

ITEMS FOR DEBATE

20 MARCH 2024

ADOPTION BY EXCEPTION RESOLUTION

<u>RECOI</u>	RECOMMENDATION That the Committee Recommendations for items 10.2, 10.3, 10.6, 10.7, and 10.8 and Officer Recommendations for items 11.1, 13.2, 15.1 and 15.2 be adopted en bloc:		
10.2	Finance Committee – 6 March 2024 – Monthly Financial Report Supplementary Agenda		
10.3	Finance Committee – 6 march 2024 – List of Payments Made – January 2024 Supplementary Agenda		
10.6	Audit and Risk Committee – 13 March 2024 – Capability development: risk management and internal audit Supplementary Agenda		
10.7	Audit and Risk Committee – 13 March 2024 – 2023 Compliance Audit Return Supplementary Agenda		
10.8	Audit and Risk Committee – 13 March 2024 – CEO Review of Systems and Procedures Recommendations – Implementation status Supplementary Agenda		
11.1	Community Sport Recreation Facilities Fund - Application		
13.2	Jetty Reserve Fund		
15.1	Elected Member Information Bulletin		
15.2	You Choose		

ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION

Item No.	Item Title	Reason
10.1	Finance Committee – 6 March 2024 – 2023/24 Mid-Year Budget Review <i>Supplementary Agenda</i>	Absolute Majority Required
10.4	Finance Committee – 6 March 2024 – Infrastructure and Environment Budget Amendments Supplementary Agenda	Absolute Majority Required
10.5	Finance Committee – 6 March 2024 – Busselton Margaret River Airport Budget Amendment <i>Supplementary Agenda</i>	Absolute Majority Required
12.1	RFT01/24 Coastal Shared Path Construction	Absolute Majority Required
13.1	Review of Airport Advisory Committee	Absolute Majority Required
13.3	Business Development, Events and Marketing Program Outcomes – February 2024	Absolute Majority Required

ITEMS FOR DEBATE

Item No.	Dunsborough Lakes Sports Precinct Pavilion	Pulled by	Page 22
11.2		Cr Ryan	

ALTERNATIVE RECOMMENDATION

That the Council:

- Requires the CEO to schedule the hosting of a summit (including but not limited to all presidents of sport and recreation groups within the District) as soon as practicable. This will be externally facilitated and used to inform (amongst other things) the City of Busselton Sport and Recreation Facilities Strategy (SRFS) for the District. It will also include addressing facility leases (including rents, insurance, and any other lease anomalies).
- 2. Prior to the commencement of this summit, there will be;
 - a. An elected member workshop supported by the CEO with invited guests to include (but not be limited to) representatives from Soccer, Cricket, Basketball, and Netball Clubs of Dunsborough; and
 - b. A briefing session conducted by the CEO for elected members prior to a) above.
- 3. The project management of the Dunsborough Lakes Sports Precinct (DLSP) project be referred to the review exercise approved by the Council Resolution C2402/39 Clause 3.

REASONS FOR ALTERNATIVE

- 1. There were many individuals and groups who raised issues of their dissatisfaction in many areas of their sporting codes to myself (and I am sure other Councillors will agree) during the election and simply relying on this stand alone issue requiring a request for approval is, I believe, reckless. Convening a summit is the right thing to do to elicit those issues which need addressing from all clubs not simply those four clubs which are the subject of this Recommendation. Also of note are community input, which does not appear to have taken place, on the outcome of this and any other future consideration emanating from the SRFS for Dunsborough (or indeed the District) which appears to be unknown, especially in the Dunsborough community.
 - What will become of the playing ground which Dunsborough Soccer/Cricket and indeed the myriad of other sport which is played on this ground? What is the cost of the next plan? This is unclear and the SRFS certainly does not articulate this.
 - This report recommends an approval for a pavilion valued at \$4,030,000 up from the original sum of \$2,750,000 in 2020 which included carpark, courts, pavilion and lighting and as noted staff commentary states "due to significant cost escalations, ...the funding application for the pavilion was unsuccessful". How will other clubs be funded across the District based on this project if Council were to approve this stand alone item?

