

Council Agenda

8 March 2017

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city@busselton.wa.gov.au

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA - 8 MARCH 2017

TO: THE MAYOR AND COUNCILLORS

NOTICE is given that a meeting of the Council will be held in the Meeting Room One, Community Resource Centre, 21 Cammilleri Street, Busselton on Wednesday, 8 March 2017, commencing at 5.30pm.

Your attendance is respectfully requested.

MIKE ARCHER

CHIEF EXECUTIVE OFFICER

24 February 2017

CITY OF BUSSELTON

AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 8 MARCH 2017

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1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

2. <u>ATTENDANCE</u>

Apologies

Approved Leave of Absence

Nil

3. PRAYER

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

4. **PUBLIC QUESTION TIME**

Response to Previous Questions Taken on Notice

Nil

Public Question Time

5. ANNOUNCEMENTS WITHOUT DISCUSSION

Announcements by the Presiding Member

Announcements by other Members at the invitation of the Presiding Member

6. APPLICATION FOR LEAVE OF ABSENCE

7. <u>PETITIONS AND PRESENTATIONS</u>

8. <u>DISCLOSURE OF INTERESTS</u>

Nil

9. **CONFIRMATION AND RECEIPT OF MINUTES**

Previous Council Meetings

9.1 <u>Minutes of the Council Meeting held 22 February 2017</u>

RECOMMENDATION

That the Minutes of the Council Meeting held 22 February 2017 be confirmed as a true and correct record.

Committee Meetings

9.2 Minutes of the Policy and Legislation Committee Meeting held 16 February 2017

RECOMMENDATION

- 1) That the minutes of the Policy & Legislation Committee Meeting held 16 February 2017 be received.
- 2) That the Council notes the outcomes from the Policy & Legislation Committee Meeting held 16 February 2017 being:
 - a) The Review of Planning Delegates item is presented for Council consideration at item 10.1 of this agenda.
 - b) The Review of Policy 229 Elected Members Mail Handling item is presented for Council consideration at item 10.2 of this agenda.
 - c) The Review of Building Lists The Sale of item is presented for Council consideration at item 10.3 of this agenda.
 - d) The Review of Salary Packaging Policy item is presented for Council consideration at item 10.4 of this agenda.
 - e) The Review of Policy 018 Customer Service item is presented for Council consideration at item 10.5 of this agenda.
 - f) The Review of legal Representation Costs Indemnification Policy and Associated Instrument of Delegation item is presented for Council consideration at item 10.6 of this agenda.
 - g) The general discussion item on Shelters and Structures on Beaches is noted.

10. REPORTS OF COMMITTEE

10.1 Policy and Legislation Committee - 16/02/2017 - REVIEW OF PLANNING DELEGATIONS

SUBJECT INDEX: Authorised Delegation of Power / Authority

STRATEGIC OBJECTIVE: Governance systems that deliver responsible, ethical and accountable

decision-making.

BUSINESS UNIT: Planning and Development Services

ACTIVITY UNIT: Statutory Planning

REPORTING OFFICER: Director, Planning and Development Services - Paul Needham **AUTHORISING OFFICER:** Director, Planning and Development Services - Paul Needham

VOTING REQUIREMENT: Absolute Majority

ATTACHMENTS: Attachment A Existing Delegations

This item was considered by the Policy and Legislation Committee at its meeting on 16 February 2017, the recommendations from which have been included in this report.

PRÉCIS

The Council is asked to consider the outcomes of a review of planning delegations. Effective planning delegations, the intent and effect of which have remained broadly stable for at least the last five years, are a critical element in ensuring the efficient and effective operation of the City's planning service.

With the aim of presenting the delegations in a more user friendly and intuitive way, some changes to the format of the delegations are proposed. Specific changes to clarify and align 'call-in' and 'referral' provisions are also proposed. Also proposed are changes to clearly set out that development of policy instruments (local planning polices and heritage instruments) are not delegated, as well as changes to reflect the reporting and briefing mechanisms which currently support the delegations, but which are not currently specifically mentioned in the actual delegations.

