.1 Ensure protection and enhancement of environmental values is a central consideration in land use planning Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Community Planning
Reporting Officer:	Manager Community Safety - Rachel Runco
Authorised By:	Director Community Planning - 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 Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none">1. bushfire-brigades-bushfire-accounting [7.3.1 - 3 pages]2. bushfire-brigade-grievance-process-disciplinary-action [7.3.2 - 3 pages]3. bushfire-brigades-code-of-conduct-objectives-and-values [7.3.3 - 2 pages]4. bushfire-brigades-meetings-of-bush-fire-brigades [7.3.4 - 6 pages]5. bushfire-brigades-membership-of-bush-fire-brigades [7.3.5 - 4 pages]6. bushfire-brigades-qualifications-of-bush-fire-brigade-officers [7.3.6 - 4 pages]7. bushfire-brigades-roles-of-bush-fire-brigade-officers [7.3.7 - 5 pages]8. Draft Bushfire Management Policy (1) [7.3.8 - 3 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 8 November 2023, the recommendations of which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council:

1. Rescind the following Council policies:
 - a. Bushfire Brigades – Bushfire Accounting (Attachment 1)
 - b. Bushfire Brigades – Bushfire Brigade Grievance Process Disciplinary Action (Attachment 2)
 - c. Bushfire Brigades – Code of Conduct, Bush Fire Brigade Objectives and Values (Attachment 3)
 - d. Bushfire Brigades – Meetings of Bush Fire Brigades (Attachment 4)
 - e. Bushfire Brigades – Membership of Bush Fire Brigades (Attachment 5)
 - f. Bushfire Brigades – Qualifications of Bush Fire Brigade Officers (Attachment 6)
 - g. Bushfire Brigades – Roles of Bush Fire Brigade Officers (Attachment 7)
2. Adopt the Bush Fire Brigade Management Policy (Attachment 8).

OFFICER RECOMMENDATION

That the Council:

3. Rescind the following Council policies:
 - a. Bushfire Brigades – Bushfire Accounting (Attachment 1)
 - b. Bushfire Brigades – Bushfire Brigade Grievance Process Disciplinary Action (Attachment 2)
 - c. Bushfire Brigades – Code of Conduct, Bush Fire Brigade Objectives and Values (Attachment 3)
 - d. Bushfire Brigades – Meetings of Bush Fire Brigades (Attachment 4)
 - e. Bushfire Brigades – Membership of Bush Fire Brigades (Attachment 5)
 - f. Bushfire Brigades – Qualifications of Bush Fire Brigade Officers (Attachment 6)
 - g. Bushfire Brigades – Roles of Bush Fire Brigade Officers (Attachment 7)

4. Adopt the Bush Fire Brigade Management Policy (Attachment 8).

EXECUTIVE SUMMARY

In 2015, the current Bush Fire Brigade Council Policies were adopted to provide governance and operational direction for management of the City's bushfire brigades. These policies have not been reviewed since adopted. This report commends that all current brigade management policies be rescinded and be replaced with the proposed Bush Fire Brigade Management Policy.

STRATEGIC CONTEXT

Council policies are an important part of the City's governance systems. They guide the direction of the organisation in line with the community vision and aspirations. The proposed Bush Fire Brigade Management Policy aligns with the City's strategic goal to deliver governance systems that facilitate open, ethical, and transparent decision making,

BACKGROUND

The City has seven policies relating to management of Bush Fire Brigades. These policies have not been reviewed in accordance with the City's Policy Framework as, when last presented to the Committee, the Committee recommended that the review be deferred due to the review at the time of the State Government bushfire framework.

At the Bush Fire Advisory Committee (BFAC) on 13 December 2022 a motion was passed to review these management policies. It was determined by officers upon review that updating of the City's Bush Fire Brigade Local law could primarily replace these policies.

At the Ordinary meeting of Council 18 October 2023, Council resolved to make the City of Busselton Bushfire Brigades Local Law 2023 (BLL) in accordance with section 3.12 of the Local Government Act 1995.

OFFICER COMMENT

Following the BFAC motion to review the City Bush Fire Brigade management policies. It was determined by officers that updating of the City's BLL would allow a streamline governance

structure for the management of the Cities brigades with a single consolidated Council policy proposed to replace the current brigade management policies.

This approach has been recommended as certain matters related to management of Bush Fire brigades should, under the *Bush Fires Act 1954*, should be dealt with by way of local laws including:

- Establishment of Bush Fire Brigades
- Organisation and maintenance of Bush Fire Brigades
- Types of Bush Fire Brigade Membership
- Rules outlining the management model brigades are to operate within.
- Equipment of Bush Fire Brigades

The new Bush Fire Brigade management Policy sets out in broad terms (amongst other things):

1. The principles guiding the City's management of Bush Fire Brigades.
2. The minimum training requirements for Fire Fighting members.
3. The process for appointment and tenure of Chief and Deputy Chief Bush Fire Control Officers.
4. The appointment, suspension, and termination of members.

It is planned that, following adoption of the BBL and this policy, that operational practices, work processes and guidelines will be developed in collaboration with DFES and the City's Fire Control Officers to formalise the ongoing consistent management of the City's Bush Fire brigades.

Statutory Environment

The enforcement of regulatory prohibitions is a necessary part of providing for 'good government' by maintaining acceptable standards of behaviour in the community.

Council is the governing body of a local government and is responsible under s 2.7 of the *Local Government Act 1995* for the performance of local government functions, including by determining the local government's policies.

Relevant Plans and Policies

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

Plan:

Not applicable.

Policy:

[Bushfire Brigades - Bushfire Accounting](#)

[Bushfire Brigades - Grievance Process and Disciplinary Action](#)

[Bushfire Brigades - Code of Conduct, Bush Fire Brigade Objectives and Values](#)

[Bushfire Brigades - Meetings of Bush Fire Brigades](#)

[Bushfire Brigades - Qualifications of Bush Fire Brigade Officers](#)

[Bushfire Brigades - Roles of Bush Fire Brigade Officers](#)

[Bushfire Brigades - Membership of Bush Fire Brigades](#)

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable

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 considering 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 rescind the existing policies and not to adopt the Bush Fire Brigade Management Policy. Council could also seek amendments to the Bush Fire Brigade Management Policy or alternatively decide to have no Bush Fire Brigade Management Policy.

CONCLUSION

It is recommended that Council rescind the seven existing Bushfire Brigade management policies as per attachments 1 - 7. It is also recommended that Council adopt the Bush Fire Brigade Management Policy at Attachment 8.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Update website to remove rescinded policies and include new policy	31 December 2023

10.4 Council Policy Review - Media and Public Statements

Strategic Theme:	Key Theme 4: Leadership 4.1 Provide opportunities for the community to engage with Council and contribute to decision making.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Director Corporate Strategy and Performance - Sarah Pierson
Authorised By:	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 Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. Proposed Council Policy Media and Public Statements [7.4.1 - 4 pages] 2. Track Changes Edits [7.4.2 - 5 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 8 November 2023, the recommendations of which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council adopts the amended Council Policy ‘Media and Public Statements’ (Attachment 1), inclusive of the removal of clause 5.11 and renumbering accordingly, to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle.

Reasons: The Committee proposed the removal of clause 5.11 to provide further clarity on Council engagement processes with the Media.

OFFICER RECOMMENDATION

That the Council adopts the amended Council Policy ‘Media and Public Statements’ (Attachment 1) to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle.

EXECUTIVE SUMMARY

This report presents an amended Council Policy: ‘Media and Public Statements’ (the Policy) (Attachment 1). The Policy has been reviewed as part of the City’s ongoing policy review cycle and amended with minor amendments and edits to improve readability.

STRATEGIC CONTEXT

The provision of good media practice safeguards the City’s image, ensures consistent communication, protects confidential information, and promotes responsible social media use and behaviours. This ensures the City is professionally and accurately represented, maximising positive public perception. Regular review of City policies reflects good governance.

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, with the aim of determining the ongoing strategic importance and applicability of Council policies.

The purpose of the Policy is to establish protocols for the release of public statements issued by the City of Busselton (including to the media and on Social Media); such that the City is professionally and accurately represented and to maximise a positive public perception of the City.

The Policy was first implemented in February 2020 (**C2002/037**). With a heightened focus on communications and engagement, both across the sector and within the City of Busselton, it was considered timely that Council adopt a formal position of the issuing of media and public statements.

OFFICER COMMENT

The Policy guides the issuing of media statements and public statements pertaining to City of Busselton business, with reference to the roles and responsibilities of the Mayor and Deputy Mayor, Elected Members, and the CEO (or authorised officer/s).

The Policy seeks to channel media enquiries through the Stakeholder Relations team in the first instance, however notes that the Mayor, in his/her official capacity as spokesperson for the City, can provide statements directly to the media if he/she elects to do so. The Policy outlines the City's approach to responding to official media enquiries (including social media).

Officers consider that the Policy achieves its stated intent and is of continuing relevance, with only minor amendments proposed to improve the structure and readability of the Policy and reduce repetition, for instance, the combining of points within the 'Speaking on behalf of the City of Busselton' and 'Statements on City Matters' sections.

Statutory Environment

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

Specific references to the roles and responsibilities of the Mayor, Deputy Mayor, Elected Members, and the CEO as per the Act, are referenced in the Policy.

Relevant Plans and Policies

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

Plan:

Not applicable.

Policy:

[Media and Public Statements](#)

The current version of the policy is linked above for reference. A track changes version is provided at Attachment 2.

Financial Implications

Not applicable.

External Stakeholder Consultation

Not applicable.

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 considering any controls already in place.

The Officer recommendation serves to mitigate the identified risk of inconsistent and potentially incorrect information and/or inappropriate commentary being relayed to the public by Elected Members and Employees, helping to ensure the risk is reduced from a high inherent risk (likelihood of likely) to a medium level risk as outlined below.

Risk: Inconsistent and potentially incorrect information and/or inappropriate commentary being relayed to the public by Elected Members and City of Busselton Employees.			
Category	Consequence	Likelihood	Rating
Reputation	Moderate	Possible	Medium

Options

As an alternative to the proposed recommendation the Council could:

1. Decide to retain the Policy in its current form.
2. Decide to make additional amendments.

CONCLUSION

This report recommends that Council adopt the amended Council Policy ‘Media and Public Statements,’ to replace the current policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Policy placed on the City’s website	29 November 2023

10.5 Council Policy Review - Elected Member Training and Professional Development

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Manager Legal and Governance - Ben Whitehill
Authorised By:	Director of Corporate Strategy and Performance - 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 Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none">1. Proposed Elected Member Training and Professional Development Policy [7.5.1 - 3 pages]2. Proposed Elected Member Training and Professional Development Policy (tracked changes) [7.5.2 - 4 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 8 November 2023, the recommendations of which have been included in this report

COMMITTEE RECOMMENDATION

That the Council adopts the amended Council Policy ‘Elected Member Training and Professional Development’ (Attachment 1) to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle, inclusive of insertion of a new clause 5.14 to read as follows, with subsequent renumbering as required:

- 5.14 Where an additional training budget has not been approved by the Council, nothing in this Policy prevents the elected member choosing to fund the shortfall for training and development.**

Reasons: The committee proposed the addition of the clause to clarify conditions in which the elected member can fund shortfalls for training and development allowance in instances where the elected member training allowance has been exceeded.

