

Please note: These minutes are yet to be confirmed as a true record of proceedings

CITY OF BUSSELTON

MINUTES FOR THE COUNCIL MEETING HELD ON 27 AUGUST 2019

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MINUTES

MINUTES OF A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 27 AUGUST 2019 AT 5.30PM.

1. DECLARATION OF OPENING ACKNOWLEDGEMENT OF COUNTRY / ACKNOWLEDGEMENT OF VISITORS / DISCLAIMER / NOTICE OF RECORDING OF PROCEEDINGS

The Presiding Member opened the meeting at 5.30pm.

2. ATTENDANCE

Presiding Member:

Cr Grant Henley Mayor

Members:

Cr John McCallum Deputy Mayor
Cr Coralie Tarbotton
Cr Ross Paine
Cr Paul Carter
Cr Robert Reekie
Cr Kelly Hick
Cr Lyndon Miles

Officers:

Mr Mike Archer, Chief Executive Officer
Mr Matthew Twyman, Acting Director Engineering and Works Services
Mr Paul Needham, Director, Planning and Development Services
Ms Naomi Searle, Director, Community and Commercial Services
Mr Tony Nottle, Director, Finance and Corporate Services
Ms Sarah Pierson, Manager Governance and Corporate Services
Ms Melissa Egan, Governance Officer

Apologies:

Nil

Approved Leave of Absence:

Nil

Media:

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

Public:

0

3. PRAYER

The prayer was delivered by Pastor Nathan Seinemeier of the Cornerstone Church.

4. APPLICATION FOR LEAVE OF ABSENCE

Nil

5. DISCLOSURE OF INTERESTS

Nil

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

The Presiding Member announced the commencement of Cinefest and acknowledged it is a busy time in the administration building and a great display of creative talents around the City. The City looks forward to the 'GO!' premiere which was filmed in Busselton and supported by the City of Busselton.

7. QUESTION TIME FOR PUBLIC

Nil

8. CONFIRMATION AND RECEIPT OF MINUTES**Previous Council Meetings**

- 8.1 Minutes of the Council Meeting held 14 August 2019

COUNCIL DECISION

C1908/152

Moved Councillor J McCallum, seconded Councillor R Reekie

That the Minutes of the Council Meeting held 14 August 2019 be confirmed as a true and correct record.

CARRIED 8/0

Committee Meetings

- 8.2 Minutes of the Meelup Regional Park Management Committee Meeting held 29 July 2019

COUNCIL DECISION

C1908/153

Moved Councillor C Tarbotton, seconded Councillor K Hick

That the Minutes of the Meelup Regional Park Management Committee Meeting held 29 July 2019 be noted.

CARRIED 8/0

- 8.3 Minutes of the Audit Committee Meeting held 5 August 2019

COUNCIL DECISION

C1908/154

Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Minutes of the Audit Committee Meeting held 5 August 2019 be noted.

CARRIED 8/0

- 8.4 Minutes of the Policy and Legislation Committee Meeting held 13 August 2019

COUNCIL DECISION

C1908/155

Moved Councillor R Reekie, seconded Councillor P Carter

That the Minutes of the Policy and Legislation Committee Meeting held 13 August 2019 be noted.

CARRIED 8/0

- 8.5 Minutes of the Finance Committee Meeting held 15 August 2019

COUNCIL DECISION

C1908/156

Moved Councillor P Carter, seconded Councillor C Tarbotton

That the Minutes of the Finance Committee Meeting held 15 August 2019 be noted.

CARRIED 8/0

9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

Petitions

9.1 OPEN FORD ROAD / REJECT EASTERN LINK PETITION

COUNCIL DECISION

C1908/157

Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council receive the Open Ford Road / Reject Eastern Link Petition, noting that the petition relates to a matter which has already been considered by Council following extensive community consultation, assessment and reporting.

CARRIED 8/0

The reason for the officer's recommendation is that this petition relates to a matter which has already been considered by Council with the benefit of extensive community consultation, assessment and reporting.

The City received an email from the Office of Libby Mettam MLA on 30 July 2019 containing a petition from the **Stop the Eastern Link Action Group**, constituents and spokespersons of which Mr John Valentine and Mr Paul Vines had asked be forwarded to the City.

The petition was received in 3 separate .pdf documents, one being a copy of an online petition and two being a copy of a petition containing hand-written names and signatures.

Clause 6.9(1) of The *City of Busselton Standing Orders Local Law 2008* set out the criteria required for the Council to consider a petition, that is, the petition must:

- (a) Be addressed to the Mayor;
- (b) Be made by the electors of the district;
- (c) State the request on 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 to whom, and an address at which, notice to the petitioners can be given; and
- (g) Be respectful and temperate in its language.

The first page of the online petition contains the statement "Nicholas Vines needs your help with 'City of Busselton: City of Busselton reject eastern link and Support opening Ford Road". The second page of this document contains the wording "Recipient: City of Busselton" and "Letter: Greetings, City of City of Busselton reject eastern link and Support opening Ford Road". There are then 20 pages of names which are each dated 4 December 2017. The online petition:

- 1. Is not addressed to the Mayor;
- 2. Contains the names of people from a wide variety of locations, the majority of whom are not electors of the Busselton district;
- 3. Does not state the request on any of the pages which contain the petitioners' names;
- 4. Only contains the suburbs or country of the petitioner (not complete addresses) and does not contain any signatures of these people, electronic or otherwise;
- 5. Does not contain a summary of the reasons for the request;
- 6. Arguably contains the name of a person to who notice can be given (Nicholas Vines), but no address and this is not the same name suggested in the covering email; and
- 7. Is temperate in its language

The Standing Orders permit the presiding member to “allow a petition to be considered in circumstances where the petition complies with the majority of the requirements”. The online petition was assessed however as not meeting the majority of the requirements. Importantly, it is not possible to verify the names against the request, as the request is not stated in connection with the list of names.

With respect to the two other .pdf documents containing hand-written names and signatures, these do comply with the majority of the requirements of the standing orders and are now presented to Council as one combined petition. The petition is undated, yet we understand the signatures were collected sometime from late 2017 to early 2018.

Since this time, the City has undertaken extensive community consultation in relation to the Busselton road network upgrades (which includes the City Centre Eastern Link) culminating in a community survey undertaken by Catalyse Pty Ltd in August / September 2018. 430 random and 257 opt in responses were received.

In November 2018, Council considered a report detailing the outcomes of that consultation, along with further feasibility and cost investigations of Eastern Link and other options, and resolved as follows:

That Council:

1. *Receives the City Centre Road Network Community Survey Report provided by Catalyse Pty Ltd as an informing document.*
2. *Subject to environmental approval and municipal funding resources being available in the City's annual budget and Long-term Financial Plan; progress with Option 5. This involves:*
 - a. *construct City Centre Eastern Link (Stage 1);*
 - b. *upgrade the intersection of Albert and Queen Street from lights to a roundabout;*
 - c. *upgrade the Albert and West Street intersection; and*
 - d. *upgrade the intersection at Strelly Street and Causeway Road.*
3. *Subject to ongoing municipal funding, continues to progress environmental approval for the future development of Ford Road noting that this will require a new and different application to be lodged with the EPA (as per Ministerial advice 14 August 2018).*
4. *Continue to lobby Main Roads WA for improved directional signage on Busselton Bypass.*

In making this resolution Council was well informed and aware of the concerns and sentiments, as expressed in this petition, of some members of the community. Notwithstanding Council resolved as above, with technical assessments indicating that, as part of an overall staged approach, the City Centre Eastern Link (Stage 1) combined with an upgrade to the intersection of Albert and Queen Street is the best strategy when considering costs and effective lifespan.

It is for this reason that officers recommend Council receive the petition only.

Presentations

Nil

Deputations

Nil

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

Nil

11. ITEMS BROUGHT FORWARD**Adoption by Exception Resolution**

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

COUNCIL DECISION AND COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1908/158

Moved Councillor P Carter, seconded Councillor J McCallum

That the Committee Recommendations in relation to Items 12.2, 12.4 and 12.6 and the Officer Recommendations in relation to Items 13.1, 13.2, 16.1 and 17.1 be carried en bloc:

12.2 Audit Committee – 05/08/2019 - GOVERNANCE SYSTEMS REVIEW

12.4 Policy and Legislation Committee – 13/08/2019 - PROPOSED COUNCIL POLICY - PREVENTION OF MISCONDUCT, FRAUD AND CORRUPTION

12.6 Finance Committee – 15/08/2019 - BUSSELTON HOCKEY STADIUM CLUB INC. SELF SUPPORTING LOAN

13.1 PROPOSED AMENDMENT 39 - LOT 201 SEYMOUR STREET AND LOT 202 BUSSELL HIGHWAY, BUSSELTON: ZONING RATIONALISATION AND REMOVAL OF SPECIAL PROVISION AREA No.33 FROM SCHEME

13.2 PROPOSED AMENDMENT NO. 37 AND ASSOCIATED STRUCTURE PLAN (BUSSELTON WETLANDS CONSERVATION STRATEGY) - LOT 7 (NO. 86) FORREST BEACH ROAD, WONNERUP

16.1 REVIEW OF CORPORATE ATTIRE ENTITLEMENTS

17.1 COUNCILLORS INFORMATION BULLETIN

CARRIED 8/0

ADOPTION BY EXCEPTION RESOLUTION

12.2 Audit Committee – 05/08/2019 - GOVERNANCE SYSTEMS REVIEW

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC CONTEXT	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Governance
BUSINESS UNIT	Corporate Services
ACTIVITY UNIT	Governance Services
REPORTING OFFICER	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A List of Recommendations Attachment B Recommendations Status Sheet Attachment C Statement of Business Ethics - Recommendation to CEO Attachment D Extract Industries Local Law - Recommendation to CEO

This item was considered by the Audit Committee at its meeting on 5 August 2019, the recommendations from which have been included in this report.

COUNCIL DECISION AND COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1908/159 Moved Councillor P Carter, seconded Councillor J McCallum

That the Council:

- 1. notes the progress of the implementation of the Governance Systems Review recommendations; and**
- 2. acknowledges that 56% of recommendations have been implemented or addressed.**

CARRIED 8/0

PRECIS

This report presents an update on the progress of the implementation of the recommendations identified in the Governance Systems Review (GSR) undertaken in August 2017 by Mr John Woodhouse LLB B.Juris. The implementation of 50% of the GSR recommendations is a CEO Key Performance Indicator for the 2018/2019 period; this update report provides a report as at the end of July 2019, with the CEO performance review to be undertaken in August 2019.

BACKGROUND

In August 2017, the CEO commissioned a high level independent review of the City's governance systems and processes, undertaken over a 3 month period by Mr John Woodhouse LLB B.Juris. As a result of the GSR, Mr Woodhouse identified nine broad topics or areas with opportunities for improvement. The GSR and resulting recommendations for improvement (see Attachment A) were presented to Council at a briefing in October 2017 where it was agreed that staff would, subject to resourcing, commence implementation of the recommendations.

The GSR recommended improvements in the areas of:

- Council;
- Policies and procedures;
- Procurement and tendering;
- Supporting local business;
- Contracts;
- Misconduct prevention;
- Codes of conduct; gifts;
- Local laws; and
- Internal reporting.

A total of 66 recommendation were made across these nine areas.

In October 2018, the completion of 50% of the recommendations was set as a CEO Key Performance Indicator for 2018/2019. A report on the progress of their implementation was provided to the Audit Committee in March 2019. This report provides a further update as at the end of July 2019 and seeks endorsement of the actions achieved / proposed to date.

STATUTORY ENVIRONMENT

The GSR reviewed the City's performance against various governance requirements of the *Local Government Act 1995* and associated regulations. Comparisons to 'best practice' local governments (generally larger metropolitan Band 1 Councils) were also made. Since that time the *Local Government Amendment Bill 2019* (Amendment Bill) has been introduced to parliament and was assented to on 5 July 2019. This has impacted on some of the recommendations related to codes of conduct, gifts and misconduct prevention, as detailed under Officer Comment.

RELEVANT PLANS AND POLICIES

As a result of the recommendations of the GSR, the City developed a Policy Framework. This framework has guided our subsequent policy and practice review. This framework is also being further reviewed as part of a continuous improvement approach.

FINANCIAL IMPLICATIONS

There are no financial implications directly associated with the officer recommendation. However, the recommendations of the GSR has and will continue to require resourcing, with significant staff time being dedicated to progressing the recommendations.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There are no long term financial plan implications associated with the officer recommendation.

STRATEGIC COMMUNITY OBJECTIVES

The officer recommendation primarily aligns with the following Key Goal Area and Community Objective of the City of Busselton's Strategic Community Plan 2017:

- Key Goal Area 6 – LEADERSHIP: Visionary, collaborative, accountable
- 6.1 Governance systems, processes and practices are responsible, ethical and transparent.

RISK ASSESSMENT

The primary purpose of this report is to provide an update with respect to the progress of the recommendations of the GSR; as such there are no applicable or identified risks associated with the officer recommendation. It should be noted that, due to competing priorities, it will take an estimated additional twelve months to fully consider and implement all of the recommendations of the GSR. The consequences of this are minor considering the City's governance practices were assessed as being sound overall.

CONSULTATION

Existing and ongoing consultation both externally and internally will continue to be undertaken as required in relation to the GSR recommendations.

OFFICER COMMENT

The GSR resulted in a total of 66 recommendations, spread across nine areas. It is important to note however that 4 of the policy and procedure recommendations (to review all Council policies, delete inappropriate Council policies, review all OPPs and review 3 protocols) require the review of approximately 155 separate documents.

Progress to date (of the 66 recommendations) is outlined in Table 1 below and further detailed under each subheading. A summary showing the status of each recommendation is also provided at Attachment B.

Measure	Percentage
Recommendations completed	50%
Recommendations partially completed or commenced	9.1%
Recommendations not yet commenced	34.8%
Recommendations proposed for non-adoption	6.1%
TOTAL IMPLEMENTED (completed / not adopted)	56.1%

Council

A total of ten recommendations were made in relation to the Council. In general, these recommendations addressed the ease of access to documents, guidelines, Acts and Regulations, and local laws for Councillors. All ten recommendations were accepted by the CEO and implementation was completed by December 2018.

Policies and procedures

A total of six recommendations were made in relation to Policies and Procedures. The recommendations included the development of a new organisational policy framework and a thorough review of all Council policies, OPP's and protocols, of which there are approximately 155.

A new policy framework is in place setting out the purpose of a Council policy as opposed to operational practice documents, and 45% of the total number of documents have been reviewed. 55% of Council policies have been reviewed. Through use of the new policy framework and the review process to date, several additional areas of improvement have been identified. The policy framework is currently being re-evaluated, with the aim of providing improved clarity and education to staff in relation to policy development and improving the overall review process, particularly in relation to consultation. This will result in improved policy outcomes, but is expected to extend the overall timeframe for achievement of all six recommendations out by approximately twelve months.

Procurement and tendering

The GSR made seven recommendations in relation to procurement and tendering policies, including the amalgamation of several separate policies into one, the development of a new OPP, review and revision of the City's Regional Price Preference policy and the management and availability of evaluation and pricing information for tenders.

Four of the seven recommendations are now complete with a revised Purchasing Policy, Regional Price Preference Policy and a new Procurement Selection Criteria SMP. The recommendation to delegate to the CEO the authority to make a Purchasing Policy has not, as previously reported, been actioned with the policy retained as a Council Policy. The two remaining recommendations are progressing; relating to the award of tenders and the incorporation of currently confidential evaluation assessments and submitted prices into the Council report. A pro-forma report template is being developed for the award of tenders with the proposal being to include the summarised evaluation assessment and the successful tenderers price only.

Supporting local business

A recommendation to review the City's current approach to supporting local business through policy was implemented by July 2018, along-side the review of Council policies and the implementation of the new Procurement Selection Criteria SMP. A local benefit criteria with a fixed weighting of 5 percent was included in this selection criteria SMP. In addition, the Finance Committee is now being provided with quarterly reports in relation to the supplier of origin. Suppliers have been split into 3 separate categories, Busselton, South West and other.

Contracts

The GSR made nine recommendations in the area of contracts, covering off issues in relation to variations, appointment of superintendents, management and document control. In addressing these recommendations, officers have developed a suite of standard contracts. Officers have also considered the appointment of a panel of superintendents but, as previously reported, have determined not to proceed with this given the limited number of projects that would require such an appointment. Officers have however developed an operational practice to guide officers as to when a superintendent might be appointed and the process for this. The remaining six recommendations, relating to the implementation of practices and procedures, are pending a wider review of current processes and systems.

Misconduct prevention

Eleven recommendations were made in relation to the City's misconduct prevention systems and processes. As previously reported officers have completed three of the recommendations, provision for the appointment of an internal auditor within the City's workforce plan (currently scheduled for 2022/2023), a review of the credit card policy and testing of the City's key financial controls. A number of the other recommendations align more closely with a review of the codes of conduct and therefore will be considered and implemented under that area. The development of a misconduct prevention strategy document will be considered post the review of the codes of conduct, however, as an interim measure a misconduct prevention policy is proposed, pending recommendation of the Policy and Legislation Committee.

Codes of conduct

In total, five recommendations were made to improve the City's codes of conduct. A review of the current codes has commenced but has stalled as a result of the Amendment Bill, which sets out new and quite specific requirements in relation to the incorporation of a Model Code for elected members and candidates. Under the new provisions there will be limited flexibility to deviate from the Model Code, which is still being developed; hence progression of this action is on hold. Similarly the Code of Conduct for employees will be required to contain prescribed matters, the final form of which is unclear at this stage.

In relation to the recommendation to develop a Statement of Business Ethics for contractors, the City already outlines requirements for suppliers to act with integrity in its procurement processes; for example it is an express term of the City's formal request for quotation and tender process that the intending supplier undertakes that they have not canvassed or communicated with any officer in connection with providing their quote / tender.

For this reason, and as further outlined in the attached memo to the CEO (Attachment C), it is recommended that a Statement of Business Ethics not be developed.

Gifts

The GSR made six recommendations relating to gifts to employees. Of those, two are completed, the development and provision of guidance information on the City's intranet and establishment of a regular review of the gift register by the CEO and Senior Management Group. The remaining recommendations are pending, with the Amendment Bill enacting significant changes to in relation to the disclosure and treatment of gifts. Officers will progress implementation of those changes over the next three months via review of the codes of conduct and subsequent induction / training of staff and elected members.

Local laws

A total of nine recommendations were made for improvements to the City's local laws. Six were in relation to the review of the City's Standing Orders Local Law. These have been completed. A further recommendation was to consider the need for an Extractive Industries Local Law. Officers have considered this and, further to a briefing held with Council, and as per the attached memo to the CEO (Attachment D), officers do not consider that an extractive industries local law would usefully add controls which are not available under the planning scheme regime. Hence it is proposed that this recommendation is complete.

Officers are continuing to consider progression of a new local law under the Bush Fires Act 1954 and expect to have completed this assessment by the end of October 2019. The final recommendation, to develop a new Council policy for the Property Local Law, is unlikely to be completed until the bulk of the current Council policies are reviewed.

Internal reporting

The GSR made two recommendations in relation to internal reporting – to document the CEO's expectation of Directors and the Directors' expectations for Managers within the organisation. In effect these recommendations require the formalisation of a more structured internal performance reporting system / methodology. Consideration is being given as to what sort of system / methodology might suit the City's needs, although this has had a reduced focus in light of other work priorities.

Other

While there were no recommendations in relation to delegations or employee culture, there is and has been a large amount of work undertaken in these two areas, with both identified internally as areas where improvement was required.

In relation to delegations, a number of gaps have been identified as compared to best practice and in response a number of delegations from Council to the CEO have been reviewed. Additionally delegations from the CEO to officers have also been reviewed and updated. A new delegations register which combines both levels of delegations has been developed and will be implemented post the statutory review of delegations in August 2019. Processes in relation to issuing of delegations have also been reviewed.