BACKGROUND

At its ordinary meeting of 23 September 2015, the Council adopted new planning delegations, which are the planning delegations currently in effect. The Council decision at that time was necessitated by Gazettal of the *Planning and Development (Local Planning Scheme) Regulations 2015* ('the Regulations'), the result of which was a new head of power for most planning and planning-related delegations (the head of power was now set out in the Regulations, rather than in the City's own town planning scheme, as had previously been the case). At that time, however, there was not a substantive review of the delegations, in terms of their practical effect and intent; rather, the Council adopted a new set of delegations, the practical effect and intent of which was essentially unchanged relative to what had existed previously. A copy of the current delegations is provided at **Attachment A**.

Similarly, around 12 months earlier, on 24 September 2014, the Council had also adopted a new set of planning delegations, reflecting the then impending Gazettal of the City's new town planning scheme (Local Planning Scheme 21); that had also created a new head of power for most planning delegations (i.e. the then new, now current, scheme, Scheme 21, rather than the previous scheme, Scheme 20). Again, at that time, though, there was not a substantive review of the delegations, and what was adopted, in terms of practical effect and intent, was essentially unchanged from what had existed previously.

There had, however, been minor changes made to the planning delegations from time to time in the preceding years, as well as consideration of the planning delegations more generally as part of a

broader review of delegations, subject of Council consideration in June 2011. At that time, no significant changes were made by the Council to the format, effect or intent of the planning delegations.

It should be noted that the planning legislation does not require the regular, periodic review of planning delegations, as is the case with delegations pursuant to the *Local Government Act 1995*, wherein S5.46(2) requires a review at least once every financial year. It is nevertheless seen as prudent to undertake a review of the planning and planning-related delegations from time to time to ensure their continued currency, workability and appropriateness, from a Council perspective. This report has been prepared and presented with that in mind. There have also been some changes in practice and context within the operations of the City administration itself, in terms of the working relationship between officers and Councillors and in the external environment, with respect to planning and planning-related matters since 2011; and consideration of the delegations in light of those changes is seen as appropriate.

Key changes since around the time of the 2011 review, other than the two changes to heads of power already described above, have been –

- The introduction of Development Assessment Panels (in the City's case, the South West Joint Development Assessment Panel 'JDAP') by the State pursuant to the *Planning and Development (Development Assessment Panels) Regulations 2011*. The principal effect of that has been that some planning decisions that might otherwise have been made under delegated authority have instead been made by the JDAP including by the two Councillor representatives on the JDAP (with the JDAP consisting of two Councillors and three independent representatives, appointed by the Minister) and to a lesser degree that some decisions that might otherwise have been made by the Council have instead been made by the JDAP.
- The introduction of 'planning updates', generally on a monthly basis, as part of the informal briefing sessions with Councillors scheduled most Wednesday afternoons. Those updates have allowed officers to bring planning matters of potential interest to Councillors' attention, address matters raised by Councillors themselves, allow officers to indicate to Councillors the envisaged course of action with respect to various planning matters, and in particular to allow Councillors to identify matters that they would like to see brought to the Council for determination. The effect of that has been that some matters that would otherwise be determined under delegation are instead brought to the Council for determination. There are also instances, however, where a briefing on a matter satisfactorily addresses questions or concerns that Councillors may have, which at some times in the past may instead have been brought to the Council for determination. Most matters that are brought to the Council for determination are done so because it is identified that, because of the nature of the issues requiring consideration and/or the level of community interest, it is appropriate that the decision be made by the Council, rather than by officers.

It should be noted that, outside of the formal Council meeting process, the City's planning delegations outline mechanisms for 'referral' of matters to Councillors and/or for an ability for Councillors to 'call-in' matters, as follows —

- An ability for Councillors to call-in an application for development approval, with the
 current provisions allowing the Mayor, either independently or on the basis of a request
 from another Councillor (or Councillors), to make a request to the CEO that a matter be
 brought to the Council for determination.
- A requirement that any application for 'reconsideration' of a delegated decision on an application for development approval not be determined under delegated authority unless officers have first re-assessed the application (including in light of any changes to

the proposal and/or new information). Officers then provide a memorandum to Councillors setting out the officer assessment of the matter and the proposed direction (i.e. support the reconsideration in full, support the reconsideration in part, or not support the reconsideration at all). Councillors are then provided seven days in which to ask any further questions about the matter and/or request that the matter be brought to the Council for determination.