OFFICER RECOMMENDATION

That the Council adopts the amended Council Policy ‘Elected Member Training and Professional Development’ (Attachment 1) to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle.

EXECUTIVE SUMMARY

This report presents an amended Council Policy: Elected Member Training and Professional Development (the Policy) (Attachment 1). The Policy has been reviewed in accordance with section 5.128(5)(a) of the *Local Government Act 1995* (the Act), which requires a council policy, in relation to the professional development of elected members, to be reviewed after each ordinary election.

STRATEGIC CONTEXT

The training and continuing professional development of elected members enhances knowledge and develops skills, improving the Council's capacity for well-informed decision-making and the provision of good government for our community.

BACKGROUND

In accordance with section 5.128 of the Act, a local government is to prepare and adopt, by absolute majority, a policy in relation to the continuing professional development and must review the policy after each ordinary election.

The purpose of the Policy is to provide guidance concerning the training and professional development of elected member. The Policy was last adopted in January 2022, after the 2021 Local Government elections with only minor amendments made.

OFFICER COMMENT

The 2023 Local Government Ordinary Election was held on Saturday 21 October 2023. In accordance with section 5.128(5)(a) of the Act, officers have reviewed the Policy, with amendments proposed.

The proposed amendments to the Policy are:

1. to specify an annual allowance of \$3,000 per elected member per annum (see paragraph 5.2 of the amended policy). This reflects the amount that has been allocated over the past few years by virtue of each elected member being entitled to an equal split of the allocated budget. Having a fixed amount assists with budgeting and provides some certainty for members;
2. to provide clarity on the process for making and approving applications for training or professional development (see paragraphs 5.6-5.9 of the amended Policy);
3. to state that applications for training or professional development will not be approved in certain circumstances to reflect the legislative changes introduced in section 5.129 of the Act and reg 37 of the *Local Government (Administration) Regulations 1996* (see paragraph 5.14 of the amended Policy); and
4. minor amendments for accuracy, structure or readability.

A tracked changes version is provided at Attachment 2.

Officers consider that the Policy broadly achieves its stated intent and the minor amendments are proposed to provide clarity, achieve legislative compliance and otherwise to improve the structure and readability of the Policy.

Statutory Environment

In accordance with section 2.7(2)(b) of the Act, it is the role of the Council to determine the local government's policies. The Council does this on recommendation of a committee it has established in accordance with section 5.8 of the Act.

Relevant Plans and Policies

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

Plan:

Not applicable.

Policy:

[Elected Member Training and Professional Development Fees, Allowances and Expenses for Elected Members](#)

The current version of the policy is linked above for reference, along with an associated policy.

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable

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 not accept the proposed amendments or propose further amendments to the Policy.

CONCLUSION

The Policy has been reviewed in accordance with section 5.128(5)(a) of the Act, with the amended Policy (at Attachment 1) presented to Council for adoption.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Policy placed on the City's website	29 November 2023

10.6 Council Policy Review - Waste Management Facility and Plant Reserve

Strategic Theme:	Key Theme 4: Leadership 4.1 Provide opportunities for the community to engage with Council and contribute to decision making.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Director Corporate Strategy and Performance - Sarah Pierson
Authorised By:	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 Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. Proposed Council Policy Waste Management Facility and Plant Reserve [7.6.1 - 2 pages] 2. Council Policy Waste Management Facility and Plant Reserve track changes [7.6.2 - 2 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 8 November 2023, the recommendations of which have been included in this report

COMMITTEE RECOMMENDATION

That the Council adopts the amended Council Policy ‘Waste Management Facility and Plant Reserve’ (Attachment 1) to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle.

OFFICER RECOMMENDATION

That the Council adopts the amended Council Policy ‘Waste Management Facility and Plant Reserve’ (Attachment 1) to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle.

EXECUTIVE SUMMARY

This report presents an amended Council Policy: ‘Waste Management Facility and Plant Reserve’ (the Policy) (Attachment 1). The Policy has been reviewed as part of the City’s ongoing policy review cycle and amended with minor amendments and edits to improve readability.

STRATEGIC CONTEXT

The provision of a robust long term funding strategy for waste management activities links to Council’s strategic priority for the implementation of best practice waste management strategies which in turn contributes to the protection and enhancement of environmental values. Regular review of City policies reflects good governance.

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, with the aim of determining the ongoing strategic importance and applicability of Council policies.

A policy in relation to the long-term funding of waste management activities for the district was originally adopted in March 2013, with the policy establishing a commitment that any waste related surplus/deficit would be transferred to or from the Waste Management Facility and Plant Reserve. The policy was reviewed in March 2015 with changes made to recognise that funding for new and replacement plant and equipment required by waste services would be funded by the reserve.

OFFICER COMMENT

The purpose of the Policy is to outline Council's policy position with respect to the long-term funding of waste management activities for the district to ensure that current and future generations share the costs of waste management.

The Policy ensures that revenues derived from waste management fees and charges are retained in a Waste Management Facility and Plant Reserve for the purpose of funding all facets of waste management, including

- development and rehabilitation of waste disposal sites both within the district and regionally,
- acquisition of waste plant and equipment, and
- any waste management activities that may include (but is not limited to) contaminated sites within the district.

The long-term funding of waste management remains an issue of strategic significance and therefore retention of the Policy is recommended, with only minor amendments proposed to improve the readability of the Policy. A track changes version is provided at Attachment 2.

Statutory Environment

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

Section 6.11 of the Act allows the Council to establish reserve accounts such as this one.

Relevant Plans and Policies

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

Plan:

Not applicable.

Policy:

The current version of the policy is linked above for reference.

Financial Implications

Not applicable.

External Stakeholder Consultation

Not applicable.

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 considering any controls already in place. No risks of a medium or greater level were identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Decide to retain the Policy in its current form.
2. Decide to make additional amendments.

CONCLUSION

This report recommends that Council adopt the amended Council Policy 'Waste Management Facility and Plant Reserve,' to replace the current policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Policy placed on the City's website	29 November 2023

10.7 Various Council Policy Reviews – Early Clearance of Subdivisions, Reinstatement Works in Road Reserves, Crossovers, and Defects Liability Bonds for Subdivisions

Strategic Theme:	Key Theme 4: Leadership 4.4 Govern a professional organisation that is healthy, capable and engaged.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Director Corporate Strategy and Performance - Sarah Pierson
Authorised By:	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 Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none">1. Proposed Policy Early Clearance of Subdivisions [7.7.1 - 2 pages]2. Proposed Policy Reinstatement Works in Road Reserve [7.7.2 - 2 pages]3. Proposed Policy Crossovers [7.7.3 - 3 pages]4. Proposed Policy Defects Liability Bonds for Subdivisions [7.7.4 - 2 pages]5. Proposed Policy Management and Removal of Asbestos [7.7.5 - 2 pages]6. Early Clearance of Subdivisions track changes [7.7.6 - 2 pages]7. Reinstatement Works in Road Reserves track changes [7.7.7 - 2 pages]8. Crossovers track changes [7.7.8 - 3 pages]9. Defects Liability Bonds for Subdivisions track changes [7.7.9 - 3 pages]10. Management and Removal of Asbestos track changes [7.7.10 - 2 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 8 November 2023, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council adopts the following policies to replace the current council policies, with the policies having been reviewed as part of the City’s ongoing policy review cycle:

- 1. Early Clearance of Subdivisions (Attachment 1)**
- 2. Reinstatement Works in Road Reserves (Attachment 3)**
- 3. Crossovers (Attachment 3)**
- 4. Defects Liability Bonds for Subdivisions (Attachment 4)**
- 5. Management and Removal of Asbestos (Attachment 5)**

OFFICER RECOMMENDATION

That the Council adopts the following policies to replace the current council policies, with the policies having been reviewed as part of the City's ongoing policy review cycle:

1. Early Clearance of Subdivisions (Attachment 1)
2. Reinstatement Works in Road Reserves (Attachment 3)
3. Crossovers (Attachment 3)
4. Defects Liability Bonds for Subdivisions (Attachment 4)
5. Management and Removal of Asbestos (Attachment 5)

EXECUTIVE SUMMARY

This report presents four amended Council Policies (the Policies) (Attachments 1 to 5) for adoption, each having been reviewed as part of the City's ongoing review of its Council policies.

STRATEGIC CONTEXT

The regular review of Council policies ensures strategic guidance remains relevant and appropriate and reflects good governance.

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, with policies to be reviewed every 3 years, with the aim of determining the ongoing strategic importance and applicability of the policy.

OFFICER COMMENT

The Policies have been reviewed and are considered of ongoing relevance and strategic importance. Minor changes have been made to the Policies to clarify improve their readability, as well as update any terms and references used and bring them into line with the current policy template. For instance, in all policies the strategic context section has been reformatted. In the Early Clearance of Subdivisions policy point 5.4 has been deleted as the following point (previously 5.5) provides for the provision of an early clearance fee as a condition of an early clearance approval. In the Reinstatement Works in Road Reserves policy the City of Busselton has been referenced (City) and then City used thereafter.

With respect to more substantive changes:

- Crossovers policy - definitions have been updated to reflect their alignment with regulations and the City's *Activities in Thoroughfares and Public Places and Trading Local Law 2015*. Details in relation to a Standard Crossover have been removed from the policy with reference instead to the City's Engineering Technical Standards and Specifications. This helps to ensure the policy remains up to date with the City's specifications.
- Defects Liability Bonds for Subdivisions policy - the calculation of the Defects Liability Bond is proposed to be calculated at a flat 5% of the value of the subdivision works, as opposed to using a sliding percent value. This is to reflect the increased market conditions and costs of

potential works. It also streamlines processes. Reference to contractor has also been removed as the City collects the defect liability bond from the developer.

- Management and Removal of Asbestos – the definition of Asbestos Containing Materials (ACM) has been removed as it is an acronym, and it is not considered necessary to define asbestos or material that contains it. The strategic priority link has been adjusted as the management of ACM primarily relates to the provision of well-maintained community assets. Point 5.4 has been amended to reflect what the City will do to manage the risk of ACM, with the list comprising of actions the City takes.

Track changes versions are provided at Attachments 6 to 10.

Statutory Environment

In accordance with section 2.27(2)(b) of the *Local Government Act 1995* (the Act), it is the role of the Council to determine the local government policies. The Council does this on recommendation of a Committee it has established in accordance with section 5.8 of the Act.

Relevant Plans and Policies

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

Plan:

Not applicable.

Policy:

[Early Clearance of Subdivisions](#)

[Reinstatement Works in Road Reserves](#)

[Crossovers](#)

[Defects Liability Bonds for Subdivisions](#)

[Management and Removal of Asbestos](#)

The current policies are linked for reference above.

The officer recommendation aligns to the City's Policy Framework. The framework sets out the intent of Council policies, as opposed to operational documents such as operational practices and work procedures.