- What will be the possibility of further SRSFF funding for this or indeed the old playing fields?
- Where is the proof of data for this concept and any next stage?
- Where is the costings in the LTFP for future consideration now that this pavilion has doubled in cost?
- Where is the impact statement on all clubs affected if this was approved?
- Where is the plan on who will run the facilities if it were to proceed considering netball's home is in Busselton, Basketball wanted indoor courts (and use this ground as overflow), Soccer will not move under the current arrangement (see email from the former CEO acknowledging they can stay on the current oval their home of 20 years)?
- 2. 2 a and b are to enlighten Councillors of all the issues as only staff have been privy to the concerns of all these clubs in the past. Councillors set the strategic direction but we can only do that when we are clear on the history of issues.
- 3. Cr Macnish's motion now resolution last month resolved unanimously, articulates issues which many ratepayers and stakeholders raised during the election (ie not feeling heard) and the reasons attributed to the Resolution were: The purpose of setting CEO KPIs is to drive desired operational outcomes. Establishing a strategy/approach to a matter does not in itself, deliver desired outcomes. The monitoring of an outcome means measuring, understanding, and reporting factual data. Excellent customer service can be assured if informed customers rate it as such. There is valuable information to be derived through assessment of customer issues / complaints. For this reason it is recommended the Council require its Audit and Risk Committee (ARC) examine how best to derive the implicit value of complaints and assess risk within its complaints handling process.

It is also incumbent on Councillors to be absolutely comfortable with ensuring that any agreement is the best possible outcome for all, not just individuals and individual clubs. Noting that only two councillors who approved the SRFS in 2020 remain and may/may not understand the true ramifications of progressing with the Officer's Recommendation. More importantly, what will fall out of any approval which the community have never been consulted (that I am aware) on and an articulation to Councillors and the community on the next stage of any plan?"

OFFICER COMMENT

While it is accepted that there may be some operational issues that require exploring with sporting clubs, it is unclear if these are strategic issues that would warrant additional work on the SRFS. The development of the SRFS has included extensive targeted engagement with sporting clubs and associations within the district, including participants, parents, club administrators, state sporting associations, other local government authorities and the Department of Local Government, Sport and Cultural Industries.

Details of targeted engagement include:

- Meetings with 79 sporting clubs/associations
- Four (4) workshops, total of 74 participants, two (2) held in Busselton and two (2) held in Dunsborough

• Community Survey through Your Say - 501 individual responses, 946 visits to the project page with 632 informed participants

The draft SRFS was then advertised broadly for public comment over 45 days, the City of Busselton social media posts were shared widely while a number of key sporting association and club committees took up the offer to participate in engagement sessions. The key information hub, the City of Busselton 'Your Say' portal, received over 1,100 visits during this time and a total of 167 submissions were received

Of the 167 submissions received, 34 were from sporting clubs, associations and sport advisory groups (on behalf of their respective sports, clubs and members), with the remainder from interested residents and participants, and neighbouring Local Government Authorities.

Further to the engagement in relation to the SRFS significant additional engagement has also occurred with the Dunsborough community on the pavilion project as outlined in the Council report

Additional to this, the master planning of the Dunsborough playing fields and the Dunsborough Country Club project (priority projects within the SRFS) has also had significant Dunsborough community input including but not limited to:

- 3 community engagement workshops, 102 participants
- 2 pop-up information stalls, 31 engagements
- Community Survey, 372 responses

Those clubs that have participated in the development of the SRFS and which are still engaging meaningfully with the City in order to progress the priority projects in a timely and cost-effective manner may not welcome further community engagement on the adopted strategy.