- An ability for officers to refer a draft structure plan (formerly development guide plan) or local development plan (formerly detailed area plan or detailed local area plan) to Councillors prior to the adoption of the draft plan as a 'draft for consultation'. Where this occurs, a report on the draft plan is prepared and referred to Councillors. Councillors are then provided 14 days in which to ask any further questions about the matter and/or request that the matter be brought to the Council for determination.
- A requirement for officers to refer a draft structure plan or local development plan to Councillors prior to the forwarding to the WAPC of a recommendation regarding the final adoption of the draft plan. Where this occurs, a report on the draft plan is prepared and referred to Councillors. Councillors are then provided 14 days in which to ask any further questions about the matter and/or request that the matter be brought to the Council for determination.

It should be noted that the call-in provisions allow Councillors to 'request' that a matter be brought to the Council for determination, but do not 'require' that occur. The reason for that is a delegation that 'required' a matter to be brought to the Council on the basis of a request from one (or more) Councillors would essentially constitute the withdrawal of a delegation by one (or more) Councillors, outside of a formal Council meeting. The only way that the Council can withdraw (or grant) a delegation, however, is via an absolute majority decision, in a formal Council meeting. Even if a delegation exists, though, officers can decide to instead to refer a matter to the Council for consideration.

It should be noted that whilst, on occasion, officers have sought to provide further information with the aim, in part, that a request be 'withdrawn', officers have never, at least within the last 4-5 years, not agreed to a request that a matter be brought to the Council for determination (where that request has been made in accordance with the protocol set out in the delegations at that particular time). Provided that an application is actually ready to be determined at the point (or just after the point) that the call-in provision is triggered, it would typically be 3-4 weeks before an application could be formally considered by the Council. Typically, that would be 1-4 weeks longer than would be required to make a decision under delegation.

It should be noted that Councillors always have the ability to use a 'notice-of-motion' to require that a particular matter be brought to the Council, if, when such a motion is put, it is supported by the Council as a whole (by absolute majority). There are a number of reasons, however, why reliance on that alone is not appropriate, principally related to timeframes. Clause 5.5 (2) of the City's *Standing Orders Local Law* requires that a Councillor provide a minimum of 21 days' notice before a notice of motion can be debated at a Council meeting. If a notice of motion is successful in requiring that a matter be brought to the Council for determination, officers would then have to prepare and present a report to a subsequent Council meeting. Given the lead times required, it would then be 2-5 weeks before the application could actually be considered by the Council (and potentially longer during December/January, or other times when there are breaks in the normal, twice monthly, Council meeting schedule). It would also often be difficult for the debate, if there was significant debate, to not become a proxy debate about the merits of the matter, rather than being about the decision making process.

Determination of an application called-in via the notice-of-motion process would therefore typically take 5-8 weeks, rather than the 3-4 weeks associated with the existing call-in provisions. Given that,

it would generally be better for officers to simply present the application to the Council for consideration at the next available opportunity, more often than not rendering the notice-of-motion redundant, and ending up with an ultimate outcome more or less the same as that achieved via a more flexible call-in provision of the kind that currently exists.

In addition to the mechanisms outlined above that allow or require Councillors to be informed and updated about planning matters, or to exercise call-in provisions, the following regular updates are provided as part of the Councillors' Information Bulletin, which forms part of all ordinary Council meeting agendas –

- At each meeting, a report listing the applications received and determined by the City in the preceding period; and
- Generally at every second meeting (so, generally monthly), an update on planning and development related matters subject of State Administrative Tribunal (SAT) or legal proceedings.

It should also be noted that there are three important kinds of planning decisions where there is, in fact, no power of delegation and, as such, all such decisions are made by the Council itself, namely –

- Local government decisions about amendments to town planning schemes (i.e. 'amendments' or 'rezonings');
- Local government decisions relating to the adoption of planning strategies and/or planning policies; and
- Decisions to commence prosecution for non-compliance with the town planning scheme.