With respect to employee culture, the CEO, in 2018, determined that there was a need to better understand the current levels of engagement amongst staff and what impacts the organisational culture has on engagement and ultimately performance. Work has been underway in relation to this since mid-2018 and is progressing well.

CONCLUSION

This report presents an update on the progress of the implementation of the recommendations identified in the GSR. With a current total implementation percentage of 56.1% and a number of additional items significantly progressed, progress to date is considered to be satisfactory. A further twelve months will be required to complete implementation of all of the recommendations, noting that a number are pending finalisation of the amendments to the *Local Government Act 1995*.

OPTIONS

The Committee / Council could request that additional information is provided.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not applicable given the nature of this report and the recommendation.

12.4 Policy and Legislation Committee – 13/08/2019 - PROPOSED COUNCIL POLICY -
PREVENTION OF MISCONDUCT, FRAUD AND CORRUPTION

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Council Policy
BUSINESS UNIT	Governance Services
REPORTING OFFICER	Governance Coordinator - Emma Heys
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Proposed Council Policy

This item was considered by the Policy and Legislation Committee at its meeting on 13 August 2019, the recommendations from which have been included in this report.

OFFICER RECOMMENDATION

That the Council adopt the proposed Council policy 'Prevention of Misconduct, Fraud and Corruption' as included at Attachment A.

COUNCIL DECISION AND COMMITTEE RECOMMENDATION

C1908/160 Moved Councillor P Carter, seconded Councillor J McCallum

That the Council adopt the proposed Council policy 'Misconduct, Fraud and Corruption' inclusive of Committee requested amendments and additional officer amendments as detailed below:

COUNCIL POLICY		
		
Council Policy Name:	Prevention of Misconduct, Fraud and Corruption	
Responsible Directorate:	Finance and Corporate Services	Version: Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is to communicate the City's commitment to a zero tolerance approach to misconduct, fraud and corruption.
- 1.2. This Policy ~~also establishes~~acknowledges the City's commitment to maintaining high standards of professional and ethical conduct by supporting strategies that prevent, detect and respond to misconduct, fraud and corruption.

2. SCOPE

- 2.1. This Policy is applicable to the City of Busselton and its Elected Members and employees.

3. DEFINITIONS

Term	Meaning
Fraud	Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property and where deception is used immediately before or immediately following the activity.
Corruption	Dishonest activity that is contrary to the in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses his/her/their a person's position/s of trust in order to achieve some personal gain or advantage for him or herself themselves or for another person or entity.
<u>Misconduct</u>	<u>Behaviour which is improper and which adversely affects the honest and impartial performance of the functions of an Elected Member or employee, and which may also constitute a form of misconduct as defined within applicable legislation, including (but not limited to) the Local Government Act 1995, the Local Government (Rules of Conduct) Regulations 2007 and the Corruption and Crime Commission Amendment (Misconduct) Act 2014.</u>
<u>Minor Misconduct</u>	<u>Minor misconduct occurs if a public officer engages in conduct that:</u> <ol style="list-style-type: none"> (a) Adversely affects the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or (b) Involves the performance of functions in a manner that is not honest or impartial; or (c) Involves a breach of the trust placed in the public officer; or (d) Involves the misuse of information or material that is in connection with their functions as a public officer or the benefit or detriment of another person; <u>and</u> <u>constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person's office or employment.</u>
<u>PID Act</u>	<u>The Public Interest Disclosure Act 2003.</u>

Policy	this City of Busselton Council policy entitled " Prevention of Misconduct, Fraud and Corruption".
Serious Misconduct	<p>Series misconduct occurs when:</p> <p>(a) A public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officers officer or employment; or</p> <p>(b) A public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit or himself or herself or for another person or to cause a detriment to any person; or</p> <p>(c)(a) A public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by two or more years imprisonment.</p>

4. STRATEGIC CONTEXT

- a. This Policy links to Key Goal Area 6 – Leadership: of the City's Strategic Community Plan 2017 and specifically Community Objective 6.1: Governance systems, process and practices are responsible, ethical and transparent.

5. POLICY STATEMENT

- 5.1. The City is committed to providing and promoting ethical and accountable leadership and decision making.

~~5.2. The City's approach to misconduct prevention draws from the resources and information provided by:~~

- ~~a. Western Australian Corruption and Crime Commission;~~
- ~~b. Western Australian Public Sector Commission;~~
- ~~c. Standards Australia – AS8001-2008~~
- ~~d. Office of the Auditor General~~

~~5.3.5.2.~~ The City is committed to providing all Elected Members and employees with education and training in misconduct prevention policies and strategies as they are developed, to ensure that responsibilities and obligations are understood.

~~5.4.5.3.~~ This Policy, the City's Codes of Conduct, organisational values, and risk management framework, all work together to prevent, detect and respond to potential or actual misconduct, fraud and corruption.

~~5.5.5.4.~~ Elected Members and employees are expected to demonstrate a commitment to preventing and detecting misconduct, fraud and corruption.

~~5.6.5.5.~~ In dealing with allegations of suspected misconduct, fraudulent and/or corrupt activities the City is obliged Elected Members and employees are obliged to report and deal with such allegations, through the appropriate channels. suspected misconduct, fraudulent and/or corrupt activities, through the appropriate channels.

~~5.7.~~ In dealing with allegations of suspected misconduct, fraudulent and/or corrupt activities, the City is committed to dealing with such allegations, through the appropriate channels, including notifying, reporting and referring any instances of Minor Misconduct or Serious Misconduct to the Public Sector Commission, the Corruption and Crime Commission and/or the Western Australian Police as appropriate.

~~5.8.5.6.~~ The City may seek to recover any losses incurred from misconduct, fraud or corruption activities, after considering all relevant issues.

Public Interest Disclosure

~~5.9.5.7.~~ The City is committed to the aims and objectives of the *Public Interest Disclosure Act 2003*.

~~5.10.5.8.~~ The City will maintain high standards of professional and ethical conduct by receiving disclosures of public interest information in accordance with the requirements and provisions of the *Public Interest Disclosure Act 2003*.

6. RELATED DOCUMENTATION / LEGISLATION

6.1. *Local Government Act 1995*

6.2. *Local Government (Rules of Conduct) Regulations 2007*

~~6.3. *Local Government (Administration) Regulations 1996*~~

~~6.4.6.3.~~ *Public Interest Disclosure Act 2003*

~~6.4.~~ City of Busselton's Guide to Public Interest Disclosure

~~6.5. *Corruption and Crime Commission Amendment (Misconduct) Act 2014*~~

~~6.5.6.6.~~ *Standards Australia – AS8001 - 2008*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	

Reason: The Committee requested amendments to the proposed policy with the aim of applying a higher level policy position in anticipation of the development and implementation of a comprehensive misconduct prevention strategy in the future. Additionally Officers recommended some minor amendments for readability and to related documentation.

EXECUTIVE SUMMARY

This report presents a proposed new Council policy – ‘Prevention of Misconduct, Fraud and Corruption’ (the Policy, Attachment A) for Council endorsement. The Policy seeks to communicate the City’s commitment to a zero tolerance approach to misconduct, fraud and corruption.

The Policy also seeks to progress a recommendation from the misconduct prevention section of the Governance Systems Review (GSR) conducted by Mr John Woodhouse in August 2017.

BACKGROUND

In August 2017 the CEO commissioned a high level independent review of the City’s governance systems – the Governance Systems Review (GSR). The GSR made specific recommendations in the area of Misconduct Prevention, with the development of a high level misconduct prevention strategy considered important. This is a significant body of work to be undertaken and the City hopes to progress this over the next twelve months.

The GSR made a specific recommendation that:

...(6) A review should be conducted of the existing Public Interest Disclosure Policy.

In response to this recommendation, officers presented a proposed Council policy ‘Public Interest Disclosure (PID)’ to the Policy and Legislation Committee in June 2019.

While acknowledging the future progression of a Misconduct Strategy, the Committee requested that the proposed PID policy be deferred and further reviewed in terms of content and approach. The Committee felt that the City, through its existing PID guidelines, already complied with provisions of the Public Interest Disclosure Act 2003 in a transparent and effective manner, and that a Council policy should complement these guidelines and existing legislation, without seeking to replicate or potentially inadvertently dilute them in any way.

OFFICER COMMENT

Upon reflection, officers feel that the proposed PID policy was too narrow in its focus and that a broader misconduct prevention policy which communicated the City’s commitments and approach in respect to this topic would complement the current PID guidelines and more actively progress the recommendations of the GSR.

While no statutory requirement exists for the City to have a misconduct prevention policy, it was identified in the GSR that the City would benefit from the development and implementation of a misconduct strategy. The development of such a strategy will require a significant amount of resourcing. This will be planned for over the next twelve months.

In the interim officers have prepared a policy that communicates the City’s commitment to maintaining high standards of professional and ethical conduct by supporting the development of strategies to prevent, detect and respond to misconduct, fraud and corruption. The Policy includes the City’s obligations to the provisions of the *Public Interest Disclosures Act 2003*.

Statutory Environment

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

A number of pieces of legislation contain provisions with respect to the prevention, and reporting, of misconduct, fraud and corruption. These include, but are not limited to:

- *Local Government Act 1995*;
- *Local Government (Rules of Conduct) Regulations 2007*;
- *Local Government (Administration) Regulations 1996*;
- *Corruption, Crime and Misconduct Act 2003*; and
- *Public Interests Disclosures Act 2003*.

Relevant Plans and Policies

The City has a policy framework (the Framework) which was developed and endorsed by Council in response to the recommendations of the GSR. The Framework sets out the intent of Council policies, as opposed to operational practice documents.

Guidelines which provide information to members of the public in relation to making Public Interests of Disclosure are available on the City's website.

Financial Implications

Adoption of the Policy has no budget implications, noting that development of a more comprehensive misconduct prevention strategy will require resourcing in the form of officer and council time.

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.

There are no risks identified of a medium or greater level associated with the officer recommendation, with the Policy seeking to clearly articulate Council's strategic direction in relation to the management of misconduct, fraud and corruption, and establishing the framework for development of a comprehensive strategy in the future.

Options

As an alternative to the proposed recommendation the Council could consider making amendments to the Policy or choose to not endorse the Policy

CONCLUSION

While acknowledging and working towards the completion of the recommendations made in the GSR, officers have developed the Policy, seeking to communicate the City's commitment to the prevention of misconduct, fraud and corruption and to establish the framework in which a comprehensive strategy may be developed in the future.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will become effectively immediately upon endorsement by Council.

12.6 Finance Committee – 15/08/2019 - BUSSELTON HOCKEY STADIUM CLUB INC. SELF SUPPORTING LOAN

STRATEGIC GOAL	1. COMMUNITY: Welcoming, friendly, healthy
STRATEGIC OBJECTIVE	1.3 A community with access to a range of cultural and art, social and recreational facilities and experiences.
SUBJECT INDEX	Busselton Hockey Stadium Club Inc. Self Supporting Loan
BUSINESS UNIT	Community Development
REPORTING OFFICER	Club Development Officer - Pam Glossop
AUTHORISING OFFICER	Director, Community and Commercial Services - Naomi Searle
NATURE OF DECISION	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Application Form for Busselton Hockey Stadium Inc. Lighting Upgrade

This item was considered by the Finance Committee at its meeting on 15 August 2019, the recommendations from which have been included in this report.

COUNCIL DECISION AND COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1908/161 Moved Councillor P Carter, seconded Councillor J McCallum

That the Council:

1. Subject to the assessment of the Club's Financial Statements, approve for the purposes of upgrading the lighting at the Busselton Hockey Stadium a self-supporting loan, to be internally funded, to the Club, for the amount of \$80,000 for a term of up to ten (10) years.
2. Authorises the CEO to enter into a Loan Repayment Agreement with the Busselton Hockey Stadium Club Inc. where:
 - a) The Club acknowledges it is responsible for reimbursement to the City of Busselton of full costs associated with the loan,
 - b) The Loan repayment calculations are on the basis of the prevailing Western Australian Treasury Corporation lending rate Including Government Guarantee Fee at the time of actual funding of the loan.
3. Authorises the CEO to enter into a Deed of Amendment providing that default in respect of the Loan Repayment Agreement could result in termination of the Lease.

CARRIED 8/0

EXECUTIVE SUMMARY

The Busselton Hockey Stadium Club Inc. (the Club) has applied to the City of Busselton for a self-supporting loan for \$80,000 for a term of 10 years, as part of the Club's contribution toward the Busselton Hockey Stadium lighting upgrade project.

BACKGROUND

The existing lighting at the Busselton Hockey stadium are halogen lights and considered obsolete and are very expensive and difficult to replace, if they are able to be sourced at all. They are also expensive to run and do not meet competition standard.

In February/March 2019 through the City's Club Development program, the Club was engaged to undertake a comprehensive strategic planning process. This was funded through a grant from the Department of Local Government, Sport and Cultural Industries Regional Every Club Funding. As an outcome, a key strategy was to upgrade the lighting at the stadium:

<i>Goal:</i>	<i>To develop and maintain quality facilities which allow hockey to grow</i>
<i>Strategy:</i>	<i>Upgrade of current light to meet state and national level lighting criteria</i>
<i>Outcome:</i>	<i>Community Bids application and Community Sports and Facility Fund (CSRFF) applications completed. Asset management plan completed.</i>
<i>When:</i>	<i>March 2020</i>
<i>Priority:</i>	<i>High</i>

The Club is systematically upgrading the Stadium. Stage 1 was to upgrade the score board with funding support through the City's Community Bids Program. Stage 2 was to replace the existing turf which was self-funded from the Club's own reserves and Stage 3 is to upgrade the lighting from halogen to LED to a lux of 500.

The Club actively seeks to attract hockey events to Busselton with the Australian Women's Masters being held in 2018 and the Australian Men's Masters scheduled for October 2019. The Club also hosted a Classic League game this season and is seeking to have this game as a regular fixture. The South West League competition (men's and women's) is played on a regular basis in Busselton.

OFFICER COMMENT

City Officers have been working closely with the Club over a long period of time to carefully plan for the future. The Club has a strategic plan which clearly articulates its strategies to grow the sport and this plan forms a part of the Club's Board meetings.

The lighting upgrade is considered to be of a high priority with the current lighting not meeting Australian Standards as well as being a financial drain on the Club due to the high running and replacement costs.

The lighting upgrade from halogen to LED 500 lux will allow the Club to schedule more night games from junior level through to National level. This will, in turn, increase the opportunity for participation on the artificial turf.

The Club has the option of upgrading lighting to LED 350 lux but this would not allow for any Classic League or State/National games to be played. Whilst this meets the standards for the South West Leagues Competition the preferred option would be to upgrade to LED 500 lux.

The quote for the works includes new cross arms which will take the load for extra globes. Four of the poles have been tested for integrity and considered to be safe with some minor maintenance to be undertaken. The Club has advised that the power supply for the lighting upgrade will not need to be upgraded.

Statutory Environment

The City's adopted 2019/20 budget has been compiled in accordance with Section 6.2 of the *Local Government Act 1995* and Part 3 of the *Local Government (Financial Management) Regulations 1996*. The budget includes an amount of up to \$150,000 to be provided to Community Groups during the year in the form of self-supporting Loans.

Relevant Plans and Policies

Council Policy 048 – Loans is applicable in offering the Club a Self-supporting Loan.

Financial Implications

The Club has been allocated \$59,000 through the City's Community Bids 2019 program and has applied to the Department of Local Government, Sport and Cultural Industries (DLGSC) for a grant of \$84,950 through the CSRFF.

The project cost breakdown is:

CSRFF:	\$84,950 (application to be considered by Council at its meeting on 14 August 2019)
Community Bids:	\$59,000 (endorsed by Council at its meeting on 31 July 2019)
Self-Supporting Loan:	\$80,000
Applicant cash:	\$30,901
Total project:	\$254,851

The 2019/2020 Municipal Budget includes provision for funding of self-supporting loans to the Community to a maximum of \$150,000. Accordingly, assuming this cap has not been met at the time this loan is to be drawn (if approved); then a formal advertising period and budget amendment would not be required.

The loan would be granted on the basis of the prevailing Western Australian Treasury Corporation (WATC) lending rate including Government Guarantee Fee at the time of actual Funding of the loan. The WATC have advised that the current borrowing rate for 5 years is 2.13% and 10 years is 2.40% (both inclusive of a 0.7% Government Guarantee Fee), noting that this rate is subject to change up until and including the day the loan is drawn down.

All interest and principal repayments would be formally agreed to prior to release of any funding.

Stakeholder Consultation

The City Officers have been consulting with the Club throughout this process.

Risk Assessment

The Club has provided its financial statements for 2017/18 and 2018/19. Whilst the cash contribution will leave little in their reserves, the Club is confident that it can meet its financial obligations as it has forecast a profit of \$25,000 from the Australian Men's Masters in October 2019 and will allow for the loan repayments in future budgets.

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.

Options

Should Council not approve the request from the Club, they may consider the following options:

1. Install LED lighting to 350 lux which will decrease the cost of the lighting upgrade by approximately \$70,000
2. Seek other funding or loan options
3. Not proceed with the upgrade

Officers can assist with the drafting of a suitable alternative motion if required.

CONCLUSION

The lighting upgrade is conditional on funding being approved through the City's Community Bids program (endorsed by Council on 31 July 2019), CSRFF and a self-supporting loan.

The Club is applying to upgrade field lighting from halogen to 500 lux. Should funding not be secured, the Club may consider upgrading to 350 lux.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should the request be approved, action will be taken immediately to implement the recommendations of the Council.

13.1 PROPOSED AMENDMENT 39 - LOT 201 SEYMOUR STREET AND LOT 202 BUSSELL HIGHWAY, BUSSELTON: ZONING RATIONALISATION AND REMOVAL OF SPECIAL PROVISION AREA No.33 FROM SCHEME

STRATEGIC GOAL	2. PLACE AND SPACES Vibrant, attractive, affordable
STRATEGIC OBJECTIVE	2.1 Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
SUBJECT INDEX	Local Planning Schemes and Amendments
BUSINESS UNIT	Strategic Planning
ACTIVITY UNIT	Strategic Planning
REPORTING OFFICER	Strategic Planner - Janine Eriksson
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Location Plan Attachment B Special Provision Area 33 Attachment C Endorsed Structure Plan Attachment D Scheme Amendment Map Attachment E Schedule of Submissions

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1908/162 Moved Councillor P Carter, seconded Councillor J McCallum

That the Council:

1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts Amendment 39 to the City of Busselton Local Planning Scheme 21 for final approval, for the purposes of:
 - a) Amending Schedule 3 – ‘Special Provision Areas’ by deleting Special Provision Area 33.
 - b) Re-coding Lot 202 Bussell Highway, West Busselton from ‘Residential R40/R60’ to ‘Residential R60’.
 - c) Re-coding Lot 201 Seymour Street, West Busselton from ‘Residential R40/R60’ to ‘Residential R40’.
 - d) Amending the Scheme Map accordingly.
2. Advises the Western Australian Planning Commission that the proposed Amendment is considered by Council to be a ‘standard amendment’ pursuant to the *Planning and Development (Local Planning Scheme) Regulations 2015*, for the following reasons:
 - a) It is an amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve.
 - b) It is an amendment that would have minimal impact on land in the Scheme area that is not the subject of the amendment.
 - c) It is an amendment that does not result in significant environmental, social, economic or governance impacts on land in the Scheme area.

3. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, endorses the Schedule of Submissions at Attachment E, which has been prepared in response to the public consultation process undertaken in relation to Amendment No. 39.
4. Upon preparation of the necessary documentation, refers the adopted Amendment No. 39 to the Western Australian Planning Commission for consideration and determination in accordance with the *Planning and Development Act 2005*.
5. Advises the Western Australian Planning Commission that, upon gazettal of Amendment 39, that Council will seek to revoke the outmoded Structure Plan shown at Attachment C.