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable

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 considering 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 decide not to adopt the Policies or require further amendments to be made.

CONCLUSION

The Policies have been reviewed as part of the City's ongoing review of its Council policies and are recommended for approval, with minor edits and updates having been made.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Policies placed on the City's website	29 November 2023

10.8 2022/23 Annual Financial Statements, Audit Report and Management Letter

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Manager Financial Services - Paul Sheridan
Authorised By:	Director of Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Noting: The item is simply for information purposes and noting.
Voting Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none">1. 2022/23 Annual Financial Statements inc Audit Opinion [7.1.1 - 76 pages]2. 2022/23 Audit Management Letter plus attachment [7.1.2 - 4 pages]

This item was considered by the Audit and Risk Committee at its meeting on 29 November 2023, the recommendations of which have been included in this report.

COMMITTEE RECOMMENDATION 1

That the Council highlights the difficulty in discerning the actual real, up to date measure of the gap between the current replacement value of the City's total assets and their written down value and the City's reserves to replace them and the ability of the City to annually cashback its depreciation. Accordingly, the ARC requests the Auditor to make a special report of this as soon as possible.

COMMITTEE RECOMMENDATION 2

That the Council acknowledges receipt of the 2022/23 Annual Financial Statements including Auditors Opinion and Audit Management Letter as per the attached documentation, per section 7.12A(3)(aa) of the *Local Government Act 1995*.

COMMITTEE RECOMMENDATION 3

That the Council notes that it has met with the requirements of section 7.12A(2) of the *Local Government Act 1995* with the Audit and Risk Committee, on behalf of the Council, having met with a representative of the Office of the Auditor General on 29 November 2023.

OFFICER RECOMMENDATION

That the Council:

1. Acknowledges receipt of the 2022/23 Annual Financial Statements including Auditors Opinion and Audit Management Letter as per the attached documentation, per section 7.12A(3)(aa) of the *Local Government Act 1995*; and
2. Notes that it has met the requirements of section 7.12A(2) of the *Local Government Act 1995* with the Audit & Risk Committee, on behalf of Council, having met with a representative of the Office of the Auditor General on 8 November 2023.
3. Notes and accepts the actions proposed by staff to address the finding as outlined in the Audit Management Letter plus attachment.

EXECUTIVE SUMMARY

The signed Independent Auditors Report and Management Letter (with attachment), in relation to the 2022/23 Annual Financial Statements, were received from the Office of the Auditor General (OAG) on 1 November 2023, and are provided as attachments to this report, along with the final audit stamped version of the 2022/23 Annual Financial Statements, in accordance with section 7.12A(3) of the *Local Government Act 1995* (the Act).

Pursuant to its Terms of Reference, it is relevant that the Audit and Risk Committee considers the 2022/23 Annual Financial Statements, Auditors Opinion and Management Letter and, where appropriate, makes recommendation/s in respect of these documents.

In addition, the local government is required to meet with its auditor at least once every year in accordance with section 7.12A(2) of the *Local Government Act 1995* (the Act), and

STRATEGIC CONTEXT

Financial auditing of the City by the OAG contributes to the good governance of the City and financial management of ratepayer funds.

BACKGROUND

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

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

Further, in accordance with Regulation 10 (4) of the *Local Government (Audit) Regulations 1996*, (the Regulations) where it is considered appropriate to do so, the Auditor may prepare a Management Letter to accompany the Independent Auditor's Report, which is also to be forwarded to the persons specified in Section 7.9 of the Act.

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

A representative of the Audit and Risk Committee and City officers met with the OAG at an entrance meeting, held on 1 May 2023. At this meeting, the OAG outlined the process for the annual audit (including interim and final). The final audit took place between 2 October 2023 and 13 October 2023. An exit meeting was held with a representative of the Audit and Risk Committee, CEO and relevant officers on 1 November 2023. The OAG has since provided their signed audit report, including the opinion and management letter, attached to this report.

OFFICER COMMENT

The City has again been provided by the OAG with an unqualified audit opinion (clear audit).

As part of the 2022/23 Financial Audit, the Auditor made one finding, deemed as moderate, outlined below

“Payroll Reconciliation

Finding

We noted that the year-end summary payroll reconciliation report revealed a variance of \$147,135 that was not able to be identified and adjusted. The June reconciliation was prepared and reviewed in September 2023.”

Full details and the City’s management comments can be seen in the 2022/23 Audit Management Letter plus attachment.

The Audit and Risk Committee Terms of Reference determines that the Audit and Risk Committee is responsible and has the duty to formally meet with the auditor in accordance with the Act on behalf of the local government. Ms. Carly Meagher, Director Financial Audit, from the OAG, representing the Auditor General is attending the Audit and Risk Committee meeting. Ms. Meagher will present the audit report and respond to any queries arising.

The presence of Ms. Meagher meets the requirements of 7.12A (2) of the Act.

Statutory Environment

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

- *Local Government Act 1995 - Section 7.9 and Section 7.12A.*
- *Local Government (Financial Management) Regulations 1996.*
- *Local Government (Audit) Regulations 1996 – Regulation 16*

Relevant Plans and Policies

Not applicable.

Financial Implications

Not applicable.

Stakeholder Consultation

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

There is a requirement to include the audited financial statements within the City of Busselton Annual Report, which will be advertised to the public following its consideration by Council in December 2023.

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 Audit and Risk Committee may determine, given the operational nature of the one issue that arose, and noting the management comments in the response, officers are not of the view that specific resolutions are necessary.

CONCLUSION

The City achieved a clear audit for the financial year ending 30 June 2023 with only one moderate finding reported in the Audit Management Letter.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not applicable.

10.9. LATE ITEM - Placeholder - Finance Committee - 6 December 2023 - Financial Activity Statements

Committee recommendation and officer report to be issues following the Finance Committee meeting on 6 December 2023.

10.10. LATE ITEM - Placeholder - Finance Committee - 6 December 2023 - List of Payments Made

Committee recommendation and officer report to be issues following the Finance Committee meeting on 6 December 2023.

11. COMMUNITY PLANNING REPORTS

NIL

12. INFRASTRUCTURE AND ENVIRONMENT REPORTS

12.1. Capital Programs of Works

Strategic Theme:	Key Theme 2: Lifestyle 2.12 Provide well maintained community assets through robust asset management practices. Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Infrastructure and Environment
Reporting Officer:	Asset Planning Coordinator - Trent van Beem
Authorised By:	Director Infrastructure and Environment - Oliver Darby
Nature of Decision:	Noting: The item is simply for information purposes and noting.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none">1. Program of Works - Roads 2024-29 [12.1.1 - 3 pages]2. Program of Works - Carparks 2024-29 [12.1.2 - 1 page]3. Program of Works - Drainage 2024-28 [12.1.3 - 1 page]4. Program of Works - Paths 2024-29 [12.1.4 - 2 pages]5. Program of Works - Buildings 2024-29 [12.1.5 - 1 page]6. Program of Works - Parks & Gardens 2024-29 [12.1.6 - 1 page]

OFFICER RECOMMENDATION

That the Council:

1. **Endorse the programs of works to guide long term financial planning and development of future capital budgets; and**
2. **Acknowledge that this item and recommendation 1 meets the requirements of CEO Performance Criterion #6.**

EXECUTIVE SUMMARY

This report responds to the CEO Additional Performance Criterion # 6 – Capital Works Plan, and presents programs of work for key asset classes, for Council’s endorsement as a guide for long term financial planning and the development of future capital budgets. Capital programs of work (the Programs) are provided for:

- Sealed and Unsealed Roads;
- Carparks;
- Drainage;
- Paths and Cycleways;
- Buildings; and
- Parks and Gardens.

STRATEGIC CONTEXT

The development of capital programs of work supports achievement of Key Theme 2 Lifestyle – of the Strategic Community Plan through strategic priorities:

- 2.9 - Provide accessible and connected pathways and cycleways;
- 2.10 - Provide safe local road networks; and
- 2.12 - Provide well maintained community assets through robust asset management practices.

BACKGROUND

The CEO's Additional Performance Criteria specify a capital works plan as a performance criterion with the desired outcome being development of a capital works plan to inform the LTFP. The deliverable is:

"In conjunction with Council, review planned capital expenditure items and develop a five-year capital works plan that prioritises and costs capital expenditure over the period."

The development of capital works plans are guided by asset management planning. Asset Management Plans for key asset classes were developed between 2014 and 2016, and an Overall Asset Management Plan (summarising the various asset plans) was adopted by the Council, on recommendation of the Finance Committee, at its September 2021 meeting.

The Overall Asset Management Plan and the individual asset management plans have historically guided the development of the City's Long Term Financial Plan (LTFP), with increased detail relating to forecast capital upgrade and renewal projects incorporated into the plan as planning matured. Being an iterative process, the LTFP has also guided the development of the asset management plans and the capital works programs, with the funding capacity of the LTFP a key factor in the development of the programs. The programs proposed will further inform future long term financial planning.

The programs are presented by asset class. Managing the overall capital program by asset class, with each individual program providing input into the LTFP (as opposed to the development of one holistic capital works plan), allows the City to better meet the requirements of the Integrated Planning Framework and allows for improved project planning. The increased detail of the individual programs also provides transparency for the community and allows them to more easily identify the program of works they are most interested in, whilst also providing improvement in organisational planning and interaction with other service providers e.g. Busselton Water.

Quality asset management requires continual process, system and data improvement. To this end, work is also underway to undertake a high-level strategic review of the funding requirements for each asset class in accordance with CEO Additional Performance Criteria # 4, which seeks to optimise the use of reserves for asset management, while ensuring future financial sustainability. This performance criteria requires (in part) as a deliverable that we:

"Ensure the level of reserve funding is commensurate with asset management planning, providing a report to Council outlining clear recommendations for funding."

The outcome of this work will be brought to Council by the end of February 2024.

OFFICER COMMENT

To develop the programs of work officers have undertaken a review of renewal requirements for the various asset classes. The programs have been prepared in line with Council's Policy - Asset Management, specifically with the following principles in mind:

- Assets are to be acquired, maintained and renewed to adequately meet present-day community expectations and pass to future generations with minimal backlog of maintenance and renewal works; and
- The City will continuously develop its Asset Management Capability (to meet statutory obligations and reporting requirements) through the implementation of systems and practices enabling effective storage, sharing and evaluation of asset data, knowledge and information.

The programs will be managed as live operational documents and maintained as forward project planning continuously improves, to ensure individual project scopes and cost estimates are refined in an ongoing basis. Timing of projects will also need to be adjusted as the City reviews and updates condition data, processes and changes in the assets occur.

Discussion relating to each specific program of works is provided below.

Roads

The City currently manages 975km of sealed roads and 369km of unsealed roads with a replacement value of \$367.9 million and \$18.9 million respectively.

The City recently undertook a large-scale review of condition data for sealed roads, with approximately 6 months of officer time invested in physical inspections and update of the sealed road register. Data confidence level for sealed roads is considered to be Reliable or Highly Reliable, with condition inspections completed within the last 12 months for 65% of the network and within 2 years for 33% of the network.