The current item is seeking a decision on the location of the pavilion only. The agenda item has outlined the financial implications and the risks of not proceeding with the project which include the delay of lighting being installed and the lack of activation of an area the City has invested a considerable amount of infrastructure in accordance with adopted strategic plans.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Item No.	DA23/0565 Single House (Outbuilding) - Special	Pulled by	Page 33
11.3	Control Area at Lot 5 (No. 60) Adelaide Street,	Cr Cox	
	Busselton		

That the Council resolve to grant approval for DA23/0565 Single House (Outbuilding) - Special Control Area at Lot 5 (No. 60) Adelaide Street, Busselton subject to the following conditions :

GENERAL CONDITIONS:

- 1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.
- 2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plan(s) (enclosed), including any notes placed thereon in red by the City.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS:

- 3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and approved in writing:
 - 3.1 Details of stormwater and surface water drainage. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 65m² of impervious area.

ONGOING CONDITIONS:

4. The works undertaken to satisfy Condition 2 and 3 shall be subsequently maintained for the life of the development.

REASONS FOR ALTERNATIVE

Discretion in planning can be broadly applied. The role of the decision maker is to make a judgement, having taken into account all relevant information and planning requirements.

The Zoning of Lot 5 Adelaide Street is Regional Centre R-AC3. Local Planning Policy 4.10 *Outbuildings and other non-habitable buildings* clause 4.4(iii) states that outbuildings located in a regional centre zone should comply with the deemed to comply criteria of Part 5.4.3 of the R-codes and if discretion is sought to LPP4.10 clause 4.4 (iii) then the development should comply with provisions of LPP 4.10 Appendix 1 which states; where development does not meet those standards it will be considered and required to satisfy objectives as per clause 67 of Schedule 2 of the Planning and Development Regulations 2015.

In determining this application, it is important to note that LPP 4.10 does not provide development standards that override the R-codes Deemed to Comply and the R-codes state that the exercise of discretion must be guided by the objectives of clause 67, Schedule 2, of the Planning and Development Regulations 2015. Clause 67 (2) of the Deemed Provisions calls on a broad range of matters to be given due regard in making planning decisions. This application will

not have any detrimental effect on the following matters specified in the Deemed Provisions cl.67(2):

- 1. Amenity of the local area;
- 2. Environmental impacts;
- 3. Character of the locality;
- 4. Social impacts;
- 5. The relationship of the development to development on adjoining land;
- 6. Height, bulk, scale or orientation;
- 7. Suitability of the land for development;
- 8. Local traffic;
- 9. Access and egress to the site; or
- 10. Cultural Heritage

Therefore, as it can be demonstrated that the application satisfies a number of the matters specified in the Design Principles of the Deemed Provisions (clause 67 – Schedule 2) then on balance it should be considered appropriate to approve the variation sought in this application, an outbuilding with an allowance for additional wall height of 3.45m.

OFFICER COMMENT

Clause 67 (2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) outlines the relevant matters to be considered in the assessment of development applications. The relevant matters contained within this clause that are applicable to the determination of this application are provided below -

- a. the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- c. any approved State planning policy;
- g. any local planning policy for the Scheme area;

m. the compatibility of the development with its setting, including —

- *(i) the compatibility of the development with the desired future character of its setting; and*
- (ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- n. the amenity of the locality including the following -
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;

The development is subject to the State Planning Policy 7.3 Residential Design Codes (R-codes). The R-codes state in relation to judging the merit of a proposal –

2.2 Judging merit of proposal

Where an application does not meet a deemed-to-comply provision(s) of the R-Codes Volume 1 and addresses a design principles), the decision-maker is required to exercise judgement and undertake a merit-based assessment to determine the proposal.

Judgement of merit is exercised by the decision-maker only for the specific element of a proposal that does not satisfy the relevant deemed-to-comply provision. Where the decision-maker is satisfied the design principle is met for that specific element, the corresponding deemed-to-comply provision(s) should not be applied.