CARRIED 8/0

EXECUTIVE SUMMARY

The Council is requested to consider adopting for final approval draft Scheme Amendment 39 to Local Planning Scheme No 21 (the Scheme). The Amendment proposes to remove 'Special Provision Area 33' (SP33) and replace the dual density coding of 'Residential R40/60' with 'Residential R40' on Lot 201 Seymour Street and 'Residential R60' on Lot 202 Bussell Highway. The Special Provisions are no longer considered relevant and the density rationalisations reflect an already approved Structure Plan.

The purpose of this report is to recommend to the Council that the Amendment be adopted for final approval and forwarded to the Western Australian Planning Commission (WAPC) for endorsement.

BACKGROUND

The subject land is located approximately 1.5 km west of the Busselton City Centre and is bounded by Bussell Highway to the north, Seymour Street to the south and abuts 'Residential R15' zoned lots to the east and west. The subject land comprising Lot 202 Bussell Highway (4,254m²) and Lot 201 Seymour Street (2,182m²) is vacant, predominantly cleared, and includes a remnant bitumen hard stand adjacent to Bussell Highway. A location plan and aerial is located at Attachment A.

The subject land was rezoned from 'Tourist' to 'Residential R40/60' with SP33 in 2009 to facilitate a grouped/multiple dwelling concept. The subject land historically included a motel on Lot 202 which was demolished in 2010 and that land has since remained vacant. SP33 under Schedule 3 of the Scheme (Attachment B) required preparation of a Structure Plan to coordinate development over the land and provide for a minimum of 60% of units for all residential development above R40 density being single bedroom dwellings, with a variation allowable in average and minimum site areas up to 5%. The landowner indicates that the single bedroom dwelling requirement has been an ongoing barrier to commercially feasible development and does not reflect the more recent demands of the local residential housing market.

The Structure Plan (Attachment C) was adopted by Council in 2010 designating R60 to the area now known as Lot 202 Bussell Highway, and R40 to Lot 201 Seymour Street (previously Lots 11, 25 and 41 Bussell Highway). The Structure Plan included provisions associated with lot amalgamation, density bonus, water management, access and amenity. The current (separate) landowners wish to develop the R60 and R40 sites independently (each has a separate street frontage) and request that the therefore outdated Structure Plan be revoked.

Numerous development applications have been approved over the subject land in accordance with the approved Structure Plan; however, no construction has occurred and these approvals have since expired. Lot 201 Seymour Street has Western Australian Planning Commission (WAPC) conditional approval for a survey strata subdivision, at a density of R40, which is valid until 18 October 2022.

The Amendment seeks to streamline the planning framework by removing SP33, and apply the residential densities of the approved Structure Plan into the Scheme as indicated on the Amendment Map at Attachment D.

OFFICER COMMENT

The Amendment has been assessed as being consistent with the Scheme and is considered to rationalise the current statutory planning framework over the subject land. The following matters are also of particular relevance in support of the Amendment.

Density

The proposal maintains the current 'Residential' zone and designates the existing dual density 'R40/60' code to specifically apply R60 to Lot 202 Bussell Highway and R40 to Lot 201 Seymour Street, West Busselton to reflect the approved Structure Plan.

Special Provision Area 33

Special Provision 33 (1) 'exempts' the need for WAPC approval of the related Structure Plan, is now contrary to the Regulations and should be removed from the Scheme. SP33 (2) required the preparation of a Structure Plan to guide a development concept for a minimum 60% of the units being provided as single bedroom dwellings (with a 5% density bonus available). Assessment has revealed that SP33 (2) and the associated Structure Plan provisions are effectively redundant as described below:

- The objective of the endorsed Structure Plan was to establish the density and design parameters for future development. Development approvals issued since 2010 demonstrate that the subject land can suitably accommodate densities as proposed. For example, the WAPC conditional survey strata subdivision approval over Lot 201 Seymour street enables an R40 site development concept.
- The endorsed Structure Plan also required amalgamation of the pre-existing lots (Lot 35, 11 and 41) prior to issuing a building licence. This has been satisfied, creating Lot 202 Bussell Highway and Lot 201 Seymour Street, which also reflect the Structure Plan density boundaries. The two lots are intended to be developed independently by separate landowners.
- Existing statutory controls do not normally require a stipulated ratio of single bedroom dwellings in 'Residential R60' areas and such a requirement is therefore contrary to the R-Codes.
- The endorsed Structure Plan special provisions that were developed to guide densities greater than R40 no longer have any benefit in terms of assessing future development applications or enabling viable commercial construction. The R-Codes, which have been reviewed since approval of the Structure Plan in 2010, would provide adequate guidance for appropriate residential development above the R40 density.

These matters also present sufficient grounds to support revocation of the currently endorsed Structure Plan by Council as both Lots 202 and 201 can be developed in an orderly and proper way in accordance with their respective residential zoning and accompanying site density. Therefore, it is recommended that the Structure Plan be revoked by the Council upon gazettal of this Amendment.

Statutory Environment

The key statutory environment is set out in the *Planning and Development Act 2005 (Act)*, the *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)* and the *City of Busselton Local Planning Scheme No. 21 (Scheme)*.

Planning and Development Act 2005 and Regulations 2015

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

The Regulations, which came into operational effect on 19 October 2015, identify three different levels of amendments – ‘basic’, ‘standard’ and ‘complex’. The resolution of the local government to initiate and finalise the amendment is to specify the ascertained level of the subject amendment and provide a brief explanation justifying this choice. The Amendment is considered to be a ‘standard’ amendment.

The Regulations provide separate processes for the approval of Scheme Amendments and Structure Plans. The Regulations provide the WAPC powers to revoke a Structure Plan should it consider that it cannot be effectively implemented. The status of the Structure Plan in this instance is reliant upon SP33. SP 33 (1) states that WAPC approval is not required for the Structure Plan. Given the specific wording of CI 28 (4) of the Regulations, it is not possible for the WAPC to revoke a structure plan it has not been required to approve. Therefore, a formal revocation of the Structure Plan by the WAPC is not required, and the Council is requested to revoke the existing Structure Plan upon endorsement and subsequent gazettal of this Amendment.

Local Planning Scheme No. 21

The proposal is consistent with the provisions of the ‘Residential’ zone as defined by the Scheme, which also adopts the standards to control the design of residential development established under the Residential Design Codes of Western Australia (R-Codes).

Relevant Plans and Policies**Draft Local Planning Strategy (2016)**

The Draft Local Planning Strategy (2016) (LPS) sets out the long-term planning direction for the City and identifies the subject land as an ‘urban consolidation’ area. The LPS actively supports this proposed form of development close to the Busselton City Centre. A desirable diversification in the types of housing choice, affordability and availability could also result from this Amendment.

Liveable Neighbourhoods (2009/draft 2015)

Liveable Neighbourhoods (2009) is WAPC adopted operational policy which guides structure planning and subdivision of new and infill urban areas. Liveable Neighbourhoods (2015) is a ‘seriously entertained’ draft policy that advocates for a variety of lot sizes and housing types to cater for the diverse housing needs of the community at a density that can ultimately support the provision of local services, such as recommended in this Amendment.

Financial Implications

There are considered to be no direct financial implications arising from the implementation of the Officer Recommendation.

Risk Assessment

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City’s risk assessment framework. The assessment identified ‘downside’ risks only, rather than upside risks as well. The implementation of the Officer Recommendation will involve adopting the Amendment for final approval and referral to the WAPC and Hon. Minister for Planning for final approval, and subsequent gazettal. In this regard, there are no significant risks identified.

Stakeholder Consultation

The Amendment was advertised for 42 days ending on 26 July 2019. No public submissions were received. Three agency responses were received, with no concerns raised. These have been summarised in the Schedule of Submissions provided at Attachment E.

Options

Should the Council not support the Officer Recommendation the Council could instead resolve:

1. To decline the request to adopt the Amendment for final approval in its entirety (and provide a reason for such a decision).
2. To seek further information before making a determination.
3. To adopt the Amendment for final approval subject to certain modification(s), as required to be fully explained.

Officer assessment has not revealed any substantive issue or reasonable grounds that would support any of these options.

CONCLUSION

Officers are of the view that the proposal is generally consistent with the aims and objectives of the State and local planning policy framework. City officers recommend that the Council resolves to adopt the Amendment for final approval and forward it to the WAPC for endorsement.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the Officer Recommendation will involve the referral of Amendment 39 and the Council resolution to the WAPC, with a request for final endorsement and gazettal. This will occur within one month of the decision date.

13.2 PROPOSED AMENDMENT NO. 37 AND ASSOCIATED STRUCTURE PLAN (BUSSELTON WETLANDS CONSERVATION STRATEGY) - LOT 7 (NO. 86) FORREST BEACH ROAD, WONNERUP

STRATEGIC GOAL	3. ENVIRONMENT Valued, conserved and enjoyed
STRATEGIC OBJECTIVE	3.2 Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.
SUBJECT INDEX	Local Planning Scheme 21 Amendments
BUSINESS UNIT	Strategic Planning
REPORTING OFFICER	Senior Strategic Planner - Helen Foulds
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
NATURE OF DECISION	Legislative: to adopt legislative documents e.g. local laws, local planning schemes, local planning policies
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Location Plan Attachment B Aerial Photograph Attachment C Scheme Amendment Map Attachment D Structure Plan Map Attachment E Determination of Wetland Boundaries Attachment F Summary of Submissions Attachment G Schedule of Modifications

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1908/163 Moved Councillor P Carter, seconded Councillor J McCallum

That the Council:

1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts Amendment No. 37 to the City of Busselton Local Planning Scheme No. 21 for final approval, in accordance with the modifications proposed in the 'Schedule of Modifications' shown at Attachment G, for the purposes of:
 - (a) Rezoning Lot 7 (No. 86) Forrest Beach Road, Wonnerup from 'Agriculture' zone to 'Conservation' zone, 'Reserve for Recreation' and 'Reserve for Public Purpose (Water Tank)';
 - (b) Amending the Scheme Map accordingly.
2. Advises the Western Australian Planning Commission that Amendment No. 37 is considered a 'standard' amendment pursuant to the *Planning and Development (Local Planning Scheme) Regulations 2015* for the following reasons:
 - (a) It is an amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve.
 - (b) It is an amendment that would have minimal impact on land in the Scheme area that is not the subject of the amendment.
 - (c) It is an amendment that does not result in significant environmental, social, economic or governance impacts on land in the Scheme area.
3. Adopts the draft Structure Plan for Lot 7 (No. 86) Forrest Beach Road, Wonnerup, depicted at Attachment D for final approval, pursuant to Part 4 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

4. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, endorses the Summary of Submissions at Attachment F, which has been prepared in response to the public consultation process undertaken in relation to Amendment No. 37 and the associated Structure Plan.
5. Upon preparation of the necessary documentation, refers the adopted Amendment No. 37 and the associated Structure Plan to the Western Australian Planning Commission for consideration and determination in accordance with the *Planning and Development Act 2005*.
6. Pursuant to r.56 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should directions be given that modifications to Amendment No. 37 and/or the associated Structure Plan are required, direct these modifications to be undertaken accordingly, on behalf of the Council, unless they are considered by Officers likely to significantly affect the purpose and intent of the Amendment, in which case the matter shall be formally referred back to the Council for assessment and determination.

CARRIED 8/0

EXECUTIVE SUMMARY

The Council is requested to consider adopting for final approval draft Amendment No. 37 to *Local Planning Scheme No. 21* (the Scheme). The Amendment would facilitate the rezoning of Lot 7 (No. 86) Forrest Beach, Wonnerup from 'Rural' to 'Conservation', 'Reserve for Recreation' and 'Reserve for Public Purpose (Water Tank)'.

The amendment includes an associated draft Structure Plan that would facilitate the future subdivision of the land into six lots, being broadly consistent with the voluntary conservation subdivision incentive afforded by the WA Planning Commission's Busselton Wetlands Conservation Strategy (BWCS).

The purpose of this report is to recommend to the Council that the subject proposals be adopted for final approval (in accordance with recommended modifications) and forwarded to the Western Australian Planning Commission (WAPC).

BACKGROUND

The subject land is located approximately 8km east of the Busselton City Centre and is 56 hectares in area. The site is bound by Forrest Beach Road to the north, agricultural land to the east and the existing Wonnerup Estuary foreshore reserve to the south and west. An existing dwelling and two outbuildings are located in proximity to Forrest Beach Road and the remainder of the property is generally cleared grazing land with scattered trees and wetland along the southern and western boundaries. A location plan and aerial photograph are provided at Attachments A and B, respectively.

The proposal comprises a Scheme Amendment and a draft Structure Plan that relate to the rezoning of Lot 7 Forrest Beach Road, Wonnerup from 'Rural' (previously titled the 'Agriculture' zone) to 'Conservation', 'Reserve for Recreation' and 'Reserve for Public Purpose (Water Tank)'. The Scheme Amendment map is provided at Attachment C. The proposal would facilitate the future subdivision of the subject land into six lots, including a large portion of the original landholding being reserved for recreation, consistent with the voluntary subdivision incentive available under the BWCS. Three rural lifestyle' properties would be created from this proposal.

The draft Structure Plan indicates the proposed lot layout and indicative building envelopes (Attachment D). A cluster of three lots, each being 2.0 ha in size, is located in the northern portion of the subject land, with direct access available from Forrest Beach Road. An area of 13.5 ha is proposed to be rezoned to 'Reserve for Recreation', with the Reserve purpose being for Environmental Conservation and a lot of 100m² will accommodate a strategic fire-fighting tank.

The remainder of the original lot, being 37.58 ha, will contain the existing residence, outbuildings and continued agricultural activity (cattle grazing).

The area of the subject land that is classified as the Quindalup Very Wet Saline Flats soil type, plus a minimum 30m buffer (incorporating the Quindalup Wet Flats soil type), and additional low-lying land is designated for conservation purposes and will be ceded to the Crown as part of the subdivision process. The purpose of the 30m buffer is to include a soil type that will provide a degree of nutrient absorption for more nutrient-intensive land uses adjacent to the Quindalup Wet or Very Wet soil types. The reserve will be fenced and managed in the future by the Department of Biodiversity, Conservation and Attractions (DBCA), which has provided written agreement for the proposed reserve alignment. This boundary alignment is illustrated by the Scheme Amendment map and the draft Structure Plan that form Attachments C and D.

The following information has been provided to support the proposal:

- Bushfire Management Plan;
- Determination of Wetland Boundaries

Bushfire Management Plan

The subject land is designated 'bushfire prone' on the State Map of Bushfire Prone Areas. In response, a Bushfire Management Plan (BMP) has been prepared for the proposal by a suitably qualified fire consultant in accordance with the WAPC *State Planning Policy 3.7 – Planning in Bushfire Prone Areas 2015/Guidelines for Planning in Bushfire Prone Areas 2017*.

The key findings of the BMP are summarised as follows –

1. All proposed development can achieve a BAL of 29 or lower.
2. The majority of the area within the site is categorized as 'Grassland', with small pockets of native vegetation, posing a Moderate bushfire risk.
3. The managed grassland/gardens in proximity to existing or proposed dwellings shall be maintained at a low-fuel state and therefore will pose a Low bushfire hazard.
4. A series of internal firebreaks are to be provided within the subdivision.

The Bushfire Management Plan has been updated in line with comments by the Department of Fire and Emergency Services (DFES) during the consultation period.

Determination of Wetland Boundaries

A consultant engaged by the proponent has determined the alignment of the Quindalup Very Wet Saline Flats soil type and a line 30 metres beyond that alignment, into the subject property, as per the criteria listed in the BWCS. The mapping produced by this assessment is provided as Attachment E.

The wetland at the property has been defined using the following combination of layers:

1. High resolution aerial photography to define the boundary of hydric soils – the hydric soils are easily identified by the darker, smoother shading pattern resulting from seasonal inundation and the typical samphire vegetation layer; and
2. Mapping the 'Quindalup Very Wet Saline Flats' layer – this soil unit occurs in low-lying depressions which are seasonally inundated during winter months and saline in summer.

The consultant found that the above layers corresponded with relative accuracy (± 30 metres). Further discussion on the determination of the proposed Reserve boundary is provided in the Officer Comment below.

OFFICER COMMENT

The proposed rezoning framework would facilitate the subdivision of the land generally in accordance with the voluntary conservation incentive available under the BWCS. The proposal has been assessed as being generally consistent with the relevant State and local planning policy and statutory framework and would deliver significant environmental benefits consistent with the objectives and desirable outcomes of the BWCS and the Local Rural Planning Strategy (LRPS).

There are a number of matters that have been considered in the assessment of the proposal. These matters relate to:

- the proposed lot ratio;
- determination of the Reserve boundary;
- the continuation of the current use of the land as it relates to the proposed zoning framework and nutrient management;
- the requirement for a Wetland Revegetation Plan; and
- drainage.

These elements are detailed below.

Lot Ratio

The Amendment is broadly consistent with the subdivision incentive of the BWCS, but does propose a variation to the recommended lot ratio of one additional lot per 20 hectares to a maximum of 5 additional lots. As Lot 7 has a total area of 56.02 hectares, a strict interpretation of the BWCS would therefore limit any additional lots to 2 (as potential for an additional 2.8 lots would be calculated under the Strategy). A discrepancy of 0.2 in the lot calculation is considered to be justified by the provision of a demonstrable environmental benefit. Therefore, an additional lot is proposed, totalling 4 lots after subdivision, including the balance lot (note that this calculation does not need to include the proposed reserve and 'water tank' lot).

The environmental benefit is proposed by ceding a total 13.5 ha of land to Reserve, where a strict interpretation of the BWCS would otherwise result in a 9.90 ha Reserve. This larger area has been derived in consultation with officers at DBCA and based on the BWCS criteria of a 30m minimum setback from the Quindalup Very Wet Saline Flats soil type and incorporating remnant vegetation. The boundary also encompasses a portion of fringing wetland not mapped as Quindalup Very Wet Saline Flats and follows an alignment that should be easily fenced without regularly crossing water flow path depressions.

The proposed Reserve boundary increases the 'buffer' between the grazing of livestock and the estuarine wetland system, thereby reducing any negative environmental impacts caused by the ongoing use of the land for grazing that the incentives for limited subdivision available under the BWCS attempt to mitigate. The 'island' of trees in the south-west corner of the property would also offer additional environmental consolidation and conservation enhancement opportunities in an environmentally sensitive part of the landholding were it to be also incorporated within the fenced wetland reservation area, as is now proposed.

This increase in the wetland reservation area will further benefit the highly important estuarine wetland system and more closely reflect the stated intentions and purpose of the subdivision incentive written into the BWCS.

Determination of Reserve Boundary

Further to the abovementioned additional area applied to the proposed wetland reserve (the 'island' of trees), a minor variation to the 30 metre buffer criteria under the BWCS is recommended.

A strip of Quindalup Very Wet Saline Flats soil type runs across the northern portion of the property, roughly parallel to the Forrest Beach Road alignment. This area of the land has been heavily modified over the previous decades and, due to its location, DBCA has acknowledged that it is unlikely to be set aside as wetland reserve, but would remain in freehold with other protections outlined in the BWCS. The proposed Scheme Amendment identifies this portion of the subject land as being rezoned from 'Rural' to 'Conservation' rather than 'Reserve for Recreation' and it is also where the proposed new lots have been concentrated due to the ease of servicing and access, being directly adjacent to Forrest Beach Road.

Near to the existing residence the consultant's assessment on the determination of wetland boundaries identified the 30 metre minimum setback line from the Quindalup Very Wet Saline Flats soils as encroaching over one of the outbuildings. Preliminary DBCA mapping in this area identifies an acceptable Reserve alignment that does not encroach on the buildings and allows for access to the grazing area of the proposed balance lot. This alignment represents a balanced, yet more practical outcome for the ongoing use of the land.