City roads at or above the condition identified that no longer meets the minimum level of service (8 or above) has been reduced from 12.3% in 2013 to 5.5% (percentage of the total sealed network area) in 2023. This is as a result of increased funding allocated in the LTFP and in the budget to capital renewal and upgrade.

The City roads asset registers currently contain roads data broken into segments based on change in condition, construction type and date. Road segments noted as being rated at a condition of 8 or greater (that is not meeting minimum service levels) have an average length of 380m, with some segments as short as 15m.

To develop the program of work a review of condition data for road segments at intervention level was undertaken with prioritisation for scheduling undertaken based on the City roads prioritisation score. This score takes into account several weighted factors including overall condition, road hierarchy, traffic volume, and traffic type (bus route, heavy haulage route or tourist route).

Road renewal or reconstruction projects are not always practical to be undertaken at the segment length (as mentioned above) due to the potentially short length. Therefore, the prioritised road segments are also reviewed taking into account length of the segment, condition of the adjacent

segments and external funding potential. This determines the most efficient and cost-effective programming. Specific project scopes are then developed based on this methodology and costed for listing in the program of works.

Scheduling of the unsealed road renewal prioritisation is undertaken based on asset register condition ratings, priority ranking and feedback from the City's operations team. Prioritisation considering operational knowledge is particularly important for unsealed roads due to their constantly changing nature and relatively frequent maintenance regime.

The City has in the past been very successful in securing grant funding for roads, this is expected to continue with forecast Blackspot and Regional Road Group grant income for 2024-25 expected to be \$2,871,000 and a total forecast of \$8,983,000 over the 5-year program of works. There are number of projects staged over multiple years that will require ongoing funding through future years.

A summary of the financial implications of the proposed program of works are detailed below. Noted is the variance to values forecast in the adopted 2022-2032 Long Term Financial Plan

Year	Total Budget Amount	LTFP Allocation (2022-2032)	Funded from Reserves	Variance to LTFP
2024-25	\$7,668,584	\$4,104,919	\$4,363,893	\$258,974
2025-26	\$7,587,388	\$4,302,707	\$4,287,067	-\$ 15,640
2026-27	\$6,069,411	\$4,495,913	\$4,651,279	\$155,366
2027-28	\$6,486,727	\$4,696,775	\$4,556,727	-\$140,048
2028-29	\$6,216,567	\$4,905,575	\$5,036,567	\$130,992

There is a shortfall in the adopted LTFP allocation when compared to the proposed program of works of \$389,644 over the five-year program. This is generally due to the priority of proposed works in urban areas, where works have been scheduled that are geographically close in an aim to achieve scale of economy and also maximising external funding opportunities.

The proposed program is expected to maintain the current level of service and percentage of roads requiring intervention across the life of the program.

Car Parks

The City manages 155 carparks with a replacement value of \$14.2 million. In preparing the program of works a review of the register and update of condition data was undertaken.

Of the carparks deemed to be a priority for renewal works, only the Albert Street Carpark (Reserve 18661) is not included in the five-year program, due to discussions with the Department of Lands and Heritage relating to the tenure of reserve. The City will undertake increased maintenance to manage the carpark until a resolution is reached.

A summary of the financial implications of the proposed program of works are detailed below. Noted is the variance to values forecast in the adopted 2022-2032 LTFP.

Year	Total Budget Amount	LTFP Allocation (2022-2032)	Funded from Reserves	Variance to LTFP
2024-25	\$266,210	\$182,441	\$216,210	-\$33,769
2025-26	\$223,443	\$191,231	\$223,443	-\$32,212

Year	Total Budget Amount	LTFP Allocation (2022-2032)	Funded from Reserves	Variance to LTFP
2026-27	\$201,687	\$199,818	\$201,687	-\$1,869
2027-28	\$249,890	\$208,746	\$249,890	-\$41,144
2028-29	\$268,700	\$218,026	\$268,700	-\$50,674

The proposed program exceeds the funded allocated through the LTFP and the Car Parks Asset Management Plan by an average of \$31,934 per annum and a total of \$159,668 over the five years.

Deferral of Eagle Bay Hall Carpark upgrade from the 2023/24 adopted budget has been included in 2024/25 of the program. Variances in further years are due to the inclusion of more complex or larger car park renewal works which require increased funding. For example, inclusion of the Naturaliste Community Centre access road to the scope of the carpark renewal increases the total project cost to \$223,443.

The proposed program of work sufficiently addresses the forecast renewal requirements over the life of the program.

Drainage

The City manages and maintains a piped stormwater network of approximately 319 Kilometres in length. Total replacement value of the pit and pipe network is approximately \$105.7 million.

In developing the drainage program of works, City officers reviewed known maintenance and performance issues. The areas identified were reviewed against customer requests and complaints to assist in developing priorities and scope.

In parallel to the review with operations staff, a review of previous design and budget investigations has been undertaken to assist with incorporating projects into the program.

Projects have been aligned with road renewal works in an aim to minimise impacts to adjacent residents or businesses and obtain best value for money by packaging works together.

The drainage program as presented provides four years of works, this represents the City's best estimate for the current renewal requirements across the network. The City has a good level of spatial data for the drainage network, however there are gaps in data relating to pipe sizes, invert levels and condition.

To improve on the existing drainage data and inform update of future capital works programs the City has engaged a specialist contractor undertaking remote CCTV inspection to complete gaps in the data and investigate known issues. We have also purchased a Differential GPS (high accuracy) to enable officers to collect pit and pipe levels to allow updates to the drainage network datasets. These works will be of an ongoing nature to continue to improve and maintain the dataset.

Inspection of the pipe network is important to understand condition, it also provides a means to review the potential for relining of the pipe. Relining stormwater pipe provides a low risk and cost-effective alternative to excavating, removal and replacement of concrete pipe due to avoiding potential to disturb underground services. It provides an equivalent level of service and useful life to that of full replacement.

A summary of the financial implications of the proposed program of works are detailed below. Again, noted is the variance to values forecast in the adopted 2022-2032 LTFP.

Year	Total Budget	LTFP Allocation (2022-2032)	Funded from Reserves	Variance to LTFP
2024/25	\$737,911	\$781,828	\$737,911	\$43,917
2025/26	\$773,636	\$820,759	\$773,636	\$47,123
2026/27	\$855,899	\$858,723	\$855,899	\$2,824
2027/28	\$847,364	\$898,211	\$847,364	\$50,847

Allocations from the LTFP and the Drainage Asset Management Plan currently exceed the estimated budgets required to fund the proposed program of works by an average of \$36,178 pa. It is expected that with implementing the program of works and incremental improvements through inspection, scoping, and cost estimation the program of works will expand to utilise the full allocation of the LTFP.

Paths and Cycleways

The path network under the City's management comprises mostly of in-situ concrete and asphalt path, totalling 298km with a replacement value of \$57.8 million.

Council Policy – Footpaths and Cycleways Funding sets a funding split of 70% new path construction and 30% renewal of existing paths, and the renewal program of works has been developed based on this methodology.

The asset data quality for paths and cycleways is reliable, however the network is due for reinspection to update condition data. Condition inspection has commenced and update to an 80% confidence level is expected to be completed over the next 6 months.

Inspection of paths identified in the asset register as being near to end of life have already been inspected to verify the data, develop a project scope, and cost estimate for the program of works. This has been reviewed and verified with operational staff.

Through the development of the program, the City has identified segments that require upgrade due to changes in standards for path width or opportunities to make safety improvements. A budget estimate to upgrade the path or cycleway to meet the level of service expected by the community has been included in these instances.

A summary of the financial implications of the proposed program of works are detailed below, noting variances to values forecast in the adopted 2022-2032 LTFP. Total variance across the life of the five-year plan is -\$130,127.

Year	Total Budget Amount	LTFP Allocation (2022-2032) 30% renewal allocation	Funded from Reserves	Variance to LTFP
2024-25	\$460,775	\$423,263	\$460,775	-\$37,512
2025-26	\$508,601	\$443,657	\$508,601	-\$64,944
2026-27	\$517,818	\$463,579	\$517,818	-\$54,239
2027-28	\$534,554	\$484,290	\$534,554	-\$50,264
2028-29	\$707,038	\$614,832	\$538,000	\$76,832

The proposed Paths and Cycleways program of works addresses known renewal requirements over the life of the program.

Buildings

The City manages 304 buildings with a replacement value of \$156.5 million. The City aims to manage the building portfolio in line with the service levels hierarchy set out in the Asset Management Plan. To develop the works a review of recent building condition inspection reports was undertaken along with consultation with the facility management team.

Several key facilities under City management have masterplans either in development or being considered. The program of works represents renewal requirements for the current facility assets, and as new strategic plans or masterplans are adopted, adjustment of the program of works will be required to take these changes into account.

In addition to condition inspections the City Asset Planning and Facility teams also undertake annual discussions with officers responsible for the operation of facilities to assess any planned changes of use or maintenance and renewal requirements. This is undertaken in line with the annual budget development and will continue to be undertaken to inform the program of works and annual budget.

A summary of the financial implications of the proposed program of works are detailed below. Noted is the variance to values forecast in the adopted 2022-2032 LTFP.

Year	Total Budget Amount	General Building Reserve		Busselton Jetty Tourist Park Reserve		Airport Existing Terminal Reserve	
		Total Budget Required	LTFP Allocation (2022-2032)	Total Budget Required	LTFP Allocation (2022-2032)	Total Budget Required	LTFP Allocation (2022-2032)
2024/25	\$1,108,263	\$1,108,263	\$943,182	-	\$240,000	-	\$15,242
2025/26	\$1,071,289	\$1,071,289	\$1,091,652	-	\$285,000	-	\$38,382
2026/27	\$776,930	\$731,275	\$819,300	\$45,655	\$295,000	-	\$9,500
2027/28	\$1,157,380	\$1,157,380	\$1,120,488	-	\$250,000	-	\$9,198
2028/29	\$995,958	\$559,245	\$1,066,454	\$430,100	\$100,000	\$6,613	\$10,000

The variances aligned to the various reserve accounts over the life of the plan are:

- General Building Reserve - \$413,624;
- Busselton Jetty Tourist Park Reserve - \$694,245; and
- Airport Existing Terminal Renewal Reserve - \$75,710.

It should be noted that the reserve purpose statement for the Busselton Jetty Tourist Park Reserves designates this for maintenance, promotional/ marketing requirements for visitor services throughout the district, in addition to capital infrastructure renewal and upgrades.

The proposed program addresses the current forecast renewal requirements for the City buildings.

Parks and Gardens

The replacement value of parks and gardens assets is estimated at \$76.6 million and includes an extensive range of asset types from foreshore reserves, sports grounds, fine cut turf, playgrounds, beach access stairs to barbeques.

Due to the wide range of asset types within this class, discrete programs by asset type have been developed in consultation with the Parks and Gardens team, for example new shade sail installation or renewal of barbeques. Several asset types within the asset class are currently under review to update or improve the understanding of renewal requirements and priorities. An example of this is beach access stairs. The City has undertaken a condition inspection in relation to beach access stairs, identified priorities and a program is being developed in consultation with a consultant to confirm extent of structural works.