In making a determination on the suitability of an application, the decision-maker shall exercise judgement having regard to:

i. any relevant purpose, objectives and provisions of the scheme;

ii. any relevant objectives and provisions of the R-Codes;

jii. the R-Codes Explanatory Guidelines;

iv. a provision of a properly adopted local planning instrument consistent with the R-Codes; and

v. orderly and proper planning.

Where an application does not satisfy a deemed-to-comply provision and is not consistent with the objectives, intent, and corresponding design principle of the R-Codes and any relevant provision of the scheme and local planning framework, the application should be refused by the decision-maker.

In this instance officers considered that the applicant has failed to demonstrate how the development will meet the relevant Design Principle (provided below) –

Outbuildings that do not detract from the streetscape or the **visual amenity of residents** or neighbouring properties [emphasis added].

In addition, the applicant is required to demonstrate how the application will meet the relevant Objective of the R-codes (provided below) –

To maintain the amenity of streetscapes and views along the street by ensuring that associated outbuildings and other fixtures attached to buildings do not detract from the streetscape and **are not visually intrusive to neighbouring properties** or adjoining public spaces [emphasis added].

Outbuildings should be subservient to the dwelling in which they are associated with, it is considered by officers that in this instance, the proposed outbuilding is of a scale and size that will be taller than the eaves of the existing dwelling on the property and therefore is not appropriate in this instance.

In relation to the local context, upon discussion with the applicant, officers were agreeable to approve a wall height of 3.1m wall height which is consistent with the LPP4.10 standards for larger residential zoned lots.

To exercise discretion in this instance, Councilors will need to consider if the proposed wall height of 3.45m is consistent with the visual amenity of residents in the Regional Centre R-AC3 zone and that it is not visually intrusive.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Item No.	Review of infrastructure Asset Renewal	Pulled by	Page 47
12.2	Requirements	Cr Macnish	

That the Council:

- 1. Requires the CEO to incorporate the outcomes of the review of infrastructure asset renewal funding as reported in the Asset Classes of Table 3 in the Summary of this report based on up-to-date (unit) construction rates, into the City's draft LTFP.
- 2. Refers the matter of consideration of the CEO KPI #4 to its CEO Performance Review Committee for assessment consideration and subsequent recommendation to the Council.

REASONS FOR ALTERNATIVE

Simply 'noting' something is far too vague to be an effective management oversight expression. A clear decision and any commensurate actioning instruction is required. Recommendation point 2 is not clear in that it recommends consideration be given to something but no decision is being asked of that something!

The point of Asset Management Planning is to project up to date known data and combine this with reasonably expected factors to ensure sustainable functionality and form part of the City's LTFP which must incorporate the summation of all other costs and revenues. It is poor governance to use outdated base information and leave the estimating of the quantum of future funding of infrastructure assets up to a host of other factors. Basically the draft LTFP needs to be developed with all realistic data and projection rates WITHOUT being compromised due to what might happen to Rates (revenue). Only then can and will the Council be in a position to make strategic decisions about services etc.

CEO Perf Criteria #4 does not restrict itself to the 6 asset classes identified and described in the Item. The City has more than those classes of assets addressed in this Item* and presumably all are or will need to be covered by asset management plans with funding quantum and timing parameters/assumptions. As worded, this Agenda item does not appear to adequately cover KPI 4's requirements.

*Jetty, Airport, Coastal Infrastructure, Street lights, Signs are all City assets as are its IT infrastructure and licences, records and also its staff.

OFFICER COMMENT

Scope of Performance Criterion

This item responds to a CEO Performance Criterion (PC), as set out below – with emphasis added to highlight the component this report addresses:

Outcome:

Optimised use of reserves for asset management which addresses OAG commentary while ensuring future financial sustainability.