Current Use of the Land

The land is currently used for the grazing of cattle, which meets the definition of 'Agriculture – Extensive' under the Scheme. 'Agriculture – Extensive' is a 'P' use (i.e. a use that is permitted) within the Rural zone and a 'D' use (i.e. a use that requires development approval) within the Conservation zone. This aspect is not considered to be an impediment to the proposal being supported.

Both the BWCS and the LRPS recognise the historic, economic and social importance of rural activities in this area. Both policy documents also support the continuation of agricultural and rural activities in a sustainable manner, in conjunction with conserving the landscape and ecological values of the Busselton wetlands.

The BWCS suggests that any continuation of grazing and pasture production activities should be carried out in a sustainable manner without adverse effects on the adjoining wetlands. Given the high nutrient-producing nature of cattle grazing, nutrient management should be a key consideration in the ongoing use of the land for this purpose. For this reason the draft Structure Plan includes a condition requiring this concern being satisfactorily addressed through the preparation and implementation of a Nutrient Management Plan.

Wetland Revegetation Plan

One criterion of the BWCS subdivision incentive requirements is for the revegetation and enhancement of appropriate locations adjoining the wetlands. Given that revegetation of the large area of wetland to be ceded as Reserve may be an onerous task, there is instead potential for

targeted nodal areas to be revegetated. These areas would provide habitat and a seed source for natural regeneration, and/or can be reinforced through future revegetation efforts. This requirement is recommended as a condition of the Structure Plan, to be completed at the time of subdivision and as such has been included within the Schedule of Modifications.

Drainage

The man-made lake that exists on the property was created by a previous landowner to essentially provide water for stock. The current landowner has since installed water troughs for this purpose. After experiencing issues with mosquito breeding within the man-made lake area, and following advice from authorities, the landowner has commenced filling this area.

With the excavation for the lake and the subsequent filling in of the lake, the topography and hydrogeology of the land may have been altered. This could have potentially changed the hydraulic regime and overland flow paths and it is important that these have not been significantly altered such that they have an adverse impact on the proposed new allotments.

The proponent has advised that, although low lying, the remainder of the property is generally not subject to inundation, with relatively well draining soils as well as natural drainage channels installed by the previous owners.

The Department of Water and Environmental Regulation has been consulted on the proposal and advised that they have no objections to the Amendment and Structure Plan applications proceeding. The principles of Better Urban Water Management are expected to be applied to any subsequent planning stages, such as subdivision and development.

Statutory Environment

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

The key elements of the statutory environment with respect to this proposal are set out in the *Planning and Development Act 2005*, the *Planning and Development (Local Planning Schemes) Regulations 2015* and the relevant objectives, policies and provisions of the *City of Busselton Local Planning Scheme No. 21*. Each is discussed below under appropriate subheadings.

Planning and Development Act 2005

The *Planning and Development Act 2005* outlines the relevant considerations when preparing and amending local planning schemes. The relevant provisions of the Act have been taken into account in preparing and processing this Amendment.

Planning and Development (Local Planning Schemes) Regulations 2015

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

The Regulations provide separate processes for the approval of Scheme amendments and structure plans, adherence to which would advance the draft Structure Plan ahead of the Amendment. However, as the Structure Plan is reliant upon the change in zoning proposed in the Amendment and the nature of the proposal supports their assessment in parallel, the Structure Plan and Amendment are being progressed concurrently. Progression of the draft Structure Plan will therefore assume the process and timeframes associated with the Amendment.

Local Planning Scheme No. 21

The property is currently zoned 'Rural' and is located within the 'Landscape Value', 'Wetland' and 'Floodway' Areas under the Scheme.

Amendment No. 37 was initiated by the Council prior to the gazettal of Scheme Amendment No. 29, which modified the title of the zone from 'Agriculture' to 'Rural', in line with the Regulations. As such, the amending text and the Council Resolution should continue to reference the previous zone title ('Agriculture') and the Schedule of Modifications recommend the appropriate modification to the documents.

The Landscape Value Area requires development to be compatible with the maintenance and enhancement of the existing rural and scenic character of the locality.

The Scheme discourages development within the Wetland and Floodway Areas and establishes criteria for consideration of any potential development. All of the land designated as being within the Wetland Area, and the vast majority of the land designated as within the Floodway Area, is proposed to be ceded as Reserve and recommended to be amalgamated into the adjoining Crown Reserve managed by the Western Australian Conservation and Park Commission.

The proposal is considered to be consistent with the relevant provisions relating to the zoning of the subject land under the Scheme.

Relevant Plans and Policies

The key policies relevant to the proposal are:

1. *State Planning Policy 3.7: Planning for Bushfire Management and Guidelines for Planning in Bushfire Prone Areas;*
2. *Draft City of Busselton Local Planning Strategy;*
3. *Local Rural Planning Strategy; and*
4. *Busselton Wetlands Conservation Strategy.*

Each is addressed below under appropriate subheadings.

State Planning Policy 3.7: Planning for Bushfire Management and Guidelines for Planning in Bushfire Prone Areas

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

The four elements of the Guidelines are:

- Element 1: Location – to ensure that the subdivision, development or land use is located in areas with the least possible risk from bushfire, to help minimise risk to people, property and infrastructure.

- Element 2: Siting and Design of Development – to ensure that the siting of development minimises the level of bushfire impact. The BMP provided in support of the proposal suggests that bush fire risk to future development can be managed to an acceptable level.
- Element 3: Vehicle Access – to ensure that residents and the community, as well as emergency services, have safe access and egress from both the subdivision and individual houses/development.
- Element 4: Water – ensures adequate water is available to defend against a bushfire.

The revised BMP finds that the subject land is suitable for subdivision and development in the manner proposed and is consistent with SPP 3.7 and the associated Guidelines.

Draft City of Busselton Local Planning Strategy

The draft LPS sets the long-term planning direction for the whole of the District of the City of Busselton and provides the strategic rationale for decisions related to the progressive review and amendment of the Scheme.

A relevant strategy of the draft LPS is to support the rationalisation and expansion of the reservation and management of land along the coast and adjacent to waterways, especially around the Vasse River, Vasse-Wonnerup Estuary, New River, Broadwater, Toby Inlet and linking wetlands.

The draft LPS was adopted for final approval by the Council in September 2016 and is currently pending endorsement by the WAPC, following the endorsement and publication of the Leeuwin-Naturaliste Sub-regional Strategy in May 2019.

Local Rural Planning Strategy (LRPS)

The property is located in Precinct 2 of the LRPS and identified as 'Rural Wetlands'. There is a general presumption against subdivision in this area, except where provided for in the BWCS. Subdivision in these areas is to provide for the vesting of significant wetland foreshore reserves, retention of agricultural capacity and protection of natural and rural landscape values.

Busselton Wetlands Conservation Strategy (BWCS)

The BWCS comprises the planning framework for the sustainable land use and management of the environmental values of the Busselton wetlands. The Strategy has been endorsed by the WA Planning Commission.

The property is identified in the BWCS as 'Rural and Wetland Amenity Area' and within the 'Wetland Amenity Line'. The main purpose of the 'Rural and Wetland Amenity Area' is to define the area where future development of intensive agriculture and development of lifestyle lots would be inconsistent with the conservation objectives of the Strategy, and should not occur. The Strategy supports continuation of broad-acre farming within the 'Rural and Wetland Amenity Area' in accordance with the Department of Primary Industries and Regional Development's (Agriculture and Food) *Guidelines for Management of Farmland Adjacent to the Busselton Wetlands* (2002).

The BWCS provides the ability for land identified as partly or entirely 'Rural Wetland Amenity' to be subdivided at a ratio of one additional lot per 20ha, to a maximum of 5 additional lots, subject to meeting a number of criteria including:

- A conservation, landscape and foreshore protection reserve is to be ceded extending at least 30m from the Quindalup Very Wet Saline Flats;

- Land retained in private ownership being rezoned to 'Conservation' and protected by conservation covenants to ensure the perpetual maintenance of conservation and landscape values;
- Subdivision shall be in a clustered form;
- The rural clustered lots shall be within the range of 1 to 2ha, with the possibility for lots below 1ha where justified;
- Proposed lots should not be located in a 'Rural Wetland Amenity' area, where possible;
- Revegetation with local native species and enhancing appropriate locations adjoining the wetlands;
- Not detracting from the ongoing viability of the balance of the lot for long-term agricultural uses;
- Not detracting from scenic value; and
- Ensuring provision of adequate measures for fencing, emergency access and bushfire protection without burdening the values and management of the wetlands.

The amendment is broadly consistent with the subdivision incentive of the BWCS but does propose a variation to the recommended lot ratio. This has previously been discussed under the 'Officer Comment' section.

The BWCS supports the continuation of agricultural and rural activities in conjunction with conserving the landscape and natural values of the Busselton wetlands. Continuation of grazing and pasture production activities should be carried out in a sustainable manner without adverse effects on the adjoining wetlands. The current land use could be considered to be reasonably intensive and nutrient management should be a key consideration in the ongoing use of the land for this purpose.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

The Amendment and Structure Plan were advertised for 42 days ending 29 May 2019. Whilst no public submissions were received, eight government agency submissions were received. A Summary of Submissions is provided at Attachment F.

The most substantive matters were raised by DBCA and were in relation to the manner in which the Reserve is ceded and the provision of a revegetation plan. DBCA has recommended that the ceded land be amalgamated into the adjoining Reserve, which is vested in the Western Australian Conservation and Parks Commission for the purposes of "conservation for flora and fauna". The DBCA submission has also recommended revegetation take place. The Officer assessment supports the inclusion of these modifications and they are therefore provided within the recommended Schedule of Modifications at Attachment G.

DFES recommended further clarification be provided on two vegetation classifications contained within the BMP. This work has been completed and a final version of the BMP resubmitted and supported by DFES. There are no modifications required to the Amendment or Structure Plan documentation as a result of the changes to the BMP, however, the Schedule of Modifications includes a recommendation to incorporate the revised approved BMP document into the Structure Plan Report.

Risk Assessment

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

The implementation of the Officer Recommendation will involve adopting the Amendment and the related Structure Plan for final approval and referral to the Western Australian Planning Commission and Minister for Planning for final approval.

No such risks have been identified.

Options

As an alternative to the proposed recommendation the Council could decide:

1. To not adopt the Amendment and Structure Plan for final approval (and provide a reason for such a decision). It should be noted that under the relevant legislation there is no right of appeal against a Council decision not to adopt an amendment for final approval.
2. To seek further information before making a decision.

Officer assessments have not revealed any substantive issue or reasonable grounds that would support either of the above options.

CONCLUSION

As a result of the assessment detailed above, City officers recommend that the Council provides a recommendation to the Western Australian Planning Commission to support the proposed Amendment and Structure Plan subject to the following modifications (as detailed in the Schedule of Modifications provided at Attachment G):

1. That an additional condition is included within Part One of the Structure Plan Report requiring that a Revegetation Plan be submitted, approved and implemented at the subdivision stage for the land that is to be ceded as Reserve. Given the extensive area of proposed reserve shown on the structure plan, 'nodal revegetation' is recommended to enhance existing vegetation.
2. That the Structure Plan Map be modified to identify the Reserve purpose as "Conservation of Flora and Fauna" and an additional condition be included within Part One of the Structure Plan Report requiring that the ceded land be amalgamated into the adjoining Crown Reserve 44838 and vested with the Western Australian Conservation and Parks Commission for the purpose of "conservation of flora and fauna".
3. That Appendix Two of the Structure Plan Report be updated in accordance with the Bushfire Management Plan approved by the Department of Fire and Emergency Services.

4. That the Amendment Document and Structure Plan Report be modified where appropriate such that the 'Agriculture' zone is instead identified as the 'Rural' zone, consistent with Local Planning Scheme No. 21.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the Officer Recommendation will involve the referral of Amendment 37 and the Structure Plan to the Western Australian Planning Commission for final approval and this will occur within one month of the resolution.

16.1 REVIEW OF CORPORATE ATTIRE ENTITLEMENTS

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Governance
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Nil

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1908/164 Moved Councillor P Carter, seconded Councillor J McCallum

That the Council adopt the following to replace clauses 5.25, 5.26, 5.27 and 5.28 of the Council Policy 'Fees Allowances and Expenses for Elected Members':

- 5.25** Upon election or re-election, Elected Members will within the first year of their term be entitled to the following business attire, up to a value of \$750:
- Business suit (male – 2 pairs of trousers and 1 jacket); or
 - Business suit (female – 2 skirts, dresses or pants and 1 jacket); and
 - Business shirt / blouse – 3;
 - Business tie / scarf – 1; and
 - Business shoes – 1 pair.
- 5.26** Additionally, upon election or re-election Elected Members will be entitled to the following corporate attire:
- Corporate (City branded) casual / light weight fleecy jacket – 1
 - Corporate (City branded) polo top – 1
 - Corporate (City branded) tie / scarf – 1
- 5.27** In years two, three and four of their term Elected Members will be entitled to reimbursement of costs associated with the dry cleaning, maintenance and / or replacement of business attire, up to a value of \$250 per annum.
- 5.28** All items of business attire which are City branded should be returned to the City on expiry of office.

CARRIED 8/0

EXECUTIVE SUMMARY

This report presents and seeks Council's adoption of revised entitlements in relation to Elected Member corporate attire, with the proposed entitlements to be incorporated into the Council Policy - Fees Allowances and Expenses for Elected Members (the Policy), replacing clauses 5.25, 5.26, 5.27 and 5.28 of the Policy.

BACKGROUND

The Policy was updated in October 2018 to provide for improved clarity in relation to childcare reimbursements, travel reimbursements and reimbursements while Elected Members are away from home on sanctioned activities.

Officers additionally recommended some changes to corporate attire entitlements however Council resolved not to adopt those changes and to instead refer the relevant paragraphs of the Policy (5.25, 5.26, 5.27 and 5.28 of Attachment A) back to the Policy and Legislation Committee for further discussion. At that point in time the Policy provided Elected Members with a range of branded corporate attire (with City logo) on being elected and an additional amount of \$750 per annum for the purchase of business attire for each year of the election term.

After reviewing the policies of other local governments with more limited corporate / business attire entitlements (namely City of Stirling, City of Joondalup, City of Bunbury, Shire of Capel and Shire of Augusta-Margaret River) the Committee requested at its meeting on 23 October 2018 that officers table for Council's consideration the following amended provisions:

- 5.25 Upon election or re-election, Elected Members will be entitled to the following business attire:
 - a. Business suit (male – 2 x Trousers and 1 x Jacket)
 - b. Business suit (female – 2 x Skirt/Dress/Pant and 1 x Jacket)
 - c. Business shirt / blouse – x 3
 - d. Corporate (City branded) casual / light weight fleecy jacket – x 1
 - e. Corporate (City branded) polo top – x 1
 - f. Corporate (City branded) tie / scarf – x 1
 - g. Business shoes – x 1 pair (up to a value of \$150)
- 5.26 Elected Members will be reimbursed reasonable costs associated with the dry cleaning and maintenance of issued business attire.
- 5.27 With the exception of business shoes, all items of business attire must be purchased from the City's approved provider.
- 5.28 All items of business attire which are branded with the City of Busselton's logo should be returned to the City on expiry of office

The amendments were approved by Council at its Ordinary Council meeting on 12 December 2018 (C1812/260), effective 1 July 2019. With the new provisions having come into force, questions have arisen with regards to the flexibility and clarity of the provisions. The provisions were further discussed with the Policy and Legislation Committee at its meeting on 13 August 2019, the outcomes of which are now presented to Council.

OFFICER COMMENT

The current policy provisions reflect a desire and a decision by Council to ensure a financially responsible approach to the provision of corporate / business attire for Elected Members. On reflection however the current policy provisions do not adequately allow for the level of attendance by Elected Members at formal meetings, functions and events, providing only one business suit and three shirts every four years. Additionally, the requirement to purchase all business attire from the City's approved provider, while intended at the time to streamline procurement, is not practicable given the diversity of Elected Member requirements.

Therefore it is proposed that all items of non-City branded attire be purchased individually by Elected Members upon election or re-election (within the first year of their term), up to a total value of \$750. Additionally, it is proposed that an amount of \$250 per annum be available for the dry cleaning, maintenance and / or replacement of such items in an Elected Member's second, third and fourth year of their term. This will ensure that Elected Members are able to adequately 'up-keep' their business attire.

If the officer recommendation is supported, it is proposed that the new provisions come into effect immediately, with \$250 being made available to current Elected Members for the remainder of the term year (that is until October 2019 elections).

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 the recommendation of a Committee it has established in accordance with Section 5.8 of that Act.

Section 5.98(2)(b) of the Act and Regulation 32 of the *Local Government (Administration) Regulations 1996* provides that a Council member may be reimbursed for an expense of a kind prescribed where it has been approved by the local government and where it is incurred in performing a function in his or her capacity as a council member with the express authority of the local government.

Relevant Plans and Policies

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

Financial Implications

Adoption of the officer recommendation is not expected to result in significant cost increases, or impact on the City's annual budget provision.

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. Decide not to adopt the proposed amendments
2. Decide to propose alternative or further amendments.

CONCLUSION

Following discussion at the 13 August Policy and Legislation Committee meeting, amendments are proposed in relation to Elected Member corporate attire expenses, with clauses 5.25, 5.26, 5.27 and 5.28 of the Policy being replaced as proposed in the officer recommendation. These amendments maintain a financially responsible approach (representing a significant reduction from previous entitlements of \$750 per annum) but also provide Elected Members with the ability to purchase attire suitable for the performance of their functions.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If adopted the Policy would be amended immediately.

17.1 COUNCILLORS' INFORMATION BULLETIN

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Councillors' Information Bulletin
BUSINESS UNIT	Governance Services
REPORTING OFFICER	Executive Assistant to Council - Katie Banks
AUTHORISING OFFICER	Chief Executive Officer - Mike Archer
NATURE OF DECISION	Noting: the item does not require a decision of Council and is simply for information purposes and noting
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Nil

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1908/165 Moved Councillor P Carter, seconded Councillor J McCallum

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

- **17.1.1 Recent Correspondence**
- **17.1.2 Current Active Tenders**

CARRIED 8/0

EXECUTIVE SUMMARY

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

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

INFORMATION BULLETIN**17.1.1 Recent Correspondence**5 July 2019 – Invitation to Provide a Written Submission to the Climate Health WA Inquiry

Information about the Inquiry, including the Terms of Reference and how to make a submission is available from the Inquiry website at: www.health.wa.gov.au/climatehealthwa

8 July 2019 – Aboriginal Place Name Initiative

Correspondence in relation to the Aboriginal Name Place Initiative has been received from Hon Ben Wyatt MLA Minister for Aboriginal Affairs and Hon David Templeman MLA Minister for Local Government.

19 July 2019 – Regional Capitals Australia

Correspondence from Regional Capitals Australia has been received, thanking the City of Busselton for its membership in the 2018/19 year. Information relating to RCA's achievements over the past 12 months is available from the RCA website: <https://regionalcapitalsaustralia.org/>

26 July 2019 – Ongoing Development of a Western Australian Youth Strategy

Hon Peter Tinley AM MLA Minister for Youth has provided an update on the ongoing development of a Western Australian Youth Strategy.

Hard copies of the abovementioned correspondence are available to view upon request.

17.1.2 Current Active Tenders**2018/2019 TENDERS****PQS01/19 PLANT AND EQUIPMENT HIRE – REQUEST FOR APPLICATIONS TO JOIN A PANEL OF PRE-QUALIFIED SUPPLIERS**

- The PQS was advertised on 9 February 2019 until 7 March 2019, then further extended until 14 March 2019. A further State wide advertisement providing notification of the extension was provided by the City on 9 March 2019.
- 30 submissions were received.
- In accordance with delegation LG3M the CEO has authority to establish the panel and to decide which applications to accept.
- The panel of pre-qualified suppliers has been approved by the CEO and it is anticipated that panel contracts will be awarded in August 2019.