Where programs are either planned for or under review, an estimate of renewal requirements has been included based on current understanding with intent to incorporate a revised program once it becomes available.

A summary of the financial implications of the proposed program of works are detailed below, with variances noted to values forecast in the adopted 2022-2032 LTFP.

Year	Total Budget Amount	LTFP Allocation (2022-2032)	Funded from Reserves	Variance to LTFP
2024-25	\$ 1,556,098	\$ 1,444,323	\$ 1,556,098	-\$ 111,775
2025-26	\$ 1,589,436	\$ 1,513,915	\$ 1,589,436	-\$ 75,521
2026-27	\$ 1,495,948	\$ 1,581,895	\$ 1,495,948	\$ 85,947
2027-28	\$ 1,752,349	\$ 1,652,569	\$ 1,752,349	-\$ 99,780
2028-29	\$ 1,900,174	\$ 2,089,412	\$ 1,900,174	\$ 189,238

Newly identified projects or changes impacting the alignment with the LTFP are:

- Replacement of the failing fencing at Barnard Park in 2024/25 - estimated at \$120,000;
- Holgate Road Coastal Node upgrade in 2024/25 - estimated at \$283,400;
- Revision of the playground replacement program to better reflect renewal requirements – estimate at \$1,369,200 over 5 years; and

- Yallingup Foreshore Stairs renewal, scoping and design identified for 2026/27 and construction in 2027/28 - estimated at \$10,000 and \$500,000 respectively.

Knowledge gaps have been identified in the program with works underway to improve individual asset type renewal forecasting. The proposed program addresses the existing forecast requirements to continue to maintain the current level of service of the City parks and gardens.

Summary

The Programs presented for Council endorsement are reasonably well aligned to the current adopted LTFP and will help to inform the draft LTFP being formulated. They are also generally in line with currently understood and utilised service level indicators, acknowledging that the review and development of these is part of future continuous improvement, and future strategic review of asset management plans.

Statutory Environment

The *Local Government Act 1995* Section 5.56 – Planning for the future applies:

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

Asset management and the integration of asset management into financial planning and works programming is a key feature of the Integrated Planning and Reporting Framework under which local governments are required to plan for the future.

Relevant Plans and Policies

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

Plan:

[Corporate Business Plan 2022-2026](#)

[Asset Management Plan](#)

Policy:

[Asset Management](#)

Financial Implications

Development of the programs of works has included a review of forecast renewal requirements and known priorities for each asset class. The proposed programs have been prepared to generally align with the funding requirements identified in the existing asset management plans and previous iterations of the LTFP. Variances to the adopted LTFP allocations are provided in the officer comment and will be further considered as part of future long term financial planning. They are not however considered substantial in nature at this stage.

External Stakeholder Consultation

Ongoing consultation is undertaken with Regional Road Group, Consultants, utility providers and Contractors. The City has also undertaken a review of prior correspondence from residents to assist with determining priority and scope for planned projects.

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.

Risk Cost escalation impacts ability to undertake works proposed for future years			
Category	Consequence	Likelihood	Rating
Financial	Moderate	Possible	Medium
Context			
Possible escalation of costs associated with civil works impacts ability to undertake quantum of proposed works. Programs of works are to be reviewed and revised on an annual basis to mitigate this risk.			

Options

As an alternative to the proposed recommendation the Council could request further information on the Programs.

CONCLUSION

Formalisation of capital programs of work builds on work the City has undertaken in the past, and provides the City with a tool to plan for and manage the projects required to renew and upgrade the infrastructure to provide a guide for pending long term financial planning and development of budgets.

The Council and City has demonstrated its goal to plan for and effectively manage infrastructure assets and the Programs align with this.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Endorse Programs	13 December 2023

13. ECONOMIC AND BUSINESS DEVELOPMENT REPORTS

13.1. Busselton Jetty Inc Short Term Lease of Ballaarat Room as Interim Marine Discovery Centre

Strategic Theme:	Key Theme 4: Leadership 4.3 Make decisions that respect our strategic vision for the District.
Directorate:	Economic and Business Development
Reporting Officer:	Land and Property Leasing Coordinator - Sharon Woodford-Jones
Authorised By:	Director of Economic and Business Development - Maxine Palmer
Nature of Decision:	Contractual: To enter into a contract e.g. a lease or the award of a tender etc.
Voting Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. Ballaarat Room Proposed Lease and Licence Plan A 4 L - 147295(1) [13.1.1 - 1 page] 2. Attachment B - Estimated Profit and Loss for Village project elements [13.1.2 - 2 pages]

OFFICER RECOMMENDATION

That the Council :

1. Resolves to enter into a Lease and Licence with Busselton Jetty Inc (BJI) in respect of a portion of the 'Ballaarat Room' which forms part of 'Railway House' situated within Reserve 38558 on the following terms and conditions:
 - (a) Term 2 years with an option exercisable by the City of a further 2 years;
 - (b) Rent will be a minimum of \$28,038 or 25% of 15% of the annual gross revenue generated from the use and occupation of the leased premises, whichever is the greater;
 - (c) The permitted use of the premises will be the creation and operation of a Marine Discovery Centre (MDC);
 - (d) Fit out and ongoing maintenance of the MDC will be the responsibility of BJI and a bond will be taken to guarantee the cost of returning the area to its current condition at the end of the term;
 - (e) Maintenance and insurance of the structure of the Ballaarat Room (except if caused by acts or omissions of BJI) will be the responsibility of the City;
 - (f) Cleaning costs of the MDC and internal toilets will be the responsibility of BJI;
 - (g) Such further terms and conditions as outlined in this report and as may be necessary to include in the best interests of the parties or to meet the requirements of the Department of Planning Lands and Heritage (DPIRD).
2. Delegates power and authority to the Chief Executive Officer to negotiate and enter into a variation of the Lease granted to the Margaret River Busselton Tourism Association (MRBTA) to remove the portion of Ballaarat House currently licenced and managed by MRBTA on behalf of the City and allocate responsibility for outgoings between the users.

EXECUTIVE SUMMARY

Following the agreement of the State, via the agency of the Department of Primary Industries and Regional Development (DPIRD), to accept the transfer of the remaining funding initially offered by the Federal Government for the development of the Australian Underwater Discovery Centre (AUDC), Busselton Jetty Inc (BJI) are seeking a location from which to temporarily install and operate a Marine Discovery Centre (MDC). The chosen site is the Ballaarat Room within Railway House, a building occupied in part by the Margaret River Busselton Tourism Association (MRBTA) and BJI.

This report seeks Council endorsement of a proposal to allow short term use of the exhibition space within the Ballaarat Room at Railway House and to enable the City to enter into the necessary documentation to formalise the arrangement.

STRATEGIC CONTEXT

Facilitating the temporary accommodation of the MDC in this location enables BJI to generate income that will help bridge the gap in funding jetty maintenance that currently needs to be filled by an annual contribution from municipal funds. As such, it satisfies the strategic priorities of providing a responsible approach to managing ratepayer funds as well as respecting the vision for the district by maintaining significant assets.

BACKGROUND

Busselton Jetty Inc, Purpose, Proposals and Existing Licence Agreement

BJI is a Busselton based voluntary incorporated association with, among other things, the following objectives:

- Raising funds to protect and preserve the Busselton Jetty and the environment around it; and
- Being resourceful, financially viable and economically sustainable to ensure it meets its obligation to provide funds for the preservation and maintenance of the Busselton Jetty

In October 2009 the City and BJI entered into a licence agreement (Busselton Jetty Licence) in terms of which BJI was granted the right to conduct certain commercial activities at/on the Busselton Jetty (Licenced Activities) in consideration for payment of an annual licence fee, and also assuming certain maintenance obligations. The maintenance obligations have been adjusted in recent times to relieve BJI of the some of the responsibilities for non-structural maintenance items.

The Licenced Activities include collecting entrance fees and operating the Busselton Jetty train, the underwater observatory (at the northern end of the Busselton Jetty) (UWO) and the Interpretive Centre (IC), being the ticket office and retail outlet at the jetty entrance. The Licenced Activities constitute BJI's main business and is BJI's main source of revenue.

In 2016, following a review of the Busselton Jetty Licence, the City and BJI agreed to extend the term of the Jetty Licence for a further 42 years (the initial term now expiring in 2038 with BJI having an option to extend the initial term for 3 further terms of 7 years each). As part of this review the Busselton Jetty Licence was also amended to redefine the way the licence fee payable by BJI is calculated. Further detail about the fee structure is provided in the Financial Implications section of this report.

In 2016 BJI commissioned a feasibility study to identify revenue generating opportunities with the objective of ensuring the organisation's long term sustainability and to maximise revenue raising to

preserve and maintain the Busselton Jetty. Through this study a two staged development was identified that would value add to the visitor experience and increase revenue streams; stage one being the Busselton Jetty Village project and stage two being a new underwater discovery centre – the AUDC.

In 2018 BJI secured Federal Government funding for the Village, progressed detailed designs and requested formal approval from the City to undertake the estimated \$1.8m project. At the Ordinary meeting of Council on 11 December 2019, Council formally considered the matter and resolved (C1912/266), among other things, to authorise the Chief Executive Officer (CEO) to negotiate and enter into a licence with BJI for the delivery and operation of the project based on certain items and conditions, subject to obtaining relevant approvals, and a licence fee structure payable by BJI that reflected the various components of the Village. This was designed to take account of an establishment period for the food and beverage offering and the speculative nature of the venture.

In 2019 BJI was successful in obtaining \$13m in Federal Government funding to progress the AUDC (stage two) project and as such, the Village (stage one) was put on the backburner and the licence agreement was not executed.

In 2020 BJI contracted engineering firm Subcon to undertake the design and construction of the AUDC and incorporated the Village to enable both stages to be undertaken at the same time should the available budget extend to the entire project. Aware of rising construction costs, BJI sought State and Local Government assistance towards the project. In 2021 the State Government announced a contribution of \$9.5m.

In late 2021 BJI completed detailed designs and received cost estimates which were some \$25m over the available budget. Unable to secure the additional budget, BJI rescoped the project to meet a \$26m budget and redeveloped their business case for the construction of the Village and upgrade of services to enable stage two (AUDC) to be developed in the future. The redesign had envisaged several additional features both within the Village and as an offering from the jetty itself. They included:

- An Australian Marine Park interpretation zone featuring marine biology exhibits, new technology to explain why Australia's oceans are so important to human life, interactive activities for all ages and research facilities for university students, lecturers and scientists (the **Marine Discovery Centre – MDC**);
- Underwater viewing from a mobile 12 seat glass bottom submarine; night underwater dining, three function areas for corporate guests, birthdays, weddings and balls;
- An exhibition space for travelling displays;
- New artistic underwater habitats/artificial reefs and sculptures (since installed);
- Access platforms and ladders for divers, snorkellers and swimmers to access the underwater habitats/artificial reefs and artwork, a safe roped off area to protect them from boats, new shower and change room facilities to enhance their experience;
- Enhanced underwater lighting for night viewing from the Underwater Observatory or night divers, swimmers and snorkellers;

- Interactive/interpretive experiences with a variety of technologies and techniques, expanding the visitor experience;
- A new platform at the end of the Jetty with potential to allow boats to park up and visit the Ocean Café and new facilities;
- A food and beverage Village to meet customer demand for food and drinks at the end of the Jetty;
- Three new marine themed electric vehicles to transport people from the start of the Jetty to the end and back again;
- Upgrades to the end of the Jetty for power, water, sewer, fire and fibre optics to future proof facilities and ensure the main utilities are ready for installation of the AUDC.