Deliverable:

- a. Undertake a review of the use of the City's financial reserves with the aim of appropriate reserve consolidation.
- b. Ensure the level of reserve funding is commensurate with asset management planning, providing a report to council outlining clear recommendations for funding.

The City maintains reserve accounts for its core infrastructure asset classes (as listed in the report) and it was these asset classes that was the focus of the PC – to ensure the right level of reserve funding is being set aside in those reserve accounts. It was not intended that the PC capture other more minor infrastructure assets, such as signs, or that the review capture non-infrastructure assets such as IT or staff. With specific reference to the Jetty and the Airport, there are separate asset management plans for these assets, again it was not the scope of the review to look at these. A PC inclusive of these asset classes, in addition to the core infrastructure, would not have been reasonably achievable and would therefore not have been a PC agreed to by both parties.

Part 2 of the Proposed Motion

With respect to part 2 of the alternative motion, the CEO Performance Review Committee will assess the CEO's performance against a range of criteria including the performance criteria (as per the agreed process in the CEO Performance Review Policy). Notwithstanding this, officers believe the Council should acknowledge the report and work done to meet the PC in reviewing the asset renewal requirements against the current draft LTFP.

Part 1 of the Proposed Motion

With respect to part 1 of the proposed motion, it is the intent of officers that the outcomes of the review into asset renewal funding requirements (as outlined in the report) will inform the draft LTFP that is workshopped with Councillors. Officers note however that the final funding allocations should be determined through the LTFP workshops and adoption of the LTFP by the Council, on consideration of overall financial priorities and sustainability.

The City has provided the forecast asset renewal required funding based on current day construction rates and replacement costs; this is general practice for asset management planning and is the recommended approach by the Institute of Public Works Engineering Australia (IPWEA).

The Integrated Planning and Reporting Framework intends that Asset Management Planning and Long-Term Financial Planning is an iterative process. Any decision to increment the funding over the life of the LTFP should therefore be made through the Long-Term Financial Planning workshops; once Council has determined its inflationary factors and assumptions.

Summary

In summary officers recommend the officer recommendation – that could include a minor amendment to recommendation 2, to read:

That the Council:

- 1. Acknowledge the outcomes of the review of asset renewal funding;
- 2. Acknowledges that the CEO will incorporate the outcomes of the review and the recommendations contained in Table 3 in the summary of the report into the

development of the City's Long Term Financial Plan (LTFP), for consideration by the Council.

3. Acknowledge that this item meets the requirements of CEO Performance Criterion #4

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Item No. 13.4	Hireable e-scooter trial results	Pulled by Cr Kennedy	Page 88

That the Council

- 1. Extends the current trial agreement with Neuron Mobility (Australia) Pty Ltd to 30 November 2024 subject to:
 - a) the provision of optimal designated parking locations across the City that do not block thoroughfares and are not of a visual nuisance;
 - b) the identification of single use, narrow paths adjacent to the coast and the appropriate application of speed restrictions to these areas.
- 2. Notes the results of the community survey undertaken through Your Say, "Hireable e- scooters in the City of Busselton", that 62.4% of local residents to the Your Say survey are opposed to continuing the trial of hireable e-scooters in the City of Busselton and that approximately 50% of those opposing would change their mind if improvements were made, potentially shifting the results to approximately 65% in favour.
- 3. Require the CEO to gauge the effectiveness of the improvement measures to address matters of concern raised by the community as a result of the survey, and provide a report to the Council reassessing the trial agreement prior to the peak summer season November 2024 to April 2025.

REASONS FOR AMENDMENT/ ALTERNATIVE

Hireable decentralised e-scooters provide a new era of alternative transport that benefits the youth, opportunistic residents and tourists.

It reduces traffic congestion and parking issues particular during peak periods and will compliment events.

Social connectivity will increase especially for the ages from 16 until acquiring a driver's licence and ease the pressures of transportation for young families to sports and recreation.

Expectations from new interstate flights will be met and increase benefits to business and make travel from the foreshore to the CBD more appealing.