RFT06/19 DESIGN, SUPPLY AND INSTALLATION OF BIRD NETTING OVER STORM WATER RETENTION BASIN

- The RFT was advertised on 22 May 2019 with a closing date of 12 June 2019.
- Four submissions were received.
- The value of the contract is not expected to exceed the CEO's delegated authority under Delegation LG3J.
- It is anticipated that the contract will be awarded in August 2019.

RFT07/19 ARBORICULTURE SERVICES

- The RFT was advertised on 15 June 2019 with a closing date of 5 July 2019.
- Five submissions were received.
- At the Council meeting on 31 July 2019 Council endorsed the recommendation that Finebrand Pty Ltd ATF The Guy Badger Family Trust T/A Arbor Guy was the most advantageous tender submission for the City. Council delegated power and authority to the CEO to:
 - negotiate and agree with the Preferred Tenderers variations in accordance with Regulations 20 and 21A of the *Local Government (Functions and General) Regulations 1996* subject to such variations not to exceed the overall project budget;
 - negotiate and agree with the Preferred Tenderer the final terms and conditions of the contract (including rates/contract prices); and
 - enter into contracts with the Preferred Tenderer for supply of the relevant goods and services.
- It is anticipated that a contract will be awarded in August 2019.

RFT09/19 BUSSELTON JETTY TOURIST PARK MANAGEMENT CONTRACT

- The RFT was advertised on 22 June 2019 with a closing date of 12 July 2019.
- The closing date was extended to 19 July 2019.
- Three submissions were received.
- The value of the contract is expected to exceed the CEO's delegated authority under Delegation LG3J and will require Council approval.
- A recommendation report is included in the Council Agenda 27 August 2019.

RFT10/19 SUPPLY AND INSTALLATION OF REUSABLE DAILY COVER SYSTEM FOR LANDFILL

- The RFT was advertised on 6 July 2019 with a closing date of 30 July 2019.
- Two submissions were received.
- The value of the contract is not expected to exceed the CEO's delegated authority under Delegation LG3J.
- It is anticipated the contract will be awarded in August 2019.

RFT11/19 ROAD NETWORK UPGRADE – CITY CENTRE EASTERN LINK STAGES 1 + 2A + 2B

- The RFT was advertised on 13 July 2019 with a closing date of 13 August 2019, and further extended until 20 August 2019.
- The value of the contract is expected to exceed the CEO's delegated authority under Delegation LG3J and will require Council approval.

RFT13/19 CONTAMINATED SITE REMEDIATION ADVICE

- The RFT was advertised on 3 August 2019 with a closing date of 27 August 2019.
- The value of the contract is not expected to exceed the CEO's delegated authority under Delegation LG3J.

ADOPTION BY EXCEPTION RESOLUTION, REQUIRING ABSOLUTE MAJORITY

At this juncture the Presiding Member, with permission of Councillors, moved the items requiring an absolute majority en bloc, i.e. all together.

COUNCIL DECISION AND COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1908/166 Moved Councillor P Carter, seconded Councillor R Reekie

That the Committee Recommendations in relation to Items 12.3, 12.5, 12.7 and 12.8 and the Officer Recommendation in relation to Item 15.1 requiring adoption by absolute majority be carried en bloc:

- 12.3 Policy and Legislation Committee - 13/08/2019 - REVIEW OF DUST AND BUILDING WASTE CONTROL LOCAL LAW**
- 12.5 Policy and Legislation Committee – 13/08/2019 – ANNUAL STATUTORY REVIEW OF DELEGATIONS**
- 12.7 Finance Committee - 15/08/2019 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 30 JUNE 2019**
- 12.8 Finance Committee - 15/08/2019 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 JULY 2019**
- 15.1 BUSSELTON JETTY TOURIST PARK MANAGEMENT CONTRACT TENDER**

CARRIED 8/0

BY ABSOLUTE MAJORITY

12.3 Policy and Legislation Committee - 05/08/2019 - REVIEW OF DUST AND BUILDING WASTE CONTROL LOCAL LAW

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Local Laws
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Legal Officer - Briony McGinty
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Legislative: to adopt legislative documents e.g. local laws, local planning schemes, local planning policies
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Attachment A Dust and Building Waste Control Local Law

This item was considered by the Policy and Legislation Committee at its meeting on 13 August 2019, the recommendations from which have been included in this report.

COUNCIL DECISION AND COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1908/167 Moved Councillor P Carter, seconded Councillor R Reekie

That the Council:

1. has considered the information and advice in this report; and
2. determines that that no repeal or amendment to the *Dust and Building Waste Control Local Law* is required; and
3. determines the *Dust and Building Waste Control Local Law* should continue in operation.

CARRIED 8/0

BY ABSOLUTE MAJORITY

Question on Notice: Clarification to be provided to the Committee in regards to the continuing use of Shire throughout the Local Law and whether this causes any impediments to the taking of action under the Local Law and specifically in relation to clause 1.4, and also in regards to the year of the Local Law in the title versus clause 1.1. The Committee also seeks information as to the amount of infringements issued and prosecutions undertaken in relation to the Local Law.

EXECUTIVE SUMMARY

The Local Government Act ("the Act") provides that a local government may make local laws, and that any local laws made are reviewed every 8 years. The City's *Dust and Building Waste Control Local Law* ("Dust Local Law") is currently due for review. This report considers whether the Dust Local Law should be amended, repealed or continue in operation and recommends that the Dust Local Law continue in operation in its current form.

BACKGROUND

Section 3.16 of the Act requires that a local government must review its local laws every 8 years. The Dust Local Law was first gazetted on 24 February 2010 and came into operation 14 days later.

The Dust Local Law deals with dust (defined to include sand) and building waste. It imposes requirements in relation to stabilising dust and ensuring dust does not escape. Further, building waste must be contained within an approved receptacle. Offences are created for, for example, loads escaping from vehicles that are leaving dust generating developments and building sites.

Certain dust generating developments (including extractive industries) require dust management plans. Notices to cease activity are also provided for.

Since its inception in 2010 no deficiencies with regard to the operation of the Dust Local Law have been identified. Working group meetings with key officers of the City have been held regarding the operation of the local law, and no recommendation to amend or repeal the local law resulted.

The review of the Dust Local Law has also been advertised publicly with no submissions being received.

OFFICER COMMENT

Whilst the management of dust issues associated with, for example, subdivision and extractive industries continues to be an issue within the district, the regulatory mechanisms with which to manage those issues are considered adequate and appropriate.

The Dust Local Law is achieving the purpose for which it was made, and should be retained without amendment.

Statutory Environment

The Dust Local Law is made under powers conferred by the Act and the *Waste Avoidance and Resource Recovery Act 2007* ("the WARR Act"). The procedure for making local laws is set out in Section 3.12 of the Act and regulation 3 of the Local Government (Functions and General) Regulations 1996.

Further, section 3.16 of the Act requires that every 8 years a local law is to be reviewed to determine whether or not the local government considers that it should be repealed or amended.

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

The Dust Local Law was advertised publicly in both local and state-wide newspapers for a minimum of 6 weeks in accordance with the requirements under section 3.16(2) of the Act. No public submissions have been received.

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

Alternatively, the Council could chose to repeal or amend the Dust Local Law in any number of ways. Any amendment would require drafting, advertising, and statutory procedure requirements (for example, letters to Ministers, approval and liaison with the Director General of the Department of Water and Environmental Regulation, gazettal and preparation of a compilation local law). Officers can assist with the drafting of a suitable alternative motion if required.

CONCLUSION

The statutory review process has been effectively and efficiently undertaken. No material issues have been identified. Accordingly, it is recommended that the Dust Local Law continue in operation in its current form.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If the recommended course of action is taken, no further implementation is required.

12.5 ANNUAL STATUTORY REVIEW OF DELEGATIONS

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Authorised Delegation of Power/Authority
BUSINESS UNIT	Governance Services
REPORTING OFFICER	Governance Coordinator - Emma Heys
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Legislative: to adopt legislative documents e.g. local laws, local planning schemes, local planning policies
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	<p>Attachment A DA 1 - 01 Issuing Notices</p> <p>Attachment B DA 1 - 03 Power to Remove and Impound</p> <p>Attachment C DA 1 - 05 Closure of Thoroughfares</p> <p>Attachment D DA 1 - 07 Inviting, Rejecting and Accepting Tenders</p> <p>Attachment E DA 1 - 08 Preliminary Selection of Tenderers</p> <p>Attachment F DA 1 - 09 Airport Redevelopment Project - Inviting, Rejecting and Accepting Tenders</p> <p>Attachment G DA 1 - 10 Panels of Pre-Qualified Suppliers</p> <p>Attachment H DA 1 - 11 Amendments to the Consolidated Parking Scheme</p> <p>Attachment I DA 1 - 20 Administer Local Laws</p> <p>Attachment J DA 1 - 21 Acquisition of Property</p> <p>Attachment K DA 1 - 22 Disposition of Property</p> <p>Attachment L DA 1 - 24 Affixing of the Common Seal</p> <p>Attachment M DA 2 - 01 The Powers and Duties of the Local Government pursuant to the Building Act 2011</p> <p>Attachment N DA 3 - 01 The Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954</p> <p>Attachment O DA 3 - 02 Appointment of Bush Fire Control Officers</p> <p>Attachment P DA 4 - 01 The Powers and Duties of the Local Government pursuant to the Cat Act 2011</p> <p>Attachment Q DA 5 - 01 The Powers and Duties of the Local Government pursuant to the Dog Act 1976</p> <p>Attachment R DA 6 - 01 The Powers and Duties of the Local Government pursuant to the Graffiti Vandalism Act 2016</p> <p>Attachment S DA 8 - 01 Certificate of Approval pursuant to the Strata Titles Act 1985</p> <p>Attachment T Current Delegations (proposed to be amended)</p>

This item was considered by the Policy and Legislation Committee at its meeting on 13 August 2019, the recommendations from which have been included in this report.

COUNCIL DECISION AND COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**C1908/168**

Moved Councillor P Carter, seconded Councillor R Reekie

That the Council:

1. Adopt the amendments to the following delegations as outlined below and included in Attachments A through to S:

Current	New		
Local Government Act 1995			
LG3D Notices Requiring Certain Things to be Done by Owner or Occupier of Land and Additional Powers When Notice is Given	DA1 – 01 Issuing Notices	Changes Title of delegation	Attachment A
LG3F Power to Remove and Impound Abandoned Vehicle Wrecks may be taken	DA1 – 03 Power to Remove and Impound	Changes Title of delegation	Attachment B
LG3H Closing of Certain Thoroughfares to Vehicles and Partial Closure of Thoroughfare for Repairs or Maintenance	DA1 – 05 Closure of Thoroughfares	Changes Title of delegation	Attachment C
LG3J Inviting Tenders and Rejecting and Accepting Tenders	DA1 – 07 Inviting, Rejecting and Accepting Tenders	Changes Title of delegation	Attachment D
LG3K Preliminary Selection of Tenderers	DA1 – 08 Preliminary Selection of Tenderers	Changes Removal of description of regulations from Delegation reference	Attachment E
LG3L Airport Redevelopment Project – Inviting Tenders and Rejecting and Accepting Tenders	DA1 – 09 Airport Redevelopment Project – Inviting, Rejecting and Accepting Tenders	Changes Title of delegation Addition of <i>Local Government Act 1995</i> references	Attachment F
LG3M Establishment of Panels of Pre-Qualified Suppliers	DA1 – 10 Panels of Pre-Qualified Suppliers	Changes Title of delegation Corrected the <i>Local Government Act 1995</i> Reference	Attachment G

LG3N Amendments to the Consolidated Parking Scheme	DA1 – 11 Amendments to the Consolidated Parking Scheme	Changes Corrected the Local Law reference	Attachment H
LG3A Executive Function – Determining Applications Under Local Laws and Enforcement of Local Law Provisions	DA1 – 20 Administer Local Laws	Changes Title of delegation Improved wording to clarify the delegation	Attachment I
LG3B Acquisition of Property	DA1 – 21 Acquisition of Property	Changes Corrected reference to power/duty being delegated Rewording of condition for clarity	Attachment J
LG3C Disposing of Property	DA1 – 22 Disposition of Property	Changes Title of delegation Addition of reference to Regulations	Attachment K
LG9B Authorising the Affixing of the Common Seal to Documents	DA1 – 24 Affixing of the Common Seal	Changes Title of delegation Remove list of document categories (see further detail in officer comment)	Attachment L
<i>Building Act 2011</i>			
BA1 Powers of the Local Government pursuant to the Building Act 2011	DA2 – 01 Powers of the Local Government pursuant to the Building Act 2011	Changes Minor wording corrections	Attachment M
<i>Bush Fires Act 1954</i>			
BF1 The performance of any of the functions of the local government under the Act	DA3 – 01 Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954	Changes Title of delegation Improved wording to clarify the delegation	Attachment N
BF2 Appointment of Bush Fire Control Officers	DA3 – 02 Appointment of Bush Fire Control Officers	Changes Addition of relevant policies	Attachment O

<i>Cat Act 2011</i>			
CA1 The Powers and Duties of the Cat Act 2011	DA4 – 01 The Powers and Duties of a Local Government pursuant to the Cat Act 2011	Changes Title of delegation Improved wording to clarify the delegation	Attachment P
<i>Dog Act 1976</i>			
DA1 The powers and duties of the Dog Act 1976 including the authority to further delegate	DA5 – 01 The Powers and Duties of a Local Government pursuant to the Dog Act 1976	Changes Title of delegation Improved wording to clarify the delegation Addition of relevant policies	Attachment Q
<i>Other Acts included in the review</i>			
GV1 Exercise any of the local government's powers or discharge any of its duties under Part 3 of the Graffiti Vandalism Act 2016	DA6 – 01 The Powers and Duties of a Local Government pursuant to the Graffiti Vandalism Act 2016	Changes Title of delegation Improved wording to clarify the delegation	Attachment R
STA1 Certificate of Approval	DA8 – 01 Certificate of Approval pursuant to the Strata Titles Act 1985	Changes Title of delegation	Attachment S

2. Remove delegation LG10A 'Claims against the local government'; and
3. Authorise, under Section 9.49A (4) of the Act, the Chief Executive Officer to sign documents that are necessary or appropriate to enable a CEO to carry out their functions under any written law.

CARRIED 8/0

BY ABSOLUTE MAJORITY

EXECUTIVE SUMMARY

The *Local Government Act 1995* (the Act) requires delegations made under the Act to be reviewed by the delegator at least once every financial year. Additionally, delegations made under the *Cat Act 2011*, the *Dog Act 1976* and the *Building Act 2011* are required to be reviewed once every financial year. This review is to fulfil those requirements.

BACKGROUND

Delegations of authority are an integral part of the City's governance functions. Delegations of Authority are an effective and efficient means of carrying out the functions or discharging the duties of the local government, by allowing the day to day decisions of Council to be made by the Chief Executive Officer, who in turn can delegate to other staff where appropriate, without requiring Council to make all decisions through the process of an ordinary council meeting.

Section 5.46(2) of the Act requires all delegations by Council to the CEO to be reviewed at least once each financial year. A review has been completed of the City's delegations and this report details the outcomes of that review. In addition, a new Authority of Delegation register has been developed providing for a clearer, more user friendly and modern register.

OFFICER COMMENT

With the exception of all delegations being transferred into a new format, the majority of existing delegations are proposed to be amended only slightly for consistency and clarity. A smaller number have been identified as requiring more significant amendment to improve operational efficiencies and or to amend references.

In addition, opportunities were identified to improve the Authority of Delegations Register and a new register has been developed, providing the opportunity to apply consistency to the content and format of the delegations, making the register more user friendly and understandable. Title changes have been made to some delegations to more aptly describe the information that they contain.

With the transfer to a new register, all delegations have been allocated new reference numbers. The new referencing is structured by legislation e.g. DA1 - ## for the *Local Government Act 1995*, DA2 – ## the *Building Act 2011* and so on. The previous delegation numbers have been retained as a reference to assist Councillors and officers in obtaining historical information.

In most instances, the explanatory notes from the current delegations have been removed and the function description has been limited to only the relevant section of the Act and the heading of that section. This has been done to provide officers with the opportunity to seek out and interpret the relevant sections of the Act themselves, noting hyperlinks will be provided within the final register to facilitate this. In addition, by not duplicating or paraphrasing the legislation within the delegation itself, errors in the transfer of information will be avoided and information will remain current. Linkages to relevant sections of acts, plans and policies ensure supporting documentation are easily referenced.

While this review is in relation to Authority of Delegations from Council to the CEO only, the new register will include linked delegations from the CEO to officers, providing improved transparency of decision making. Creating this correlation, from legislation, to Council, to CEO and through to Officer, gives the delegator and the delegate a legislative reference to the power or duty granted by or to them.

This year, due to the transfer of delegations into the new register, copies of the amended delegations with tracked changes have not been included in this report. The instruments of delegation that have been amended as part of this review have been included as attachments to this report and are listed in the table below. Where no change or amendment has been proposed to a delegation (other than numbering and formatting within the register as described above), it has not been included.

The current versions of the delegations proposed to be amended have been bound and included at Attachment T for comparative purposes.

Current	New		
Local Government Act 1995			
LG3D Notices Requiring Certain Things to be Done by Owner or Occupier of Land and Additional Powers When Notice is Given	DA1 – 01 Issuing Notices	Changes Title of delegation	Attachment A
LG3F Power to Remove and Impound Abandoned Vehicle Wrecks may be taken	DA1 – 03 Power to Remove and Impound	Changes Title of delegation	Attachment B
LG3H Closing of Certain Thoroughfares to Vehicles and Partial Closure of Thoroughfare for Repairs or Maintenance	DA1 – 05 Closure of Thoroughfares	Changes Title of delegation	Attachment C
LG3J Inviting Tenders and Rejecting and Accepting Tenders	DA1 – 07 Inviting, Rejecting and Accepting Tenders	Changes Title of delegation	Attachment D
LG3K Preliminary Selection of Tenderers	DA1 – 08 Preliminary Selection of Tenderers	Changes Removal of description of regulations from Delegation reference	Attachment E
LG3L Airport Redevelopment Project – Inviting Tenders and Rejecting and Accepting Tenders	DA1 – 09 Airport Redevelopment Project – Inviting, Rejecting and Accepting Tenders	Changes Title of delegation Addition of <i>Local Government Act 1995</i> references	Attachment F
LG3M Establishment of Panels of Pre-Qualified Suppliers	DA1 – 10 Panels of Pre-Qualified Suppliers	Changes Title of delegation Corrected the <i>Local Government Act 1995</i> Reference	Attachment G
LG3N Amendments to the Consolidated Parking Scheme	DA1 – 11 Amendments to the Consolidated Parking Scheme	Changes Corrected the Local Law reference	Attachment H

LG3A Executive Function – Determining Applications Under Local Laws and Enforcement of Local Law Provisions	DA1 – 20 Administer Local Laws	Changes Title of delegation Improved wording to clarify the delegation	Attachment I
LG3B Acquisition of Property	DA1 – 21 Acquisition of Property	Changes Corrected reference to power/duty being delegated Reworking of condition for clarity	Attachment J
LG3C Disposing of Property	DA1 – 22 Disposition of Property	Changes Title of delegation Addition of reference to Regulations	Attachment K
LG9B Authorising the Affixing of the Common Seal to Documents	DA1 – 24 Affixing of the Common Seal	Changes Title of delegation Remove list of document categories (see further detail in officer comment)	Attachment L
<i>Building Act 2011</i>			
BA1 Powers of the Local Government pursuant to the Building Act 2011	DA2 – 01 Powers of the Local Government pursuant to the Building Act 2011	Changes Minor wording corrections	Attachment M
<i>Bush Fires Act 1954</i>			
BF1 The performance of any of the functions of the local government under the Act	DA3 – 01 Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954	Changes Title of delegation Improved wording to clarify the delegation	Attachment N
BF2 Appointment of Bush Fire Control Officers	DA3 – 02 Appointment of Bush Fire Control Officers	Changes Addition of relevant policies	Attachment O
<i>Cat Act 2011</i>			
CA1 The Powers and Duties of the Cat Act 2011	DA4 – 01 The Powers and Duties of a Local Government pursuant to the Cat Act 2011	Changes Title of delegation Improved wording to clarify the delegation	Attachment P

Dog Act 1976			
DA1 The powers and duties of the Dog Act 1976 including the authority to further delegate	DA5 – 01 The Powers and Duties of a Local Government pursuant to the Dog Act 1976	Changes Title of delegation Improved wording to clarify the delegation Addition of relevant policies	Attachment Q
Other Acts included in the review			
GV1 Exercise any of the local government's powers or discharge any of its duties under Part 3 of the Graffiti Vandalism Act 2016	DA6 – 01 The Powers and Duties of a Local Government pursuant to the Graffiti Vandalism Act 2016	Changes Title of delegation Improved wording to clarify the delegation	Attachment R
STA1 Certificate of Approval	DA8 – 01 Certificate of Approval pursuant to the Strata Titles Act 1985	Changes Title of delegation	Attachment S

Delegation to be removed

It is proposed to remove delegation LG10A 'Claims against the local government'. The current delegation relates to insurance claims, specifically to consider claims against the local government for damage to property to either accept or deny liability and to make payment against that claim up to a maximum amount.