Also of note are the relationship of local government to the WAPC and Minister for Planning, and the respective roles of local governments, the WAPC and Minister for Planning, in relation to planning in Western Australia, notably –

- With limited exceptions related to Ministerial powers (powers which have never been exercised in relation to the City of Busselton), only the Council can commence the process of amending a town planning scheme (a decision referred to as the 'initiation' of an amendment). Subsequent to that point, though, the local government must process the amendment to the point where the local government's decision-making role generally ceases, which is the point at which the Council makes a recommendation about the amendment to the WAPC and Minister for Planning.
- In the case of applications for subdivision approval, applications are made not to the local government, but to the WAPC, which is the decision-making body, and the local government's role, in common with a range of State agencies, is important, but advisory only.
- Similarly, once a subdivision approval has been granted, usually a conditional subdivision approval, the local government's role in assessing compliance with conditions of subdivision approval is also important, but advisory only, in a legal/statutory sense.

Summary information regarding decisions on applications for development approval, including the breakdown between delegated, Council and the JDAP decisions, is included as **Attachment B**.

Unlike the reports presented to the Council in 2015 and 2014, in preparing this report officers have undertaken a substantive review of the delegations. With the aim of presenting the delegations in a more user friendly and intuitive way, some changes to the format of the delegations are proposed. Specific changes to clarify and align 'call-in' and 'referral' provisions are also proposed. Also proposed are changes to reflect the reporting and briefing mechanisms which currently support the delegations, but which are not currently specifically mentioned in the actual delegations.

STATUTORY ENVIRONMENT

The relevant statutory environment is set out in the -

- Planning and Development Act 2005
- Planning and Development (Development Assessment Panels) Regulations 2011
- Planning and Development (Local Planning Schemes) Regulations 2015
- Local Government Act 1995
- City of Busselton Standing Orders Local Law 2010

Of particular note are the thresholds for referral of applications for development approval to the JDAP (as set out in the *Planning and Development (Development Assessment Panels) Regulations 2011*), which are, in the case of everywhere in the State, other than the City of Perth, currently as follows –

Mandatory DAP applications (i.e. those that must be determined by the JDAP) are -

Any development application that —

- is not an excluded development application; and
- is for the approval of development that has an estimated cost of \$10 million or more.
- Optional DAP applications (i.e. those that either the applicant or the local government can refer to the JDAP for determination) are -

Any development application that —

- is not
 - (i) an excluded development application; or
 - (ii) a development application in respect of which the responsible authority has under regulation 19 delegated the power of determination; and

is for the approval of development that has an estimated cost of \$2 million or more and less than \$10 million.

Note that, under regulation 19, referred to above, a local government can, by absolute majority, delegate optional DAP applications to the JDAP. That can occur either on the basis of referring certain classes or types of applications, or on the basis of referring one or more particular applications. Officers are not proposing any optional delegation to the JDAP in this report.

Note that 'excluded development application' means a development application for approval of —

- (a) construction of
 - (i) a single house and any associated carport, patio, outbuilding and incidental development;
 - (ii) less than 10 grouped dwellings and any associated carport, patio, outbuilding and incidental development;
 - (iii) less than 10 multiple dwellings and any associated carport, patio, outbuilding and incidental development;

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- (b) development in an improvement scheme area (of which there are none in the City of Busselton); or
- (c) development by a local government or the Commission; or

RELEVANT PLANS AND POLICIES

There are no relevant plans or policies.

FINANCIAL IMPLICATIONS

There are no significant financial implications of the recommendations of this report. It should be noted that any significant reduction in planning delegations, or other changes that resulted in a significant increase in the number of planning matters being brought to the Council for determination, would significantly increase the workload of the City's planning staff, and increase the effective cost and reduce the operational efficiency of that part of the City's operations.

Efficient planning (and building) assessment processes are also important to the economy of the District, with building and construction activity representing a significant proportion of the District's economy, and being a significant employer, with significant economic and employment multipliers. That is particularly the case when one considers the proportion of investment that is by people living outside the District and/or who intend to become residents of the District in future.

Long-term Financial Plan Implications

There are no significant Long Term Financial Plan implications of the recommendations of this report.