OFFICER COMMENT

The 719 respondents who answered "no" to the question "Do you support hireable E-scooters in the City of Busselton" were also asked "Are there any improvements that could be made to e-scooter hire that would change your mind?" 631 answered the question with 50% (317) providing suggested improvement measures such as parking controls, wearing helmets, safety and rider behaviour, age of riders, warning devices and rider education.

Officers agree that an extension of the trial for a further six months would provide the opportunity to ascertain if the controls that the supplier has suggested mitigate the concerns raised by the community and support the alternative recommendation.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Item No.	Review of infrastructure Asset Renewal	Pulled by	Page 47
14.1	Requirements	Cr Macnish	

That given the OAG is not prepared to prepare a report as outlined, the CEO to distil the following figures from the 2022/3 Annual Financial Audit and report these to the first workshop of the review of the LTFP:

- The total value of the City's assets;
- The total accumulated depreciation booked for all assets;
- The total funds held in Reserve for the capital improvement of all assets;
- The total funds held in Reserve for the maintenance of all assets (if different from the above);
- The total contribution of funds to such Reserves in 2022/3;
- The total expenditure of funds from such Reserves in 2022/3;
- The total depreciation cost for 2022/3; and
- The total asset management upgrade/maintenance expenditure for 2022/3.

REASONS FOR ALTERNATIVE

The Council (C2312/202) has highlighted the difficulty in discerning important asset (value) related information including their management by Reserve and/or cash funding. Even if the OAG refuse to perform a summary report, the information is still needed to satisfy the Council's difficulty. Especially going into an analysis of the new LTFP.

If the commentary seeks to de-couple any meaningful link between what is historically annually reported via standard/good accounting principles (depreciation) and what is being estimated as supposedly adequate asset management planning expenditure, then those charged with the oversight role need to be very clear on how to gauge/approach the consideration of strategic future asset management plan expenditure as it applies to the entire breadth of assets owned/controlled by the City.

It seems the historic notion of the depreciation gap has recently been overtaken by a better datadriven modelled assessment of assets resulting in far better accuracy. There appears to be no Asset Management Planning effectiveness KPIs nor annual reporting performance measures yet that can be relied on for long-term historical dependability. Hence as a relatively quick exercise, trying to bridge this asset governance gap by distilling some summary totals figures should prove contextually helpful. Especially given the Council is set to embark on a very significant review of the City's outdated LTFP.

OFFICER COMMENT

The requested information can be provided to Councillors at the pending first LTFP workshop as it relates to infrastructure assets, although officers note that there will be updated information available to provide in the context of the draft LTFP and noting updated asset information (as per Item 12.2 on this agenda).

It's important to note as indicated within the officer report, that the Office of the Auditor General not only advised they would not perform the request to provide the report but that:

"...depreciation is not in any way linked to the asset management planning and asset replacement. Depreciation is a book entry whereby you are reducing the value of the asset over its useful life. It is not in any way linked to the replacement cost of the asset if you were required to replace that asset at any point."

If Elected Members are of a mind to support the alternative recommendation officers would recommend that the term infrastructure is included when referring to assets, for clarity. For the same reason, officers would recommend that a second point is added which acknowledges the implementation of C2312/202 as complete.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

16.	MOTIONS OF WHICH NOTICE HAS BEEN GIVEN
16.1	Notice of Motion – Dogs on leads, Elijah Circle Park, Vasse Cr Anne Ryan
16.2	Notice of Motion – Council Meeting Schedule Cr Anne Ryan
16.3	Notice of Motion – Model Litigant Policy Cr Anne Ryan
16.4	Notice of Motion – Peak Periods Policy Cr Andrew Macnish
16.5	Notice of Motion – Long Term Financial Plan Review Cr Andrew Macnish
16.6	Notice of Motion – Draft Corporate Calendar Cr Andrew Macnish