Current delegation LG6A 'Payments from Municipal Fund or Trust Fund' (new reference DA1-23) allows for the CEO to make payments from the Municipal Fund or Trust Fund in accordance with Regulation 12 of the *Local Government (Financial Management) Regulations 1996*, in relation to s.6.10 of the *Local Government Act 1995*.

A payment against an insurance claim, within the City's insurance policy excess levels, constitutes a payment being made from the municipal fund and therefore is already covered by Delegation LG6A.

Planning Delegations

Officers have not included a review of the planning delegation PDR1 'Development Control' in this report. The review of PDR1 'Development Control' is proposed to be undertaken with planning officers as part of a broader review of planning delegations and policies and will be presented to Council at a later time. There is no statutory requirement for this delegation to be reviewed once every financial year.

Execution/Signing of Documents

In undertaking a review of the City's current delegations, a number of issues became apparent with the delegations concerning the City's affixing of the Common Seal and the execution of documents.

Currently the City has one delegation from Council to CEO, LG9B 'Authorising the Affixing of the Common Seal to Documents'. The current delegation from Council to CEO is problematic in that it narrows the types or categories of documents the CEO is authorised to affix the Common Seal to, thereby excluding a range of documents that may require the affixing of the Common Seal, resulting in a large number of document types or categories requiring a resolution of council to have the

Common Seal affixed. This creates efficiency issues for the day to day operations of the City. In accordance with s.9.49A (3) of the Act, the Common Seal is required to be affixed in the presence of the Mayor and the Chief Executive Officer (or a senior employee so authorised), each of whom is to sign the document to attest that the common seal was so affixed.

Officers have proposed that this delegation be amended by removing the list of document categories and to instead provide the power for the CEO to authorise the affixing of the Common Seal to all documents that require it to be legally effective. In respect to the signing or execution of documents, separate to the Common Seal, officers recommend that Council resolve to authorise (under Section 9.49A (4) of the Act) the CEO to sign any documents that are necessary or appropriate to enable a CEO to carry out their functions under any written law. Section 9.49A (4) of the Act requires the transfer of this power in the form of an authorisation, as opposed to a delegation. This authorisation is included as part of the officer recommendation.

Statutory Environment

Section 5.42 of the Act provides the Council with the ability to delegate powers and duties to its CEO. Some powers and duties cannot be delegated in accordance with Section 5.43 of the Act, such as matters that require an Absolute Majority decision of Council. Council has the right to impose condition on any delegation it grants.

Section 5.16 of the Act provides the ability for powers and duties to be delegated to Committees.

Section 127 of the *Building Act 2011* provides Council with the ability to delegate powers and duties to its CEO and Section 96(3) of the *Building Act 2011* provides Council with the ability to delegate the designation of authorised persons.

Section 44 of the *Cat Act 2011* provides the power for the CEO to delegate the exercise of its functions and discharge of its duties to the CEO.

Section 10AA of the *Dog Act 1976* provides Council with the ability to delegate powers and duties to the CEO.

The *Local Government Act 1995*, the *Cat Act 2011* and the *Dog Act 1976* require the review of delegations at least once every financial year.

Section 5.46 of the *Local Government Act 1995* requires that all delegations are contained within a Register. The *Local Government (Administration) Regulations 1996* require that where a decision has been made under delegated authority, records of that decision must be kept in accordance with the Regulations.

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

A review of delegations from other comparative Local Governments was undertaken and the WALGA model delegations were also reviewed.

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 may choose:

1. Not to accept any amendments to the delegations; or
2. To request further amendments are made to the delegations.

Officers can assist with the drafting of a suitable alternative motion if required.

CONCLUSION

The statutory review of delegations has been completed and it is recommended that Council adopt the proposed changes to the delegations as listed in officer comment, and also authorise the CEO to sign any document necessary to enable him to carry out his functions.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The amended delegations will be incorporated into the new Delegations Register immediately following adoption by Council.

12.7 Finance Committee - 15/08/2019 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 30 JUNE 2019

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Budget Planning and Reporting
BUSINESS UNIT	Finance and Corporate Services
REPORTING OFFICER	Acting Manager Financial Services - Jeffrey Corker
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Attachment A Statement of Financial Activity - Period ended 30 June 2019 Attachment B Investment Report for Month Ending 30 June 2019

This item was considered by the Finance Committee at its meeting on 15 August 2019, the recommendations from which have been included in this report.

OFFICER RECOMMENDATION

That the Council receives the statutory financial activity statement reports for the period ending 30 June 2019, pursuant to Regulation 34(4) of the *Local Government (Financial Management) Regulations*.

COUNCIL DECISION AND COMMITTEE RECOMMENDATION AND AMENDED OFFICER RECOMMENDATION

C1908/169 Moved Councillor P Carter, seconded Councillor R Reekie

That the Council receives the statutory financial activity statement reports for the period ending 30 June 2019, pursuant to Regulation 34(4) of the *Local Government (Financial Management) Regulations*, noting C6099 "Non-Operating Grants, Subsidies and Contributions" should read "Airport Development Capital Grants".

CARRIED 8/0

BY ABSOLUTE MAJORITY

EXECUTIVE SUMMARY

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

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the City's financial performance on a year to date basis for the period ending 30 June 2019.

BACKGROUND

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

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

Additionally, and pursuant to Regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year. At its meeting of 25 July 2018, the Council adopted (C1807/138) the following material variance reporting threshold for the 2018/19 financial year:

“That pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations 1996, the Council adopts a material variance reporting threshold with respect to financial activity statement reporting for the 2018/19 financial year as follows:

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

OFFICER COMMENT

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

Statement of Financial Activity

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

Net Current Position

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

Capital Acquisition Report

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

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

Reserve Movements Report

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

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

COMMENTS ON FINANCIAL ACTIVITY TO 30 JUNE 2019

The Statement of Financial Activity for the period ending 30 June 2019 shows an overall Net Current Position "Surplus" of \$1.75M. The following summarises the major variances in accordance with Council's adopted material variance reporting threshold that collectively make up the above difference:

Description	2018/2019 Actual	2018/2019 Amended Budget YTD	2018/2019 Amended Budget	2018/19 YTD Bud Variance	2018/19 YTD Bud Variance
	\$	\$	\$	%	\$
Revenue from Ordinary Activities					
Operating Grants, Subsidies and Contributions	6,079,293	5,423,780	5,423,780	12.09%	655,513
Other Revenue	1,127,337	362,981	362,981	210.58%	764,356
Profit on Asset Disposal	118,089	82,137	82,137	43.77%	35,952
Expenses from Ordinary Activities					
Materials & Contracts	(17,584,838)	(20,225,500)	(20,225,500)	13.06%	2,640,662
Depreciation	(22,051,156)	(19,070,922)	(19,070,922)	-15.63%	(2,980,234)
Asset Adjustments as per Changes to Regulations (OAG)	(1,185,285)	0	0	0	(1,185,285)
Other Expenditure	(3,005,087)	(4,862,439)	(4,862,439)	38.20%	1,857,352
Allocations	2,006,883	1,723,162	1,723,162	-16.47%	283,721
Loss on Asset Disposals	(54,624)	(34,577)	(34,577)	-57.98%	(20,047)
Non-Operating Grants, Subsidies and Contributions					
	14,465,113	32,471,094	32,471,094	-55.45%	(18,005,981)
Capital Revenue & (Expenditure)					
Land & Buildings	(1,393,002)	(17,986,501)	(17,986,501)	92.26%	16,593,499
Plant & Equipment	(3,760,218)	(6,900,100)	(6,900,100)	45.50%	3,139,882
Furniture & Equipment	(437,479)	(890,640)	(890,640)	50.88%	453,161
Infrastructure	(23,006,581)	(37,666,531)	(37,666,531)	38.92%	14,659,950
Proceeds from Sale of Assets	926,173	1,045,950	1,045,950	-11.45%	(119,777)
Proceeds from New Loans	2,730,000	3,150,000	3,150,000	-13.33%	(420,000)
Advances to Com. Groups	0	(150,000)	(150,000)	100.00%	150,000
Transfer to Restricted Assets	(2,176,742)	(551,000)	(551,000)	-295.05%	(1,625,742)
Transfer from Restricted Assets	10,223,753	14,530,252	14,530,252	-29.64%	(4,306,499)
Transfer from Reserves	12,684,394	27,096,994	27,096,994	-53.19%	(14,412,600)

Revenue from Ordinary Activities

YTD actual income from ordinary activities is \$1.59M more than expected when compared to budget with the following items meeting the material variance reporting threshold being:

1. Operating Grants, Subsidies and Contributions are \$655k (net) better than amended budget. This variance reflects the advance payment of the grants commission grant of \$1.233M, lower than anticipated reimbursement income of -\$235k, lower than anticipated grants

income -\$229k, and anticipated contribution relating to the Airport of -\$111k was also not realised.

2. Other Revenue is \$764K better than amended budget. This variance is due to better than expected returns on the sale of scrap metal by \$254k. IT lease buybacks reflect additional income of \$544k which is offset by additional expenses in the IT leasing account 3381. There are numerous other variances however they are all below the reporting threshold.
3. Profit on asset disposal is \$36k better than amended budget. This line item is an accounting book entry to recognise profit on asset disposal and as a consequence will not affect the City's "cash" position.

Expenses from Ordinary Activities

Expenditure from ordinary activities, excluding depreciation, allocations and asset adjustments as per amended regulations (i.e. remove assets less than \$5k from assets register and place in portable and attractive register), is \$5.3M less than expected when compared to amended budget with the following items meeting the material variance reporting threshold:

1. Materials and Contracts

The main items affected are listed below:

Cost Code	Cost Code Description / GL Activity	Variance YTD \$
<u>Finance and Corporate Services</u>		
10250	Information & Communication Technology Services	(376,378)
10300	Records	31,304
10251	Business Systems	64,128
10500	Legal and Compliance Services	64,149
<u>Community and Commercial Services</u>		
B1361	YCAB (Youth Precinct Foreshore)	33,258
10590	Naturaliste Community Centre	39,700
11151	Airport Operations	42,248
10600	Busselton Jetty Tourist Park	55,341
10380	Busselton Library	67,003
<u>Planning and Development Services</u>		
10850	Implement Management Plans Other	38,263
10830	Environmental Management Administration	42,967
10925	Preventative Services - CLAG	48,271
10820	Strategic Planning	55,716
11170	Meelup Regional Park	59,834
<u>Engineering and Works Services</u>		
Various (96 Accounts)	Building Maintenance	133,748
B1401	Old Butter Factory (Carried forward to 2019/20)	783,549
Various (279 Accounts)	Road Maintenance	(105,565)
Various (174 Accounts)	Reserve Maintenance	84,535
5280	Fleet Maintenance	147,454
G0031	Dunsborough Waste Facility	(62,514)
G0010	Domestic Recycling Collections	(51,540)

G0024	Other Recycling	(41,500)
D9999	Urban Stormwater Drainage	(40,937)
C8500	Cycle ways Maintenance Busselton	(36,294)
G0030	Busselton Transfer Station	(35,424)
G0034	External Waste Disposal	37,768
F9999	Footpaths Maintenance	39,154
G0042	BTS External Restoration Works	44,734
G0033	Green Waste	53,791
G0032	Rubbish Sites Development	100,000
10591	Geographe Leisure Centre	(36,649)
12600	Street & Drain Cleaning	(29,718)
Cost Code	Cost Code Description / GL Activity	Variance YTD \$
Engineering and Works Services		
11108	Rural Intersection (Lighting) Compliance	28,827
11162	Busselton Jetty - Underwater Observatory	38,916
11300	Sanitation Waste Services Administration	41,925
11106	Street Lighting Installations	59,882
11101	Engineering Services Administration	89,749
11301	Regional Waste Management Administration	120,000
11160	Busselton Jetty	669,610

2. Depreciation

There is an overall variance in depreciation of \$2.98M, however it should be noted that this is a non-cash item and does not impact on the City's surplus position. The variance can be attributed to the final adjustments made at year end for donated assets, Airport infrastructure additions and Fair Valuation of infrastructure assets being completed post budget adoption and the increase in valuation was unable to be included in the 2018/2019 budget.

3. Asset Adjustments as per Changes to Regulations

Amendments to Regulation 17A now excludes assets in a local Government annual financial report if valued under \$5000. Regulation 17 (5) states *"An asset is to be excluded from the assets of a local government if the fair value of the asset as at the date of acquisition by the local government is under \$5,000"*.

A full review has now been conducted and in consultation with the Office of Auditor General and the City auditors an accepted methodology has been now endorsed in order to ensure that the City's financial reports do not breach the requirement of the amended Regulations. It was determined that all assets equal to or below the \$5k threshold will be removed from the asset register and placed in the City's portable and attractive asset register in order to assist in stock takes and the security of City's property. The exception to this, is where an asset falls below the \$5K threshold, but forms a part of "parent" asset (i.e. an asset that is made of many individual components that are all required in order to function as a unit) then these assets will remain within the asset register and be capitalised accordingly.

The end result of this process initiated a one off expensing of assets in accordance with Regulations to the amount of \$1,185,285.

4. Other Expenditure

There is a variance in other costs of \$1.85M less than amended budget. The main items affected are listed below:

Cost Code	Cost Code Description / GL Activity	Variance YTD
<u>Executive Services</u>		
10001	Executive Services	50,429
<u>Finance and Corporate Services</u>		
10000	Members of Council	47,507
10700	Public Relations	51,320
10618	Winderlup Court Aged Housing	56,690
<u>Community and Commercial Services</u>		
10540	Recreation Administration	43,095
10530	Community Services Administration	157,126
Cost Code	Cost Code Description / GL Activity	Variance YTD
<u>Community and Commercial Services (Continued)</u>		
11156	Airport Development Operations	1,500,000
<u>Planning and Development Services</u>		
10942	Bushfire Risk Management Planning - DFES	(39,283)
10805	Planning Administration	49,810
<u>Engineering and Works Services</u>		
G0042	BTS External Restoration Works	(234,437)
11160	Busselton Jetty	25,000
B1223	Micro Brewery - Public Ablution	120,000

With regard to the \$1.5M variance associated with the Airport marketing incentive, this expense will not be incurred this year. This however does not constitute a “saving” as this cost is reserve backed, hence if expenditure is not incurred, then it follows that the transfer from reserve will also not be processed.

5. Allocations

In addition to administration based allocations which clear each month, this category also includes plant and overhead related allocations. Due to the nature of these line items, the activity reflects as a net offset against operating expenditure, in recognition of those expenses that are of a capital nature (and need to be recognised accordingly). It should be noted that performance in the category has no direct impact on the closing position.

6. Loss on Sale of Assets

Loss on asset disposal is \$20k higher than YTD budget. This line item is an accounting book entry to recognise loss on asset disposal and as a consequence will not affect the City’s “cash” position.

7. Non-Operating Grants, Subsidies and Contributions

Non-Operating Grants, Subsidies and Contributions are less than budget by \$18M with the main items impacting on the above result being the timing of the receipt of funding which is also offset with less than anticipated capital expenditure at this time.

Cost Code	Cost Code Description	Variance YTD
Finance and Corporate Services		
10239	Contributions - Public Art (Percent for Art)	(1,215,970)
10240	Contributions - Contribution to Works	(159,731)
10250	IT Capital Grants (Federal)	140,044
Community and Commercial Services		
C6099	Airport Development Capital Grants (Federal)	(12,055,090)
10900	Donated Assets	37,000
C6092	Airport Construction Stage 2, Airfield	477,978
Planning and Development Services		
B1015	Hithergreen District Bushfire Brigade – Donated Asset	(465,200)
B1013	Dunsborough Bushfire Brigade – Donated Asset	(178,300)
B1024	Willyabrup Bushfire Brigade – Donated Asset	(178,300)
B1026	Yallingup Rural Bushfire Brigade – Donated Asset	(127,548)
B1029	Busselton Branch SES – Donated Asset	(97,200)
B9109	Hithergreen Building Renovations	(68,886)
Cost Code	Cost Code Description	Variance YTD
Engineering and Works Services		
D2000	Donated Assets Drainage	(1,293,099)
V0002	Eastern Link - Busselton Traffic Study	(1,250,000)
F1003	Donated Assets Footpaths & Cycleway	(621,400)
B9407	Busselton Senior Citizens Capital Contribution	(500,000)
C3168	Busselton Foreshore Jetty Precinct Grant	(308,221)
S0051	Causeway Road / Rosemary Drive Roundabout Grant	(300,000)
A0022	Yallingup Beach Road Bridge – 3347 Grant	(222,000)
S0064	Peel Terrace (Stanley Pl/Cammilleri St Intersection Upgrade)	(200,000)
C1512	Port Geographe Boat Ramp Renewal Works Grant	(165,000)
B9600	Old Vasse Lighthouse Contribution	(100,000)
C3112	Busselton Foreshore - Exercise Equipment	(100,000)
S0069	Peel Terrace (Brown Street Intersection Upgrades)	(100,000)
C3113	Busselton Tennis Club - Infrastructure	(80,000)
C0049	Port Geographe Marina Car Parking	(51,010)
S0068	Georgiana Molloy Bus Bay Facilities	74,500
W0030	Donated Roads	114,825
W0026	Yoongarillup Road	120,000
C3020	Donated Assets Parks, Gardens & Reserves	879,062

8. Capital Expenditure

As at 30 June 2019, there is a variance of -55% or -\$34.8M in total capital expenditure with YTD actual at -\$28.6M against YTD budget of -\$63.4M.

The airport development makes up for \$16.1M (main variance relates to the Airport terminal \$12.9M), Busselton Tennis Club infrastructure \$1.12M, Plant and Equipment \$3.1M, Council roads initiative projects \$0.85M, Eastern link Busselton traffic study \$2.7M, Dunsborough land purchase for parking \$1.3M, Main roads projects \$1.3M, parks, gardens and reserves \$569K, sanitation infrastructure \$1.36M, beach restoration \$965K, Busselton Senior Citizens \$741K, Dunsborough cycleway CBD to Our Lady of the Cape School -\$108K (i.e. over YTD budget), furniture and equipment

\$453K, Busselton jetty tourist park upgrade \$152K, beach front infrastructure \$85K, Geographe Leisure Centre pool relining \$50K, energy efficiency initiatives (various buildings) \$77K, boat ramp construction \$466K, major projects Lou Weston oval \$684K, Busselton foreshore infrastructure \$775K, Busselton foreshore buildings \$218K, bridge construction \$222k, and depot wash down facility upgrade \$110k.