At the Ordinary Meeting of Council on 11 May 2022, Council formerly resolved (C2205/099) to support the redesigned Village Project and authorise the CEO to negotiate and enter into a legal agreement for the delivery of the project based on terms and conditions linked to the construction, and subject to obtaining all relevant approvals. The licence fee structure was to be primarily based on the same percentage of gross revenue (25%) as the existing licence fee for the Jetty Licence. The food and beverage component would be calculated differently to cover the establishment period, namely a fixed amount for the first 4 years followed by a percentage of net income based on an average of actual net income from that activity.

In June 2022 BJI entered a contract with Perkins Builders to deliver the main infrastructure components of the revised Village project, renamed the Busselton Village and Marine Discovery Centre Project (BVMDC).

At this stage, the final design requirements had not been established. Subsequent engineering specifications determined that the portion of the Jetty required for construction (section 10) would need to be raised to accommodate a 'sacrificial' design for the Village. Cost, structural certification, design and timing implications led to BJI terminating the contract with Perkins Builders in February 2023.

The BVMDC project had been driven up to this point by the requirement to acquit the Federal funding component by June 2023. To ensure continued project delivery post 30 June 2023 the Federal Government agreed to transfer the unspent balance of their funding (\$7,447,702) to the State via the agency of DPIRD. DPIRD have since established a Project Control Group (PCG) to oversee further rescoping of the project to ensure it aligns with the original project purpose and one that supports increased visitation to the Jetty.

Having already commissioned (and part funded) the interactive state of the art software and hardware for the MDC, BJI are seeking a location in which to install and to operate the MDC in the meantime. To that end Council have offered support in the form of a lease/licence to enable the repurposing of a portion of the Ballarat Room within Railway House for the short term.

Railway House and use of the Ballarat Room

Railway House is located on the Busselton Foreshore Reserve in the location shown on the plan at attachment 1 of this report and comprises broadly three components. The southern portion of the building is the original Busselton Railway Station which is leased to the MRBTA. The mid-section is

the Ballaarat Room, forming part of the common areas which include internal public toilets, and a kitchen. The northern section is the BJI administration building and storage shed for the Jetty train leased by BJI.

The Ballaarat Room was designed to house the Ballaarat Engine, and exhibit interpretive items linked to the history of the timber trade and early settlement of Busselton. It is also used for travelling exhibitions and hired for functions. MRBTA manage the hire, cleaning and security of the Ballaarat Room and common areas on behalf of the City.

Under their existing lease MRBTA have a licence over the common areas rather than a lease as the common areas, including the Ballaarat room, are open to the general public and not exclusive to MRBTA. Currently the cost of cleaning and provision of services to the Ballaarat Room and the common areas, is apportioned between MRBTA and the City and is subject to annual review.

BJI wish to lease and licence the portion of the Ballaarat Room, shown on the plan attached, and modify the same to accommodate the MDC.

OFFICER COMMENT

Marine Discovery Centre Overview

The experience will be largely self-guided (other than on entry) and functions somewhat like a Scitech experience which is interactive, where items can be felt and touched. Information will be provided on a range of marine based topics, with indigenous content sanctioned by the Aboriginal Advisory Group. It is designed to entertain and educate visitors about the importance of our marine parks and oceans and how people can make changes to environment.

The room will fit around 30 people per tour and the experience will be between 30-40 minutes long.

Whilst discussions are ongoing via the PCG to rescope the project, the City have suggested that in the interim the Ballaarat Room be temporarily repurposed to accommodate the MDC. To that end it is proposed that the existing lease and licence issued to MRBTA be varied to exclude the portion of the Ballaarat Room required for the MDC from the common areas, and temporarily overturn the management arrangement the City have with MRBTA for hire and cleaning.

Lease/Licence

The key provisions of the proposed lease of the Ballaarat Room to BJI are as follows:

Term

2 years initially with an option, exercisable at the discretion of the City, for a further 2 years. It is hoped that progression of the MDC in a permanent location will either be constructed or at least known at the end of the initial term. In the worse case scenario, if this is still in the construction phase at the end of the 4 years the lease may provide that BJI can hold over on a month to month basis.

Tenure

Exclusivity in the form of a lease will be granted over the portion of the Ballaarat Room and a licence issued over the waiting area adjacent to the Ballarat engine. The extent of each is shown on the plan attached. The licence area will therefore serve as both the waiting area for BJI's patrons and a

viewing space for visitors to the Ballaarat engine (which will remain in situ and be outside the lease/licence area) and remaining displays.

Alterations and Maintenance

BJI will be responsible for the fit out and changes required to the room to accommodate the MDC. This will include the construction of partition walls and fire doors, cabling and internal infrastructure for the interactive displays. Maintenance of all internal components of their leased area will fall to BJI and the City will be responsible for maintaining and insuring the building itself.

Services and Cleaning costs

Power and water supply and consumption will be apportioned as required and paid by BJI who have also agreed to pay for the cleaning of the space including the internal public toilets

Bond

A bond will be taken to guarantee the cost of returning the Ballaarat Room to its original state at termination of the lease.

Rent

The driver for the MDC on the Jetty was to increase visitation and therefore the percentage of income generated from the activity being paid into the Jetty Maintenance Reserve (JMR) under the Jetty Licence Agreement.

It was therefore envisaged that the offer of the Ballaarat Room on a temporary basis would mirror this arrangement. Details of the respective parties' proposals relating to the fee for accommodating the MDC are outlined in the Financial Implications section of this report. In summary however the rent is proposed as a minimum of \$28,038 or 25% of 15% of the annual gross revenue generated from the use and occupation of the leased premises, whichever is the greater.

Early Access

BJI wish to commence works within the leased premises as early as possible in the new year. A planning meeting will scope out timeframes for the removal/movement of current exhibits and electrical work required by BJI and the City. Should BJI require access to the Ballaarat Room prior to receipt of approval by the Department of Planning Lands and Heritage a request will be made to DPLH for early access to allow BJI to start works but not take up occupation. There will be a cost to the City in the relocation of the various exhibits, artefacts, cabinets and maps either into storage or to another City site for display, estimated at \$5000 excluding map conservation. It is suggested that BJI cover the City's cost of relocation. Such an arrangement would need to be formalised and the taking of a bond recommended. The format of such approval could be a conditional licence which City Officers will discuss at an early stage with the DPLH with a view to seeking in principal approval prior to settling the terms of the lease and surrender documents.

Statutory Environment

Local Government Act 1995

When disposing of property whether by sale, lease or other means, a Local Government is bound by the requirements of section 3.58 of the Local Government Act 1995 (the Act). However under regulation 30(2)(b) of the Local Government (Functions and General) Regulations 1996 disposition of local government property to incorporated bodies with objects of benevolent, cultural, educational or similar nature are exempt from the advertising and tender requirements of the Act.

Land Administration Act 1997

Railway House is located on Reserve 38558 and managed by the City under a Management Order with power to lease or licence for purposes consistent with the designated purpose of 'Recreation and Community' for periods up to 42 years, subject to the consent of the Minister for Lands.

Formal approval under section 18 of the Land Administration Act must be obtained from the Department of Planning Lands and Heritage (DPLH) to the form of lease/licence. City officers have sought informal, officer level, support for the proposition from the DPLH which has raised no issues.

Relevant Plans and Policies

The Officer recommendation aligns to the Busselton Foreshore Masterplan where activation of the Busselton Foreshore is identified as a key priority.

Financial Implications

Note all amounts mentioned in this report are exclusive of GST.

Existing Licence Fee (Jetty based activities)

The licence fee payable by BJI pursuant to the existing Busselton Jetty Licence (generated from entrance fees, operation of the Jetty train, the UWO and the Interpretive Centre) is based on payment of 25% of BJI's gross revenue, payable in biannual instalments into the Jetty Maintenance Reserve (JMR).

Currently the amount required to be placed into the JMR to meet the cost of asset replacement and annual maintenance of the Jetty exceeds the amount generated from foreshore commercial rents and the 25% of gross profit contributed by BJI.

The shortfall to the JMR is made up of municipal funds. For the period ended 30 June 2022 and 2023 the following contributions were required to meet that shortfall:

- Financial year 2021/2022 - \$452,304
- Financial year 2022/2023 - \$343,064

Financial projections provided by BJI for the MDC in the Ballaarat Room are as shown on the 'Estimated Profit and Loss for Village Project elements' at attachment B of this report. The projected income for first year of operation is estimated to be **\$747,703**.

In keeping with the current licence fee payment, 25% of the projected gross revenue of \$747,703 is **\$186,925**. However, BJI have since proposed a figure of 15% of the projected gross revenue (which equates to **\$112,155**) as the percentage of gross revenue payable, which is then further allocated as shown in the table below. On the current projections this equates to **\$28,038** being paid into the JMR, which in percentage terms is approximately 3.75% of gross revenue.

PROJECTED ALLOCATION OF GROSS REVENUE FROM OPERATION OF AN MDC AT THE BALLAARAT ROOM WITHIN RAILWAY HOUSE AND PROPOSED MINIMUM RENT AMOUNT				
DISTRIBUTION OF 15% GROSS REVENUE			85% BALANCE OF GROSS REVENUE	TOTAL GROSS REVENUE
RECIPIENT	PERCENTAGE	AMOUNT (rounded)	BALANCE TO BJI	
CITY JMR – PROPOSED MINIMUM	25	\$28,038		
UWO 'TRUST ACCOUNT' (NEW)	25	\$28,038		
FUTURE BUILD OF NEW MDC*	50	\$56,076		
TOTAL		\$112,155	\$635,548	\$747,703

*to be paid into the JMR at a future date should the new MDC be fully funded.

This proposal would see 85% of the projected income (**\$635,548** before expenses based on the Attachment B projections) being returned to BJI which BJI have stated is needed to cover the overheads of operating the MDC, with any remaining being surplus being placed in a 'fund' for a future kitchen/takeaway at the end of the Jetty.

BJI have informed City Officers that their net profit is impacted significantly by the high percentage (approximately 30%) of commission payable to tour operators and staffing costs although no detailed breakdown had been supplied at the time of writing.

There is no suggestion as to who would be responsible for administration of the UWO Trust Account – one does not currently exist - and how the 50% would be isolated for future build costs or to be subsequently credited to the JMR. It is proposed that this would be written into the lease/licence as a condition of operating the MDC.