STRATEGIC COMMUNITY OBJECTIVES

The recommendations of this report reflect Strategic Objective 6.2 of the City's *Strategic Community Plan*, which is 'Governance systems that deliver responsible, ethical and accountable decision-making'.

RISK ASSESSMENT

An assessment of the risks associated with implementing the officer recommendation has been undertaken using the City's risk assessment framework. No significant risks have been identified.

CONSULTATION

It was not considered necessary to undertake consultation in the preparation of this report. Research was, however, undertaken, looking at the planning delegation approaches adopted by some other local governments.

OFFICER COMMENT

In the most recently completed financial year, the City determined 939 applications for development approval, as well as responding to 61 subdivision applications, receiving 49 subdivision clearance requests (for creation of 455 new lots), and assessing 19 structure plan, local development plan, developer contribution plan and/or town planning scheme amendment proposals. There have also been significant achievements in the broader strategic (town) planning area, including the making of a final recommendation to the WAPC on the City's draft Local Planning Strategy, setting the overall direction on the Strategic Land Review project and implementing/coordinating a range of other projects.

The overall level of activity is, however, substantially higher than was the case 4-5 years ago, and turnaround times for determining proposals have also generally improved over that period – but staffing levels have remained the same or, in some areas, actually decreased. That performance has only been possible because of a strong focus on the development and implementation of efficient

systems, and building a positive and pro-active culture, with a 'continuous improvement' mindset. That change in performance is also reflective of the priority given to proactive and efficient planning assessment and, in particular, improved application turnaround times by the Council itself, reflected in CEO and organisational key performance indicators for the last 5-6 years.

Another critical factor in making that performance possible has been the current approach to planning delegations, supported by the developing and maintaining of a positive, productive working relationship between and amongst Councillors and officers — noting especially that a positive, productive working relationship does not entail universal agreement. In essence, that relationship rests on the fundamental understanding that officers, even when making delegated decisions, are acting on behalf of the Council, and that the continued maintenance of delegations requires Councillors to be confident in the soundness of the decisions being made by officers. Any significant increase the proportion of planning matters being considered by the Council would, however, as already in the 'Financial Implications' section of this report, significantly increase the workload of the City's planning staff, and increase the effective cost and reduce the operational efficiency of that part of the City's operations.

Overall, the best approach to planning delegations is seen as being through broad delegations, whilst ensuring that mechanisms exist to identify issues/matters of interest as early as possible and, for the hopefully limited number of situations where they need to be exercised, that there are appropriate call-in provisions. Rigid, formulaic or legalistic approaches to limiting or defining delegation are generally not seen as appropriate, as they may well lead to matters having to be brought to the Council where Councillors are, in fact, comfortable with the direction being taken by officers, and where there are not significant/strategic issues requiring consideration and/or the level of community interest is not especially high. That would result in: additional costs to the organization (associated with the preparation and publication of agenda reports, and the Council meeting process itself); unnecessary, additional impositions on Councillors' time; and longer timeframes for the determination of applications, creating additional uncertainty and costs for applicants, and longer periods of uncertainty for those in the community also interested in the outcomes.

Rigid, formulaic or legalistic approaches may also result in officers not recognizing matters that, despite not triggering specific requirements for referral to the Council, are nevertheless significant/strategic matters and/or which are matters of significant community interest – and which should, at minimum, be brought to Councillors' attention. The thresholds for referral of applications to the Development Assessment Panels are an example of where rigid/formulaic/legalistic approaches do result in matters being referred 'up' (to the JDAP) which are not especially difficult or important. Whilst that approach is probably necessary in the context of the Development Assessment Panels (to the extent that one accepts their necessity in general), it is not necessary with respect to identification of matters to be referred 'up' to Council, where more flexible and interactive approaches can be employed, as has now been the case, with considerable success, for a number of years.