These items of under expenditure also assists in explaining the above current YTD shortfall in Non-Operating Grants.

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

9. Proceeds from Loans/ Advances to Community Groups

As at 30 June 2019, there is a variance of \$420K which relates to the budgeted drawdown of loans that has now occurred, however to a lesser extent than anticipated. The two main loans raised that varied from the budget are:

- Busselton Tennis Club loan budgeted to drawdown \$1.5M, however actual drawdown was \$1.25M (variance \$250k); and
- Air Freight Hub Stage 1 loan budgeted to drawdown \$1.5M, however actual draw down was \$1.48M (variance \$20k).

With regard to the self-supporting loan for community groups, as this transaction did not occur, it follows that the contra entry “advances to community groups” will also not be required. The transactions associated with self-supporting loans is ordinarily cost neutral to the City, therefore this transaction will have no effect on the City’s net current position.

10. Transfer to Restricted Assets

There is a variance for transfer to restricted assets of \$1.625M more than amended budget. The reason for this is as follows:

- Transfer to deposits and bonds of \$1.3M as opposed to a budget of \$0. These funds do not have a budget allocation as they are not able to be reliably measured;
- Transfer unspent grant funds to restricted assets of \$468K to be utilized in 2019/20 for the purpose it was received;
- Transfer to contributions to works has fallen short of anticipated budget by -\$150K,
- Transfer to restricted grants (interest) has fallen short of budget by -\$200k.

11. Transfer from Restricted Assets

There is a variance for transfer from restricted assets of \$4.3M less than the amended budget. The reason for this is as follows:

- Transfer for unspent loans relating to Busselton Tennis Club is under budget by \$788K.
- Transfer for unspent grant relating to Busselton Margaret River Airport Development is under budget by \$5M;
- Transfer from restricted deposits and bonds of -\$2.1M as opposed to a budget of \$0. These funds do not have a budget allocation as they are not able to be reliably measured.

12. Transfer from Reserves

There is a variance for transfer from reserves of \$14.4M less than amended budget. At year end a full analysis is completed in order to determine the authorised final expenditure that can be recouped whilst also taking into account the purpose of the reserve. Traditionally the City has made any transfers possible during the year (once acquisitions/ works are completed) with the bulk of the transfers being made in June. The final result reflects the amount that can be transferred from reserves based on actual expenditure incurred.

Investment Report

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

As at 30th June 2019 the value of the City's invested funds totalled \$70.45M, down from \$71.95M as at 31st May. The decrease is due to the withdrawal of funds from Term Deposits as required to meet expenditure.

During the month of June, seven term deposits held with four different institutions totalling \$18.5M matured. Six, totalling \$13.5M; were renewed for a further 151 days at 2.14% (on average). One, totalling \$4.0M; was closed to provide readily available cash for the coming months until rates are levied in August 2019.

The balance of the 11am account (an intermediary account which offers immediate access to the funds compared to the term deposits and a higher rate of return compared to the cheque account) increased by \$2.5M with funds from closed term deposits temporarily held there.

The balance of the Airport Development ANZ account remained steady.

The RBA decreased official rates by 0.25% in June and again by the same amount in July. Term deposit renewal rates had been pricing in a number of drops for some months and returns are noticeably lower. The drop will also decrease the return on cash accounts including the 11am account. Financial markets are predicting possible further falls. The Interest return on Council's investments will fall accordingly.

Chief Executive Officer – Corporate Credit Card

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

Date	Amount	Payee	Description
27-Jun-19	\$100.00	City Of Busselton	Councillor Tickets NAIDOC Ball
27-Jun-19	\$200.00	City Of Busselton	Councillor Tickets NAIDOC Ball
27-Jun-19	\$454.00	SW Precision Print	Foreshore A1 Plan Prints Colour
20-Jun-19	\$345.09	MIE Software Pty Ltd	IPWEA Conference Dinner Tickets
20-Jun-19	\$24.40	The Goose	Meeting At Foreshore Refreshments
19-Jun-19	\$96.89	Dan Murphy's	Beverages For Council Civic Reception
18-Jun-19	\$805.10	Qantas	Flights - IPWEA Awards
18-Jun-19	\$805.10	Qantas	* Flights - IPWEA Awards
11-Jun-19	\$191.27	Quest Kings Park	LG WALGA CEO Breakfast
30-May-19	\$540.00	Qantas	* Qantas Membership

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

+ Allocated against CEO Hospitality Expenses Allowance

Statutory Environment

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

Relevant Plans and Policies

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

Financial Implications

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

Stakeholder Consultation

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

Risk Assessment

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

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

Options

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

Officers can assist with the drafting of a suitable alternative motion if required.

CONCLUSION

As at 30 June 2019, the City recorded an unaudited net current position of \$1,751,076 as presented in the statement of financial position. This amount can be broken into two components:

- Unspent funds in 2018/19 that relate to jobs that will be carried forward to 2019/20. This component is for a value of \$1,263,448; and
- The remaining amount relates to the final surplus achieved in 2018/19, being \$487,628 (as compared to \$300k predicted at the budget review). The surplus will be utilised as per Council indication with \$295k funding two days employee costs in 2019/20 budget due to a 27 pay period year, and the remaining \$192,627 being transferred to the "New Infrastructure Development Reserve".

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not applicable.

12.8 Finance Committee - 15/08/2019 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 JULY 2019

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Budget Planning and Reporting
BUSINESS UNIT	Finance and Corporate Services
REPORTING OFFICER	Acting Manager Financial Services - Jeffrey Corker
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Attachment A Statement of Financial Activity - Period ended 31 July 2019 Attachment B Investment Report - Period Ended 31 July 2019

This item was considered by the Finance Committee at its meeting on 15 August 2019, the recommendations from which have been included in this report.

COUNCIL DECISION AND COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1908/170 Moved Councillor P Carter, seconded Councillor R Reekie

That the Council receives the statutory financial activity statement reports for the period ending 31 July 2019, pursuant to Regulation 34(4) of the Local Government (Financial Management) Regulations.

CARRIED 8/0

BY ABSOLUTE MAJORITY

EXECUTIVE SUMMARY

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

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the City's financial performance on a year to date basis for the period ending 31 July 2019.

BACKGROUND

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

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

Additionally, and pursuant to Regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year. At its meeting of 31 July 2019, the Council adopted (C1907/131) the following material variance reporting threshold for the 2019/20 financial year:

“That pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations, the Council adopts a material variance reporting threshold with respect to financial activity statement reporting for the 2019/20 financial year as follows:

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

OFFICER COMMENT

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

Statement of Financial Activity

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

Net Current Position

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

Capital Acquisition Report

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

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

Reserve Movements Report

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

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

COMMENTS ON FINANCIAL ACTIVITY TO 31 JULY 2019

The officer notes the earlier nature of the attached statement of Financial Activity and given this there is only two major variances to report. The first major variance relates to the transfer from reserves being higher than the budgeted amount. This is due to early transfer of \$3.5M from the waste reserve in order to fund operations in the short term in order avoid Municipal overdraft interest being drawn. This transfer will be reversed in early August. The second variance relates to the transfer to reserves being lower than budgeted amount, this is a timing variance due to cash flow issues and will be actioned and reconciled in August. With regard to other minor differences, at this early stage it is believed that they are due to timing variances. A more comprehensive analysis of the monthly Financial Activity Statement will occur in the coming reporting months.

Investment Report

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

As at 31st July 2019 the value of the City's invested funds totalled \$63.97M, down from \$70.45M as at 30th June. The decrease is due to the withdrawal of funds from Term Deposits and the 11am account as required to meet expenditure.

During the month of July five term deposits held with three different institutions totalling \$16.0M matured. Five, totalling \$13.5M; were renewed for a further 137 days at 1.96% (on average). One, totalling \$2.5M; was closed to provide readily available cash for the coming months until rates are levied.

The balance of the 11am account (an intermediary account which offers immediate access to the funds compared to the term deposits and a higher rate of return compared to the cheque account) decreased by \$4.0M with the funds required to provide readily available cash for the coming months until rates are levied.

The balance of the Airport Development ANZ and WATC cash accounts remained steady. The Airport Development term deposit held at the WATC was rolled for a further 31 days at 1.22%.

The RBA decreased official rates by 0.25% in July following a similar drop in June. They remained steady in August, although a further drop in the coming months remains a possibility. Term deposit renewal rates had been pricing in a number of drops for some months and returns are generally noticeably lower. Returns on all account are dropping accordingly

Chief Executive Officer – Corporate Credit Card

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

Date	Amount	Payee	Description
01-Jul-19	\$ 314.00	Equinox Café	Hotel Plans Media Launch
03-Jul-19	\$ 205.00	The Good Egg Café	COG Meeting Catering

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

+ Allocated against CEO Hospitality Expenses Allowance

Statutory Environment

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

Relevant Plans and Policies

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

Financial Implications

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

Stakeholder Consultation

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

Risk Assessment

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

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

Options

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

Officers can assist with the drafting of a suitable alternative motion if required.

CONCLUSION

As at 31 July 2019, the City's financial performance is considered satisfactory.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not applicable.

15.1 BUSSELTON JETTY TOURIST PARK MANAGEMENT CONTRACT TENDER

STRATEGIC GOAL	4. ECONOMY Diverse, resilient, prosperous
STRATEGIC OBJECTIVE	4.1 An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.
SUBJECT INDEX	Busselton Jetty Tourist Park
BUSINESS UNIT	Commercial Services
REPORTING OFFICER	Manager, Commercial Services - Jennifer May
AUTHORISING OFFICER	Director, Community and Commercial Services - Naomi Searle
NATURE OF DECISION	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Attachment A Confidential RFT 09/19 Tender Evaluation and Recommendation Report

Attachment A is confidential under Section 5.23 - 2(c) of the Local Government Act 1995 in that it deals with “a contract entered into or which may be entered into, by the local government”. Copies have been provided to Councillors, the Chief Executive Officer and Directors Only.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1908/171 Moved Councillor P Carter, seconded Councillor R Reekie

That the Council :

1. Endorse the outcomes of the City’s tender evaluation panel’s assessment in relation to tender RFT 09/19 Busselton Jetty Tourist Park Management Contract, which recommends the tender of WJ & J McGregor as the most advantageous to the City for the alternative price of \$475,198.30 exclusive of GST and for a term of three years and eight months from the 1 November 2019 with an option to extend for a further two years.
2. Delegate power and authority to the CEO to:
 - a. Negotiate and agree with the Preferred Tenderers variations in accordance with Regulations 20 and 21A of the *Local Government (Functions and General) Regulations 1996* subject to such variations not exceeding the overall project budget;
 - b. Negotiate and agree with the Preferred Tenderer the final terms and conditions of the contract (including rates/contract prices); and
 - c. Pursuant to resolutions 2.a and b. enter into contracts with the Preferred Tenderer for supply of the relevant goods and services.

CARRIED 8/0

BY ABSOLUTE MAJORITY

EXECUTIVE SUMMARY

A Request for Tender 09/19 (RFT) was issued for the Busselton Jetty Tourist Park Management Contract. This report summarises the submissions received and recommends that the Council endorse the outcome of the evaluation panel’s assessment and delegates authority to the CEO to finalise negotiations and award the tender to WJ & J McGregor.

BACKGROUND

The Busselton Jetty Tourist Park (BJTP) has been managed through a management contract since the first tender was awarded in 2012. Prior to this, the City employed staff to operate the BJTP, however following a review of the management options, in 2012 Council agreed to contract the operational management of the park mainly due to difficulties associated with recruiting and retaining experienced staff. The use of a management contract allows for a more flexible arrangement and allows the City to engage experienced individuals/organisations that would usually not be available through the City's recruitment process.

In July 2016 BCP Contractors Pty Ltd was awarded (C1607/180) the management contract for a term of three years which is due to expire on 30 October 2019. The City has the option to extend the contract for a further year, however following feedback from the current managers, and issues and concerns that have risen during the term of the contract, officers have taken the opportunity to review and update the management contract, incorporating amendments relating to the following;

- interpretation of contractual conditions, in particular relating to reporting and carrying out of maintenance;
- responsibility for expenditure of some items including gardening maintenance and supplies;
- operational processes such as complaints handling and reporting to the City; and
- the contract pricing structure not incorporating an incentive for the managers as it is based on a fixed price regardless of revenue received.

The new, revised management contract was included in the RFT.

OFFICER COMMENT

The RFT was advertised between 17 June 2019 and 19 July 2019, for a period of five weeks, closing at 2.00pm on Friday 19 July 2019.

The City issued the RFT documents by upload to TenderLink and received three submissions as follows:

	Company	Location	Contact
1.	WJ & J McGregor	Busselton WA	Wayne McGregor
2.	Discovery Holiday Parks	Adelaide SA	Amanda Baldwin
3.	Belgravia Health & Leisure Group Pty Ltd	Warrandyte VIC	Damian Gorman

Three mandatory pre-tender site inspections were held at 11.00am on 27 June, 2 July and 9 July 2019 at the BJTP and was attended by all tenderers, including;

- Amanda Baldwin and Joe Lovett, representing Discovery Holiday Parks
- Wayne and Jo McGregor
- Rohan Gunton, representing Belgravia Health & Leisure Group Pty Ltd
- Leesa James and Natalie Edwards representing Paradigm Cleaning
- Rhys Johnson and Clive Johnson representing Mandalay Resort

A tender review panel consisting of Director Community and Commercial Services, Project Contract and Tendering Officer and Manager Commercial Services was formed and a copy of all documentation was provided to each member of the tender review panel for assessment.

As part of the tender evaluation process an initial compliance check was conducted to identify submissions that were non-conforming with the compliance requirements of the RFT. The compliance criteria specified for this RFT were:

- (a) Compliance with the Conditions of Tendering;
- (b) Compliance with the Specification;
- (c) Compliance with the Delivery Date; and
- (d) Compliance with and completion of the Schedule of Prices.

No tenders were found to be non-compliant with the specified requirements and all tenders were evaluated.

Tenders were evaluated using the tendered prices and information provided by tenderers in response to the qualitative criteria specified in the RFT. A scoring and weighting system was used to assess the tendered prices and the responses against the qualitative criteria.

The following weightings were applied to the qualitative and price criteria:

- | | |
|--------------------------------|-----|
| • Relevant Experience | 15% |
| • Local Benefit | 5% |
| • Key Personnel and Experience | 20% |
| • Tenderer's Resources | 10% |
| • Demonstrated Understanding | 20% |
| • Tendered Price | 30% |

The City adopted a best value for money approach to this RFT. This means that, although price was a consideration, the tender containing the lowest price was not necessarily accepted, nor was the tender ranked the highest in relation to the qualitative criteria.

The extent to which a tender demonstrated greater satisfaction of each of the qualitative criteria resulted in a greater score. The tendered prices were then assessed together with the weighted qualitative criteria and the tenders scored and ranked to determine the most advantageous outcome to the City. The outcomes of the Evaluation Panel's review are detailed in the attached confidential Tender Evaluation and Recommendation Report (Attachment A).

In evaluating the Key Personnel and Experience criteria and Tenderer's Resources, officers requested additional information from WJ & J McGregor (McGregor) and Belgravia Health & Leisure Group Pty Ltd (Belgravia) on their resourcing, including the number of staff (full time equivalent) for each role and their allocated hours during peak and off-peak seasons. This clarification was requested so that any underlying variances in resourcing (number of staff and hours) which could impact the resulting tendered prices offered by McGregor and Belgravia could be compared on a like for like basis. Clarification was not sought from Discovery on the basis of their tender price significantly exceeding the other tenderer's prices and Council's budget for this contract.

Officers discuss the comparison of proposed resources and allocated hours and potential impacts in delivering the management contract from the McGregor and Belgravia tender submissions in the attached confidential Tender Evaluation and Recommendation Report (Attachment A).

In summary, the final ranking demonstrated that the tender from WJ & J McGregor at a cost of \$475,198.30 represents the most advantageous tender for the City.

Statutory Environment

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

- requires that tenders be publicly invited for such contracts where the estimated cost of providing the required goods and/or service exceeds \$150,000; and
- under Regulations 11, 14, 18, 20 and 21A provides the statutory framework for inviting and assessing tenders and awarding contracts pursuant to this process.

With regard to the Tender, City officers have complied with abovementioned legislative requirements.

The total contract value is greater than \$500,000, therefore, in accordance with section 5.43(b) of the *Local Government Act 1995 (Act)*, read with Delegation 3J, the tender must be considered and endorsed by the Council resolution.

Relevant Plans and Policies

The City's purchasing policies, regional price preference policy and occupational health and safety were all considered relevant to the RFT, and have been adhered to in the process of requesting and evaluating tenders.

Financial Implications

This Contract is funded through the City's adopted 2019/20 Busselton Jetty Tourist Park operating budget. The estimated total value of the procurement over the full contract term of three years and eight months is \$1,742,393.77 (exclusive GST). The annual contract price split over the term of the management contract is as follows;

- first eight months (1 Nov 2019- 30 Jun 2020) - \$316,798.87
- year one (FY 2020-2021) - \$475,198.30 + CPI
- year two (FY 2021-2022) - \$475,198.30 + CPI
- year three (FY 2022-2023) - \$475,198.30 + CPI.

The annual budgeted amount for the management contract in 2019/20 is \$435,000. The preferred tender price of \$475,198.30 is in excess of this by \$40,198.30. With the current tender expiring in 30 October 2019, the total cost of the first year of the contract will be \$446,655.79, representing a budget shortfall of \$11,655.79 in 2019/20. However, this may be offset through increases in revenue throughout the year as the budgeted revenue has not been increased from the previous financial year.

Further to the 2019/20 operating budget, there are implications to the Long Term Financial Plan and 2020/21- 2022/23 operating budgets with adjustments required to increase the contractual amounts in the respective operating budgets.

Officers have considered the financial costs should the management team and staff be employed directly by the City and provide the following comparisons:

1. Based on the City's estimated resourcing levels and salary and wages levels (including long service leave, annual and sick leave provisions and superannuation contributions) it is estimated to cost \$430k per year however this excludes any administration and management support and supervision.

2. Based on the resourcing levels proposed in the McGregor tender submission and City's salary and wages levels (including long service leave, annual and sick leave provisions and superannuation contributions) it is estimated to cost \$465k however this excludes any administration and management support and supervision.

One of the key reasons for implementing a management contract was to mitigate the difficulties with recruiting and retaining experienced staff. The cost comparison exercise above suggests savings could be made by the City directly employing staff, however this does not take into consideration costs associated with the recruitment process, management, training and organisational overheads. For this reason Officers do not believe there to be significant savings to be made by directly employing the management team and staff.

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.

The following risks of a medium or greater level have been identified:

The Managers do not meet the KPI's included in the Management Contract and revenue targets are not met.			
Risk Category	Risk Consequence	Likelihood of Consequence	Risk Level
Financial	Minor	Possible	Medium

Options

As an alternative to the proposed recommendation the Council could:

1. Choose not to award the management contract as per the Officer's recommendation and choose to award to one of the other two submitted tenderers.
2. Choose not to award the management contract as per the Officer's recommendation and choose to recruit and employ the management team and staff.

CONCLUSION

RFT 09/19 Busselton Jetty Tourist Park Management Contract was advertised through TenderLink for a period of five weeks with three tender submissions received. A tender evaluation panel was formed and has completed their assessment in line with the City's tender process.