The existing Jetty Licence provides for a minimum licence fee, which is reviewed on averages over the previous five years, or 25% of gross revenue, whichever is the greater. Whilst the percentage of gross revenue to be paid as rent for the Ballaarat Room is considerably less than the amount BJI pay for their activities on the Jetty City officers propose that the requirement of a minimum amount is

mirrored in this agreement. In this instance it is suggested that the minimum for the lease/licence of the Ballaarat Room fee be set at \$28,038 as forecast or 25% of 15% of gross revenue from the MDC, whichever is the greater. This would achieve a known input to the JMR which would assist with future budget forecasts of income and expenditure. It is also reflective of the current fee structure in the existing Jetty Licence.

External Stakeholder Consultation

BJI had previously undertaken extensive public and stakeholder consultation in relation to the Village Project. This has included articles in the City's Bay to Bay publication and customer surveys. The response (for a facility on the Jetty) has been largely well received. Whilst no specific community engagement has occurred in relation to the use of an on-shore MDC the concept has been generally supported.

The co-tenant of Railway House, MRBTA, have also been consulted about the arrangement and understand the need to agree to a variation of their lease to accommodate the MDC.

The PGC is the current forum for State agency stakeholder consultation and is ongoing.

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:

- Resolve not to lease the Ballaarat Room to BJI; or
- Amend the proposed terms and conditions of the Lease/licence

CONCLUSION

As BJI have invested significantly in the software and equipment required for the establishment of an MDC it makes sense to make use of it sooner rather than later and see it generate an income for the benefit of the JMR and BJI for the future enhancement of the Busselton Jetty.

The relatively short term lease with an option exercisable at the discretion of the City minimises the loss of amenity in the form of the exhibition and function space at the Busselton Foreshore and the impact on MRBTA.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should Council resolve to adopt the Officer recommendation the next steps will be as follows (note timelines are indicative only as some of these actions are outside the City's control):

- City Officers and BJI to finalise negotiations and draft a lease/licence based on the terms and conditions outlined in this report and request early access approval by DPLH – December 2023
- City to submit lease/licence for Ministerial approval under s.18 of the Land Administration Act – January 2024
- BJI and City to execute upon receipt of ministerial approval and commence construction – end January 2024.

14. CORPORATE STRATEGY AND PERFORMANCE REPORTS

14.1. Annual Report 2022-2023

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Director Corporate Strategy and Performance - Sarah Pierson
Authorised By:	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 Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Annual Report 2023 [14.1.1 - 124 pages]

OFFICER RECOMMENDATION

That the Council:

1. **Accepts the 2022-2023 Annual Report (Attachment 1);**
2. **Determines that the Annual Electors' meeting is to be held in the 'Undalup Room' at 2 Southern Drive, Busselton on Monday, 29 January 2024 at 5:30 pm.**

EXECUTIVE SUMMARY

This report presents the City of Busselton 2022-2023 Annual Report (Annual Report) for Council's acceptance in accordance with s.5.54 of the *Local Government Act 1995* (the Act), and seeks endorsement of a date for the holding of the Annual General Meeting of Electors, being Monday 29 January 2024 in the 'Undalup Room' at 2 Southern Drive, Busselton at 5:30 pm.

STRATEGIC CONTEXT

To provide the community with details of services and activities undertaken, and achievements and financial performance during the financial year. The annual report is a key reporting document that helps to achieve the various strategic priorities of Key Theme 4 – Leadership.

BACKGROUND

The City provides an annual report of activities at the conclusion of each financial year, in accordance with the requirements of the Act and the *Local Government (Administration) Regulations 1996* (the Regulations).

The 2022-2023 results in respect of Council's 11 Corporate Performance Indicators and Corporate Business Plan actions were presented at a Council briefing on 13 September 2023, the details of which have informed the Annual Report.

A draft of the Annual Report (exclusive of financials) was provided to Council members for review. Feedback has been incorporated into the final production of the report.

OFFICER COMMENT

The City's Annual Report provides information about the City's progress over the financial year in respect of its priority actions, as outlined in the Corporate Business Plan (adopted by Council in September 2022) - which contribute to achievement of the goals and aspirations contained in the Strategic Community Plan 2021 - 2031.

Aligned to Key Themes of the City's Strategic Community Plan 2021-2031, the Annual Report provides a snapshot of achievements across key actions, projects, and core service delivery. It also outlines prescribed statutory information and includes the full suite of the City's audited financial statements along with the independent auditor's report.

The Annual Report records Council membership as it was during the 2022-2023 financial year, acknowledging that elections have since been held.

Upon adoption of the Annual Report, hard copies will be produced for public distribution and a digital version posted to the City's website. The Annual Report will be presented at the Annual General Meeting of Electors, which, in accordance with s.5.27 of the Act, is proposed to be held on Monday, 29 January 2024.

Statutory Environment

Sections 5.53, 5.54, 5.55, and 5.55A of the Act describe the required content of a local government's annual report and how to prepare, accept, give notice of, and publish the report.

In accordance with Section 5.53 the annual report is to contain:

- A report from the Mayor or President; and
- A report from the CEO; and
- An overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year; and
- The financial report for the financial year; and
- Such information as may be prescribed in relation to the payments made to employees; and
- The auditor's report prepared under section 7.9(1) or 7.12AD(1) for the financial year; and
- A matter on which a report must be made under section 29(2) of the *Disability Services Act 1993*; and
- Details of entries made under section 5.121 during the financial year in the register of complaints including:
 - the number of complaints recorded in the register of complaints; and
 - how the recorded complaints were dealt with; and
 - any other details that the regulations may require; and
 - such other information as may be prescribed.

Regulations 19B(2) of the Regulations prescribes that the annual report include:

- The number of employees entitled to an annual salary of \$130,000 or more;
- The number of employees entitled to an annual salary that falls within each band of \$10,000 over \$130,000;
- Any remuneration and allowances paid by the local government under Schedule 5.1 clause 9 during the financial year;

- Any amount ordered under section 5.110(6)(b)(iv) to be paid by a person against whom a complaint was made under section 5.107(1), 5.109(1) or 5.114(1) to the local government during the financial year;
- The remuneration paid or provided to the CEO during the financial year;
- The number of Council and Committee meetings attended by each council member;
- If available, the gender, linguistic background and country of birth of council members;
- If available, the number of council members who are aged:
 - (i) between 18 and 24 years; and
 - (ii) between 25 and 34 years; and
 - (iii) between 35 and 44 years; and
 - (iv) between 45 and 54 years; and
 - (v) between 55 and 64 years; and
 - (vi) over the age of 64 years.
- If available, the number of Council members who identify as Aboriginal or Torres Strait Islander;
- Details of any modification made to a local government's strategic community plan during the financial year;
- Details of any significant modification made to a local government's corporate business plan during the financial year.

Section 5.54 of the Act requires the Annual Report to be accepted by an absolute majority of Council before 31 December each year and published on the City's website within 14 days of acceptance.

Section 5.27 of the Act requires an annual general electors meeting be held within 56 days of acceptance of the annual report, upon the provision of 14 days' notice.

Relevant Plans and Policies

The Annual Report provides a report of progress against the City's Corporate Business Plan for the 2022-2023 financial year and the City's Strategic Community Plan 2021-2031.

Financial Implications

There are no financial implications associated with the officer recommendation.

External 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:

1. Not accept the Annual Report noting that Council is required to accept this report no later than 31 December 2023.

2. Request changes to the Annual Report.

CONCLUSION

The City of Busselton 2022-2023 Annual Report is presented to Council for adoption. It must be accepted by an absolute majority of Council before being publicly released and presented at the Annual General Meeting of Electors.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Officer recommendation will be implemented in full, or in stages as per the table below.

Milestone	Completion Date
Local Public Notice Given	22 December 2023
Annual General Meeting of Electors held	29 January 2024

14.2. CEO Performance Criteria Reporting: Local Procurement

Strategic Theme	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate	Corporate Strategy and Performance
Reporting Officer	Manager Legal and Governance - Ben Whitehill
Authorised By	Director of Corporate Strategy and Performance - 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 Requirements	Simple Majority
Disclosures of Interest	No officers preparing this item have an interest to declare.
Attachments	Nil

OFFICER RECOMMENDATION

That the Council:

- 1. Note the current levels of local procurement and the existing and potential measures outlined in this report to assist in increasing the City’s level of local procurement;**
- 2. Acknowledge that this item and recommendation 1 meets the requirements of CEO Performance Criterion #3.**

EXECUTIVE SUMMARY

This report responds to the CEO Performance Criterion # 3 about local procurement and provides information about the existing levels of local procurement and potential measures for increasing levels of local procurement where cost efficient and effective to do so.

STRATEGIC CONTEXT

The purchasing of goods and services from suppliers located within the Busselton district supports our local economy and provides opportunities for business investment and employment growth.

BACKGROUND

The CEO’s Performance Criteria specify local procurement as a performance criterion with the desired outcome being an increase in the City’s level and breadth of local procurement, where cost efficient.

The deliverable is:

Undertake a review of local participation rates in the City's procurement of goods and services and provide a report to Council outlining:

- a. current levels of local procurement; and*
- b. measurements [sic] that can be implemented to increase the City's level and breadth of local procurement, where cost efficient.*

In accordance with the *Local Government Act 1995* purchasing decisions at the City are based on delivering outcomes that are most advantageous to the City, and incorporates the goal of achieving best value for money.

Where possible the City attempts to procure locally however market-based factors may mean this is not possible or cost effective. These factors include the availability of local suppliers, the capability of the local suppliers for providing the goods or services, and the value for money proposition of local suppliers. All of these factors impact on the level of local procurement. For example, some specialised services require expertise which cannot be found in the City of Busselton. Similarly, there may be no local suppliers that are capable to undertake certain large scale infrastructure projects.

Notwithstanding, the City has a number of measures in place to facilitate local procurement.

OFFICER COMMENT

The officer comment is divided into three parts detailing the current levels of local procurement, existing measures for encouraging local procurement and potential measures to increase local procurement.

Current levels of local procurement

Accounts payable data has been reviewed by officers to determine the current levels of local procurement. The data is for suppliers of goods and services in the 21/22 financial year and the 22/23 financial year.

The dataset is imperfect because invoices are occasionally incorrectly labelled as purchases of goods and services in the accounts payable system. For instance, Councillor payments, staff reimbursements, rate refunds, grant payments are not considered payments for goods and services (for this purpose). Officers have partially cleansed the data by removing these obvious and more significant items and believe that the cleansed data provides a good representation of the City's levels of local procurement, notwithstanding it is still imperfect.

Another factor which must be considered while reviewing the data is how local procurement is defined in this data which is by postcode of the relevant business supplying to the City. This means that businesses which have provided postcodes outside of Busselton, for example Coles and Bunnings, do not register as local procurement in the data even though they have stores in the district that employ locals. Similarly on large contracts there may be subcontracting to local suppliers which again may not be seen as local procurement in the data. The same would apply to the Southwest data also.

The true value and impact of the City's expenditure to the local economy is difficult to quantify. For the reasons outlined above it is important that the Council recognise the limitations of the data

provided below as it relates to local procurement. However, the information extracted from the City's accounts payable data can still provide a useful representation of the general levels of local procurement at the City.