Given the above, whilst officers are recommending some reformatting of the delegations and some detailed changes, officers are not proposing any significant change in terms of the overall effect or intent of the planning delegations. The proposed reformatting is with the aim of presenting the delegations in a more user friendly and intuitive way, fostering a better and more consistent understanding of the planning delegation and decision-making processes more generally (amongst Councillors, officers, applicants and the community in general). In addition, there is an attempt to be more descriptive and direct in setting out how the decision-making processes actually work. That includes inserting references to the reporting and briefing mechanisms described in the 'Background' section of this report, which are important parts of the processes (and a critical part of developing and maintaining a positive, productive working relationship between and amongst Councillors and officers), but which are not actually mentioned in the delegations currently.

In addition to the proposed changes described above, some detailed changes to the substance of the delegations are also proposed. The changes proposed are related to the call-in provisions, and the provisions that require or allow referral of certain proposals to Councillors (via a report/memo) for some specified period before a delegated decision can be made – during which period, Councillors can exercise the call-in provision. It is proposed, in part reflecting a general discussion item at a Policy & Legislation Committee meeting, that the call-in and referral provisions are aligned to be consistent across all of the relevant processes, as follows –

- Establishing that a call-in request must can be made by any two Councillors. The call-in provisions vary somewhat at present, with one only allowing the Mayor to make a request, and others allowing a request to be made by any individual Councillor. The reason for this proposed change is to both standardize the arrangements across the different processes, as well as ensuring that, if a matter is brought to the Council at Councillors' request, there is interest in the matter from more than one Councillor.
- Establishing that, where matters are specifically required to be referred to Councillors before a delegated decision can be made, that Councillors will always be given 14 days in which to respond. At present the timeframe is seven days for applications for reconsideration of a delegated decision on an application for development approval, and 14 days for a draft structure plan or local development plan. The reason for this change is again to standardize the arrangements across the different processes, but also to recognize that, given other workload and commitments, a 14 day timeframe significantly reduces the chance that a Councillor may not, within the timeframe allowed, be able to review the material provided by officers, ask for (and receive) further information or clarification if required, and then seek the support of a fellow Councillor if they wish to make a call-in request.

Further changes to the call-in and referral provisions are also proposed, as follows –

- Clarifying that, even though it is not possible to submit an application to amend or renew an application that has been refused, and therefore not possible to 'reconsider' such an application, that where a new application, which is substantially the same as an earlier application refused under delegation, that such an application shall be treated in the same as a reconsideration application related to reconsideration of conditions of approval, and not determined under delegated authority without the matter being referred to Councillors.
- Clarifying that, because of changes to the nature of the decision now being made by a local government prior to advertising a draft structure plan or local development plan, that such draft plans shall generally not be referred to Councillors prior to the making of a delegated decision. Councillors should note that the decision made at that stage of the process is now subject, in a statutory sense, of some fairly tight timeframes (the decision must be within 28 days for a draft structure plan and 14 days for a draft local development plan) and is essentially about assessing whether relevant supporting information has been provided, not assessing the planning merits of the proposal. Note that, to date, most such applications have been preceded by significant pre-application contact between the applicants and City officers, and most applicants would prefer not to have proposals advertised where there is a strong likelihood that the local government will recommend significant changes post-advertising, possibly resulting in the WAPC requiring the proposal to be re-advertised.

Under the current delegations, it is arguable that powers to adopt or amend local planning policies and/or amend the local heritage list can be made under delegation. That is not seen as appropriate and the proposed delegations are clear in not delegating those kinds of decisions.

The proposed new delegations are set out in the Officer Recommendation.

CONCLUSION

The proposed new planning delegations are considered to provide for an appropriate level of delegation, ensuring the continued efficient operation of the City's planning service, whilst also ensuring that matters of strategic importance and/or significant community interest are identified and brought to the Council for determination where appropriate. The proposed new delegations are also considered to be set out in a more user friendly and intuitive way, fostering a better and more consistent understanding of the planning delegation and decision-making processes more generally.