Officers have evaluated the tender submissions based on the selection criteria, with particular attention being applied to the tendered key personnel, experience and resources presented to meet the operational management requirements of the Park. Officers have also assessed the tendered prices submitted and the basis on which they are formed to determine if the tendered prices offer value for money and meet the requirements of the management contract. Finally, Officers have considered the costs associated with not awarding the management contract and employing the management team and staff directly to ensure that the management contract option still offers value for money for the Council.

It is recommended that Council endorse the outcome of the evaluation panel's assessment and award the tender in line with the Officers recommendation to WJ & J McGregor.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The CEO can negotiate with the preferred tenderer immediately after the Council has endorsed the officer's recommendation. Subject to final review of the management contract and subsequent negotiations, the successful Tenderer will then receive formal written notification. All tender applicants not successful will be notified at this time.

12. REPORTS OF COMMITTEE

12.1 REVIEW OF GOVERNANCE ARRANGEMENTS AND COMMITTEE TERMS OF REFERENCE FOR MEELUP REGIONAL PARK

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Committee Meetings
BUSINESS UNIT	Environmental Services
ACTIVITY UNIT	Planning and Development
REPORTING OFFICER	Environmental Management Coordinator - Greg Simpson
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Current Terms of Reference Meelup Regional Park Management Committee Attachment B Proposed Governance Arrangements Meelup Regional Park Attachment C Proposed Terms of Reference Meelup Regional Park Committee Attachment D Proposed Terms of Reference Meelup Regional Park Working Group

This item was considered by the Meelup Regional Park Management Committee at its meeting on 29 July 2019, the recommendations from which have been included in this report.

OFFICER RECOMMENDATION

That the Council adopt the:

1. Council policy 'Governance of Meelup Regional Park' as set out in Attachment B;
2. Meelup Regional Park Committee Terms of Reference as set out in Attachment C; and
3. Amended Meelup Regional Park Working Group Terms of Reference as set out in Attachment D.

COMMITTEE RECOMMENDATION

1. That the terms of reference for Meelup Regional Park Working Group (Attachment D) be amended to remove the duplication at paragraph 4.4 (p. 20); and
2. That the Council adopt the:
 - a. Council policy 'Governance of Meelup Regional Park' as set out in Attachment B;
 - b. Meelup Regional Park Committee Terms of Reference as set out in Attachment C; and
 - c. Amended Meelup Regional Park Working Group Terms of Reference as set out in Attachment D.

COUNCIL DECISION AND AMENDED OFFICER RECOMMENDATION

C1908/172 Moved Councillor J McCallum, seconded Councillor R Reekie

1. That the terms of reference for Meelup Regional Park Working Group (Attachment D) be amended to remove the duplication at paragraph 4.4 (p.20)';
2. That paragraph 5.5 of the Meelup Regional Park Committee Terms of Reference (Attachment C) be amended to state:
"Where a Committee member wishes the Committee to consider an alternative to the officer recommendation in relation to any particular item, they should, as far as

practicable, indicate in writing (preferably email) to the Chief Executive Officer or Chief Executive Officer's nominee their intention to do so, setting out their proposed alternative and reasons for that alternative, by 3pm on the last business day prior to the scheduled commencement of the meeting. The Chief Executive Officer or Chief Executive Officers nominee will then provide officer comment on the proposed alternative in writing to the Committee member prior to the scheduled commencement of the meeting”;

3. That paragraph 6.1 of the Meelup Regional Park Committee Terms of Reference (Attachment C) be amended to state:
“Quorum for a meeting shall be at least 50% of the number of offices of membership, whether vacant or not”; and
4. That the Council adopt the:
 - a. Council policy ‘Governance of Meelup Regional Park’ as set out in Attachment B;
 - b. Meelup Regional Park Committee Terms of Reference as set out in Attachment C (inclusive of amendments); and
 - c. Amended Meelup Regional Park Working Group Terms of Reference as set out in Attachment D (inclusive of amendment).

CARRIED 8/0

Reason: Amendment to paragraph 5.5 of the Meelup Regional Park Committee Terms of Reference (Attachment C) is proposed in recognition of the fact that historically Meelup Committee meetings have been held on a Monday. The amendment ensures that notification is provided on the Friday prior in this instance.

Amendment to paragraph 6.1 of the Meelup Regional Park Committee Terms of Reference (Attachment C) is for the purposes of clarification and readability. Section 5.19 of the *Local Government Act 1995* states “The quorum for a meeting of a council or committee is at least 50% of the number of offices (whether vacant or not) of member of the council or the committee”. The words ‘of membership’ provides clarity around the word ‘offices’ in this context.

PRÉCIS

City officers have undertaken a review of the governance arrangements for Meelup Regional Park (the Park). This report recommends a number of changes to the terms of reference of the Meelup Regional Park Committee (the Committee) (including a simplification of the Committee name from Meelup Regional Park Management Committee) and the establishment of an overarching policy outlining the governance arrangements; in particular, separation of the formal role of the Committee from the current informal role that it also plays.

BACKGROUND

On 14 October 2015, Council resolved (resolution C1510/296) to adopt revised governance arrangements and terms of reference for the Meelup Regional Park Management Committee.

On 14 September 2016 Council endorsed (resolution C1609/242) an amendment to increase the number of deputy community members on the Committee. The membership of the Committee currently consists of two elected members and one deputy elected member, six community members and four deputy community (non-voting, unless voting members are not present) members as appointed by the Council.

As part of its October 2015 deliberations and review of the Committee's terms of reference, the Council resolved to support the formation of an incorporated ‘Friends of Meelup Regional Park’ group, and to include a notation within the terms of reference to indicate a future intention to include representatives of that group as part of the Committee membership, when the Friends of Meelup Regional Park Incorporated has been formed.

The terms of reference adopted by the Council in October 2015 also established a requirement for the Committee to periodically hold formal meetings. Under Paragraph 5.1, formal meetings of the Committee shall be scheduled when the need for a meeting is identified by either the Presiding Member or Chief Executive Officer, and only when there is a need for a matter to be subject of a formal decision of the Committee and/or the Council and, in any case no less than twice annually and no more frequently than once a month.

The current document, while encompassing the terms of reference for the Committee, is intended as a broader governance document and outlines the way in which both the Committee and the more informal working group (the membership of which is the same) operate. It includes arrangements for the Committee to schedule informal meetings (paragraph 7.1) when needed (no less often than every two months and no more frequently than once per month) to identify and assess matters relating to and affecting the management of the Park, and where necessary and possible, agree a consensus position on the approach to be taken with respect to those matters. In effect, the Committee is at these times operating more as a working group.

To ensure the ongoing effectiveness of Meelup Regional Park governance arrangements, and to ensure the Committee's governance structures are enhanced, the Council is asked to consider a separation of the document into three elements – the governance arrangements as an overarching Council policy, stand-alone Committee terms of reference and a new Meelup Regional Park Working Group (the Working Group) terms of reference.

Council is also asked to consider several proposed amendments to the terms of reference of the Committee. A copy of the current terms of reference provided as Attachment A, with the proposed Council policy 'Governance of Meelup Regional Park' provided as Attachment B and the terms of reference for the Committee and the Working Group provided as Attachment C and D respectively.

STATUTORY ENVIRONMENT

The Meelup Regional Park Management Committee is created pursuant to the *Local Government Act 1995* (the Act), specifically via a resolution of the Council pursuant to sections 5.8, 5.9(2) (c) and 5.17(1) (c) of the Act.

Section 5.9 (2) (c) and Section 5.9 (2) (d) of the Act set out that, *inter alia*, a committee may comprise; "council members (i.e. Councillors), employees and other persons; or Council members and other persons".

RELEVANT PLANS AND POLICIES

Meelup Regional Park is Reserve 21629, and is Crown Land over which the City has a management order. The reserve purpose is 'Conservation and Recreation'. The City has power to lease over the reserve, for a maximum period of 21 years and subject to the approval of the Minister for Lands (or their delegate), provided that any such lease is consistent with the reserve purpose. It is an 'A-Class' reserve, which means that any change to the management order requires Parliamentary consent.

There is also a formal management plan for the Park, which has been adopted by both the Council and the Minister for Lands, pursuant to section 49 of the *Land Administration Act 1997*. Where a management plan has been adopted pursuant to s49, the management body is required to manage the land in accordance with the plan.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the officer recommendation.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There are no Long-Term Financial Plan implications associated with the officer recommendation.

STRATEGIC COMMUNITY OBJECTIVES

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

RISK ASSESSMENT

There are no risks identified of a medium or greater level associated with the officer recommendation.

CONSULTATION

At an informal meeting of the Committee held on 26 November 2018, the Committee considered proposed changes to the current terms of reference of the Committee, in relation to membership and also the requirement for the Committee to hold formal Committee meetings in accordance with a prescribed schedule as indicated under paragraph 5.1. The Committee's proposed direction from that meeting is as follows:

That the MRPMC Terms of Reference and Governance arrangements be reviewed to include representation from the Friends of Meelup Regional Park Incorporated and to remove the requirement for the MRPMC to have at least two formal meetings annually.

With respect to the holding of formal committee meetings, as detailed in the Officer Comment section of this report, it is recommended that the Committee continue to meet formally twice per annum.

OFFICER COMMENT

Officers are of the view that the existing governance arrangements and terms of reference of the Committee are, in practice, effective and appropriate, but require some refinements to align with future direction. The underlying aim should be to ensure that the City and community are best able to meet the challenges and embrace the opportunities associated with management of the Park into the future.

In principle, and in practice, the current governance arrangements are supported, with decision making at the lowest and least formal level as possible, through informal meetings with the Committee holding formal meetings twice per annum or where matters are not able to be resolved at lower/informal levels and require more formal decision making.

In order to ensure the ongoing governance of the Committee structure however, it is recommended that the current functioning of the committee at the lower/informal level is clearly delineated as a working group. A separate terms of reference for the Working Group is proposed. The proposed Council policy establishes the rationale for this and how the two groups (the membership of which is the same) will operate together – and is a higher status means of outlining those arrangements than the current means of doing so.

As outlined above the current terms of reference of the Committee includes a notation to indicate that once the Friends of Meelup Regional Park group has been formed, that representatives of the group should be invited to become members of the Committee. The Friends of Meelup Regional Park

have formed and are now an incorporated association, therefore Friends of Meelup Regional Park representation on the Committee can now be considered and the notation to do so, in the current terms of reference of the Committee, deleted.

It is therefore recommended that the terms of reference of the Committee be amended to specify that up to three community membership positions (referred to in paragraph 3.3) on the Committee, be filled by a representative of the Friends of Meelup Regional Park Incorporated Association. It is also recommended that the membership be adjusted to remove the four deputy community members and instead increase the number of community membership positions to allow for up to eight. It is felt that this will simplify the operation of the Committee. An additional deputy elected member is proposed such that there is a deputy per member, noting that section 5.11A (1) of the Act provides for a person to be a deputy of a member of a committee.

Since 2015, the Committee has been able to conduct the majority of its decision making relating to the management of the Park by consensus at informal meetings, and in accordance with the powers and duties delegated by the Council. Since 2015, there have been 5 formal meetings of the Committee.

While it is anticipated that the requirement for the Committee to hold formal meetings on matters that require a formal decision of the Committee and/or the Council will continue to be minimal, it is recommended that the Committee continue to meet twice per annum for the purposes of oversight and also as it has a delegated power:

to adopt plans, policies or documents that relate to management of the Park, other than where those plans, policies or documents require adoption pursuant to a particular statutory power, but may not make any decision that would require expenditure of funds contrary to the adopted budget.

Under section 5.23 of the Act all meetings of a committee to which a local government power or duty has been delegated are to be open to the public. Further under section 5.25 and Regulation 12 of the Local Government (Administration) Regulations 1996, at least once each year a local government is to give local public notice of the dates on which and the time and place at which the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months. It is also for this reason that it is recommended that regular meetings of the Committee are held.

CONCLUSION

The recommendation of this report is seen as providing improved governance arrangements while continuing to ensure that the growing community involvement in the Park, and the members of the recently formed Friends of Meelup Regional Park Incorporated, are adequately represented on the Committee and actively involved in the management of the Park.

OPTIONS

Council may determine not to support the proposed changes to the governance arrangements for Meelup Regional Park, in which case the current terms of reference would remain. Alternatively, the Council may resolve to amend the changes proposed in the officer recommendation.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

It is envisaged that implementation of the recommendation would be completed by the publication of the new Council policy and terms of references within one week of the Council making a decision consistent with the officer recommendation.

13. PLANNING AND DEVELOPMENT SERVICES REPORT**13.3 MANAGEMENT OF DOGS: BARNARD PARK EAST**

STRATEGIC GOAL	3. ENVIRONMENT Valued, conserved and enjoyed
STRATEGIC OBJECTIVE	3.2 Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.
SUBJECT INDEX	Animal Management
BUSINESS UNIT	Environmental Services
REPORTING OFFICER	Ranger & Emergency Services Coordinator - Ian McDowell
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
NATURE OF DECISION	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Attachment A Lot 209 Crown Reserve 52463 Barnard Park East

OFFICER RECOMMENDATION

That the Council, pursuant to:

1. Section 31(2B)(a) of the *Dog Act 1976*, by absolute majority, specifies Lot 209 Crown Reserve 52463 commonly known as Barnard Park East to be a place where dogs are prohibited at all times.
2. Section 31(3C)(a) of the *Dog Act 1976*, notes a public notice of the Council's intention to specify Barnard Park East as a place where dogs are prohibited at all times will be given at least 28 days prior to this resolution taking affect.
3. Section 8 of the *Dog Act 1976*, notes a person who has a disability or medical condition an effect of which can be alleviated or managed by the use of an assistance dog, or a person who is training or assessing an assistance dog on Barnard Park East.

COUNCIL DECISION AND AMENDED OFFICER RECOMMENDATION

C1908/173 Moved Councillor K Hick, seconded Councillor J McCallum

That the Council, pursuant to:

1. Section 31(2B)(a) of the *Dog Act 1976* specifies an area delineated by a fence and generally aligned with the boundaries of Lot 209 Crown Reserve 52463 commonly known as Barnard Park East to be a place where dogs are prohibited at all times.
2. Section 31(3C)(a) of the *Dog Act 1976*, notes a public notice of the Council's intention to specify Barnard Park East as a place where dogs are prohibited at all times will be given at least 28 days prior to this resolution taking affect.
3. Section 8 of the *Dog Act 1976*, notes a person who has a disability or medical condition an effect of which can be alleviated or managed by the use of an assistance dog, or a person who is training or assessing an assistance dog is permitted to take that dog onto Barnard Park East.

CARRIED 8/0

BY ABSOLUTE MAJORITY

Reason: Specifying the area within the fence as the area in which dogs are prohibited will provide clarity to members of the public using the reserve, and to those City Officers who are authorised to regulate the prohibition. It was also identified that it was not necessary for the resolution to identify that it was made by absolute majority. Revised Recommendation 3 clarifies that assistance dogs are permitted to be on the Reserve when accompanied by an appropriate person.

EXECUTIVE SUMMARY

Lot 209 of Crown Reserve 52463, commonly referred to as Barnard Park East and as shown on the map at Attachment A, provides valuable habitat for the Western Ringtail Possum and probably the Southern Brown Bandicoot.

Under the provisions of the Dog Act 1976, the Council may specify public areas where dogs are prohibited at all times, or at specified times. This report seeks the Council's approval to designate Barnard Park East as a dog prohibited area at all times.

Currently, dogs are permitted on the grassed areas of Barnard Park East and may be exercised off-leash.

BACKGROUND

In April 2015, following extensive community consultation, the Council determined, pursuant to the requirements of the *Dog Act 1976*, those areas within the City where dogs:

- a. are prohibited at all times;
- b. are prohibited at specified times; and
- c. are permitted to be exercised both on and off-leash.

Under that determination dogs are permitted to be exercised off-leash on the grassed areas of Barnard Park, including grassed areas of the natural reserve commonly referred to as Barnard Park East (Reserve 52463, managed by the City for the purpose of Recreation and Conservation).

The land has been identified as an area where the natural habitat is to be conserved and enhanced for many years, with the area being identified as a 'Regional Conservation Park' on the *Busselton Foreshore Master Plan*. Commencing in the 2018/19 financial year, the Council has made allocations of funds to enhance the habitat value of the area – including the recent erection of fencing around the area to keep dogs out. The Council has also indicated its desire to enhance and protect Western Ringtail Possum habitat in urban areas in recent times, through the adoption of a draft *Western Ringtail Possum Habitat Protection Strategy*.

The vegetation within Barnard Park East can be classified as Quindalup (QD) woodland vegetation complex. It consists of a canopy of *Agonis flexuosa* (Peppermint) over a local native plant understorey, predominantly *Acacia cochlearis*. Condition of this remnant of native vegetation varies from degraded to very good.

The habitat functions this vegetation provides includes; nesting and foraging habitat for critically endangered Western Ringtail Possum (Critically Endangered) and probably the vulnerable Southern Brown Bandicoot. There are likely many bird species and reptiles that would commonly be present in this landscape. The presence of native animals using this site should be the subject of a fauna survey once the management goals for this area are set.

The red boxes in the map at Attachment A indicate the presence of Western Ringtail Possums. The high number of individuals present for the relatively small area indicates the vegetation in the area is valuable habitat for the species. Most of these points were generated from a survey undertaken in 2004 by Parks and Wildlife Services but there are also more recent records most likely generated from fauna reports submitted to Parks and Wildlife over time.

These reports include deceased animals however, they still provide a picture of possum presence in the area. The vegetation is also likely to contain the Southern Brown Bandicoot, as the *Acacia cochlearis* forms a dense thicket that provides protection for these ground dwelling animals from predator attack.

This existing vegetation and the soils in this area form an excellent foundation, on which to work from. The existing seed bank and soil biota in the less disturbed areas of the reserve provide a natural advantage to native plants that have adapted to growing in these conditions. With a relatively small amount of effort, the habitat functions and other natural values of this area will be enhanced.

OFFICER COMMENT

The recommendations of this report reflect and provide for implementation of actions and objectives consistent with the *Busselton Foreshore Master Plan* and *Western Ringtail Possum Habitat Protection Strategy*.

Statutory Environment

Pursuant to section 31(2B)(a) and (b) of the *Dog Act 1976* a local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited at all times, or at specified times.

Pursuant to section 31(3C)(a) of the *Dog Act 1976*, at least 28 days before specifying a place to be a place where dogs are prohibited at all times or at a time specified under subsection (2B) a local government must give local public notice as defined in the *Local Government Act 1995* section 1.7 of its intention to specify.

Pursuant to section 8 of the *Dog Act 1976*, a person who has a disability or medical condition an effect of which can be alleviated or managed by the use of an assistance dog (as defined in the Act), or a person who is training or assessing an assistance dog is entitled to be accompanied by an assistance dog, in any building or place open to or used by the public, for any purpose.

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

Due to the environment sensitivity of Barnard Park East and the need to protect the flora and fauna therein, no external stakeholder consultation was considered necessary or undertaken in relation to this matter.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could:

1. Choose not to prohibit dogs in this reserve; or
2. Specify the reserve as an on-leash dog exercise area.

Officers can assist with the drafting of a suitable alternative motion if required.

CONCLUSION

Barnard Park East is an environmentally sensitive reserve that provides habitat for the critically endangered Western Ringtail Possum, and probably the vulnerable Southern Brown Bandicoot. Dogs in the reserve present a danger to wildlife and should be prohibited at all times as a means of protecting the wildlife and the environment generally.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should the Council approve the Officer Recommendation, signs designating Barnard Park East a dog prohibited area will be installed within six weeks of the resolution. This timeline is inclusive of the required 28 days public notice period.

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. URGENT BUSINESS

Nil

20. CONFIDENTIAL REPORTS

Nil

21. CLOSURE

The Presiding Member closed the meeting at 5.40pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 92 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 11 SEPTEMBER 2019.

DATE: _____ PRESIDING MEMBER: _____