A summary of the levels of local procurement is provided in the table below.

	FY21/22	FY22/23
Approximate value of goods and services purchased	\$59,395,518	\$58,195,462
Approximate value of goods and services paid to Busselton suppliers	\$27,992,116	\$18,600,850
Percentage paid to Busselton suppliers	47%	32%

A breakdown of the FY21/22 payments by invoice amount is provided below.

	All expenditure		Busselton expenditure		Southwest (ex-Busselton) expenditure	
	No. of Invoices	Value	No. of Invoices	Value	No. of Invoices	Value
Invoices > \$100,000	93	\$26,728,390	52	\$12,935,022 (48.4%)	12	\$2,359,965 (8.8%)
Invoices \$50,000 - \$100,000	113	\$8,218,618	50	\$3,397,055 (41.3%)	19	\$1,567,893 (19.1%)
Invoices \$5,000 - \$50,000	1215	\$18,869,108	567	\$9,315,509 (49.4%)	170	\$2,215,998 (11.7%)
Invoices < \$5,000	4,983	\$5,579,800	2,400	\$2,344,530 (42%)	674	\$859,705 (15.4%)

A breakdown of the FY22/23 payments by invoice amount is provided below.

	All expenditure		Busselton expenditure		Southwest (ex-Busselton) expenditure	
	No. of Invoices	Value	No. of Invoices	Value	No. of Invoices	Value
Invoices > \$100,000	82	\$25,058,774	21	\$3,997,145 (16%)	21	\$3,526,923 (14.1%)
Invoices \$50,000 - \$100,000	112	\$7,868,588	50	\$3,370,764 (42.8%)	18	\$1,271,411 (16.2%)
Invoices \$5,000 - \$50,000	1197	\$19,612,796	515	\$8,885,929 (45.3%)	188	\$3,000,880 (15.3%)
Invoices < \$5,000	4,769	\$5,655,302	2,237	\$2,347,012 (41.5%)	641	\$827,776 (14.6%)

The reduction in local procurement expenditure between the FY21/22 and FY22/23 can be explained by an increase in construction works associated with Saltwater (undertaken by Perth based contractor Broad Construction Pty Ltd) and a reduction in the amount of civil works projects being procured (which were typically undertaken by local civil contractors).

Many of the significant items not purchased from suppliers based in Busselton include waste management, fuel, concrete services, insurance and software services. Often these goods and services involve large contracts that are either not offered or not available competitively from local businesses.

Other items with significant expenditure that were procured from suppliers outside the City of Busselton included some electrical services, cleaning and maintenance services, road and paving services and fire equipment services. In most instances these services were from businesses located in the southwest. At the lower purchasing levels (invoices < \$5000) trade and equipment supplies tended to be sourced locally whilst professional services tended to be sourced from outside the district.

After accounting for significant items and considering the overriding principle of most advantageous to the City, officers consider that the City has a satisfactory level of local procurement.

Existing measures to encourage local procurement

Existing measures to encourage local procurement include applying a regional price preference to tenders, using a local benefit qualitative criterion for purchases above \$50,000 and the education and training of officers.

Part 4A of the *Local Government (Functions and General) Regulations 1996 (WA) (Tender Regulations)* enables a local government located outside of the metropolitan area to give a regional price preference when assessing a tender. Any price preference must comply with the Tender Regulations, including that a policy must be adopted, following a period of State-wide advertising. The City has adopted a Regional Price Preference Policy in accordance with the Tender Regulations and paragraph 5.1 states:

The following price preference allowance will be applied on the value of tendered goods and services sourced from a Local Supplier:

- a. goods and services – 10 per cent allowance up to a maximum price reduction of \$50,000;*
- b. construction (building) services – 5 per cent allowance up to a maximum price reduction of \$50,000;*
- c. goods and services, including construction (building) services, tendered for the first time where Council previously supplied the goods or services – 10 per cent allowance up to a maximum price reduction of \$500,000.*

For regional price preferences under the City's policy, a local supplier is a supplier who has had for more than 6 months prior to the closing date of the tender a physical presence by way of a shop, depot, outlet, headquarters or other premises from which they operate within the City of Busselton district.

Prior to the current revision of the Regional Price Preference Policy, suppliers based outside of the district could also access the price preference where some or all of the goods or services were to be supplied from sources within the district. This was removed due to the introduction of a local benefit

qualitative criterion at the same time (see below). The change to remove this has resulted in fewer suppliers obtaining the benefit of a price preference. Despite this, the regional price preference continues to be an effective method for supporting local businesses bidding for the supply of goods and services to the City.

The local benefit qualitative criterion has a fixed 5% weighting for all requests for tenders and all requests for quotation above \$50,000 and is stated in the following terms (or similar):

Describe how over the past 2 (two) years you have contributed towards the local community (that is any social, economic, environmental or other contribution or benefit). Note:

- (a) This criterion requires information about a demonstrated contribution or benefit to the local community over and above being a local supplier operating within the district.*
- (b) Information about historic use of local suppliers as subcontractors or support of local business by the tenderer may be included.*

It was introduced after direction from Council previously to look at ways in which increased levels of local procurement could be facilitated. Officers believe that this measure has been ineffective as the criterion is abstract and often responded to poorly by both local and non-local suppliers. Further consideration about the mandated use of this criterion in requests for tenders is warranted, along with review and possible broadening of the Regional Price Preference.

Finally, inhouse procurement education and training, while focusing on the procurement processes, also actively encourages officers to seek quotes from local suppliers in line with the Council's strategic direction. It is acknowledged that this measure has only limited effectiveness and serves only as a useful reminder to officers to think about procuring locally when undertaking procurement.

Measures that could be adopted to increase local procurement

There are several measures that could be adopted to increase levels of local procurement. Officers believe that a useful step would be to undertake some targeted engagement with the local industry and conduct a supply market analysis via a survey. This would provide a greater understanding of any actual or perceived barriers of entry for local businesses. For example, there may be a lack of understanding of how to become a supplier to the City, how to respond to quotation, issues with the City's procurement systems (for example VendorPanel) or the City's tendering and quotation processes. It is proposed that a survey of local suppliers would be undertaken inhouse using the City's YourSay platform. The results of the survey would then allow officers to make more targeted changes to procurement systems and processes with the goal of increasing local procurement.

Broadening the regional price preference policy as discussed above is another option that could be considered. To recap, works that are awarded under requests for tender only receive a regional price preference if the local supplier is based in the district. Other local governments (and Busselton previously) have allowed a price preference for tenderers located outside the district that propose to source goods and services within the district (under subcontracts) as part of their tenders. The Regional Price Preference Policy will be reviewed in 2024 as part of the City's policy review cycle.

In conjunction, refining the local benefit criterion could also be considered. Whilst this criterion was introduced with good intentions it is often either poorly responded to or not responded to at all. If the goal is to increase local procurement officers are of the view this criterion needs to be refined so that it is more relevant to the procurement context or replaced with a broader regional price preference.

Finally, the City currently runs a decentralised procurement system where (other than for requests for tenders and some high value requests for quotation) officers across the organisation are responsible for undertaking the procurement processes. An alternative to the decentralised model is a centralised model where all purchases above a certain threshold are processed by a centralised procurement team.

The benefit of a centralised team in the context of local procurement is that those officers will be much more closely aligned with the procurement strategies, policies and procedures (including those around increasing local procurement) and will be more readily able to test breadth in local procurement as well, through the canvassing of local suppliers. In addition to improvements in the level and breadth of local procurement, a centralised procurement structure could also deliver other benefits including:

- reduction in procurement costs by eliminating wasteful or duplicate expenditure;
- volume discounts on bulk orders;
- better compliance with procurement policies and procedures (including value for money and local procurement);
- releasing operational staff time from inefficiently undertaking procurement tasks.

The City has engaged with other large regional local governments including Bunbury, Albany and Geraldton all of which had some form of centralised procurement with a team of between 2.5-4 FTE undertaking all purchasing above a value threshold, as well as providing basic contract management functions (contract renewal and expiry, insurance certificates etc.). Officers will as a proposed measure further explore the benefits and implications of centralising the procurement function.

Statutory Environment

Section 5.38 of the *Local Government Act 1995* (WA) requires Council to review the performance of the Chief Executive Officer at least once each year. The City's Model Standards for the Chief Executive Officer sets standards for CEO Recruitment, Performance and Termination.

Part 4 of the *Local Government (Functions and General) Regulations 1996* (WA) deals with the provision of goods and services. Part 4A of the *Local Government (Functions and General) Regulations 1996* (WA) deals with regional price preferences.

Relevant Plans and Policies

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

Plan:

Not applicable.

Policy:

[Purchasing](#)
[Regional Price Preference](#)

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could request further analysis on local procurement or propose additional measures be explored by the CEO.

CONCLUSION

The City has satisfactory levels of local procurement with up to 50% of purchasing occurring with businesses located in the Busselton district. Continuing to grow the purchasing of goods and services from suppliers located within the Busselton district will help support our local economy and provide further opportunities for business investment and employment growth. Therefore, if there are measures that could meaningfully increase the levels of local procurement they should be considered.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Undertake survey of local businesses	January/February 2024

15. CHIEF EXECUTIVE OFFICER REPORTS

15.1. Elected Member Information Bulletin

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Executive Assistant to Council - Katie Banks
Authorised By:	Chief Executive Officer - Tony Nottle
Nature of Decision:	Noting: The item is simply for information purposes and noting.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. Current Active Tenders [15.1.1 - 1 page] 2. Current State Administrative Tribunal Reviews [15.1.2 - 2 pages] 3. Current Council Resolution Status [15.1.3 - 28 pages]

OFFICER RECOMMENDATION

That the items from the Councillors Information Bulletin be noted:

- Minutes of Committee Meetings
- Minor Donations Program
- Current Active Tenders
- State Administrative Tribunal Reviews Update
- Council Resolution Status Update

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

Minutes of Committee Meetings

Minutes of the following Committee Meetings listed in the table below are to be noted as received:

Committee	Meeting Date	Minutes
Audit and Risk Committee	8 November 2023	Minutes
Policy and Legislation Committee	8 November 2023	Minutes

Minor Donations Program – November 2023

The Minor Donations Program is currently on hold and scheduled for review. Therefore, no applications were approved in November.

Current Active Tenders

The Tender update for December 2023 is provided at Attachment A.

State Administrative Tribunal Reviews Update

The Current State Administrative Tribunal Reviews is at Attachment B.

Council Resolution Status Update

The Current Council Resolution Status update is at Attachment C.

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

17. URGENT BUSINESS

18. CONFIDENTIAL MATTERS

OFFICER RECOMMENDATION

That the meeting is closed to members of the public to discuss an item which is confidential under section 5.23(2)(c) of the *Local Government Act 1995*

18.1 Audit and Risk Committee - 29 November 2023 - Saltwater Project

This report contains information of a confidential nature in accordance with Section 5.23(2)(c) of the Local Government Act 1995, as it contains information relating to a contract entered into, or which may be entered into, by the local government.

19. CLOSURE