OPTIONS

The Council could decide to retain the existing delegations in unchanged form and/or make other changes to the delegations.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Implementation of the officer recommendation would involve the drafting and establishing of appropriate sub-delegations from the CEO to other City staff as necessary, with that process to be complete within one month. Because of the need to establish sub-delegations before existing sub-delegations fall away, it is recommended that the new delegations only come into effect after one month, with the existing delegations remaining in place during that time.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council, effective from 8 April 2017 -

- 1. Discontinue existing delegation reference PDR1; and
- 2. Establish new delegation reference PDR1, as follows –

INSTRUMENT OF DELEGATION

| Del Ref | Act Ref | Delegate | Delegation Subject |
|---------|--|-------------------------|---------------------|
| No | | | |
| PDR 1 | s.162 Planning and Development Act 2005 | Chief Executive Officer | Development Control |
| | cl. 82 Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 Deemed Provisions for local planning schemes | | |

Delegator

Council.

Power/Duty

To undertake the powers and duties of the local government able to delegated under cl. 82 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 *Deemed Provisions for local planning schemes*, subject to the conditions set out below.

Conditions

Note: In addition to the conditions set out below, some decisions on applications for development approval cannot be made by the City by virtue of the Planning and Development (Development Assessment Panels) Regulations 2011.

1. 'Call-in' provisions

Any two or more Councillors may consider an application or proposal to be of strategic significance and/or high community interest and *request* the CEO, in writing, to present the application or proposal to the Council for consideration. If the request is supported, the application shall be presented to the first practicable Council meeting for consideration.

Note: Any Councillor may also submit a notice-of-motion in relation to the withdrawal of delegation in relation to a particular application, but it would generally be expected that they would first seek to exercise the call-in provision outlined above.

2. Reconsideration of applications for development approval

Prior to the determination of an application for reconsideration of an application for development approval (other than where a reconsideration is occurring pursuant to section 31 of the *State Administrative Tribunal Act 2004* – see below), the CEO shall ensure that a copy of the reconsideration request, together with a report assessing the application, is circulated to all Councillors, giving a period of not less than 14 days before a delegated decision is made.

This condition relates to applications to amend or renew an approval where reconsideration of conditions is being requested, and also to new applications which are substantially the same as an earlier application refused under delegation.

3. Structure Plans, Activity Centre Plans, Local Development Plans, Developer Contribution Plans

Prior to making a recommendation to the Western Australian Planning Commission regarding adoption or amendment of a Structure Plan, Activity Centre Plan and/or Local Development Plan, the CEO shall ensure that a copy of the respective plan, together with an report, setting out and explaining the recommendation proposed to be made under delegation, is circulated to all Councillors, giving a period of not less than 14 days before a delegated decision is made.

These delegations do not extend to the making of recommendations to the Western Australian Planning Commission regarding adoption or amendment of Developer Contribution Plans.

4. Local Planning Policies, Local Heritage List, Heritage Precincts

Decisions relating to adoption, revocation or amendment of Local Planning Policies, the Local Heritage List and/or Heritage Precincts are not delegated.

5. Applications for review by the State Administrative Tribunal (SAT)

Where the original decision was made under delegation, a reconsideration decision pursuant to section 31 of the *State Administrative Tribunal Act 2004* may be made under delegation.

Where the original decision was made by the Council, a reconsideration decision pursuant to section 31 of the *State Administrative Tribunal Act 2004* shall be presented to the Council for consideration, unless officers have briefed Councillors and Councillors have indicated a general willingness to allow the decision to be made under delegation, in which case a decision may be made under delegation, provided that the reconsideration provisions set out at Condition 2 above have been met before the decision is made.

6. Briefing and reporting

Generally on a monthly basis (as agreed/determined by the Mayor and CEO), officers shall provide Councillors with an informal briefing on planning matters of strategic significance and/or high community interest, and on issues raised by Councillors.

As part of the agenda for each ordinary Council meeting, a summary of applications received and determined between the closing date of the previous summary and a date as close as practicable to the publication date of the agenda, shall be presented to Councillors as part of the 'Councillors Information Bulletin'.

Generally on a monthly basis, and generally as part of the agenda for every second ordinary Council meeting in any given month, a summary and update of planning and development-related State Administrative Tribunal matters involving the City shall be presented to Councillors as part of the 'Councillors Information Bulletin'.

Verification

Council Resolution #########

Review Requirements

At Council's discretion as necessary (no statutory requirement).

Review Dates

########



INSTRUMENT OF DELEGATION

| Del Ref | Act Ref | Delegate | Delegation Subject |
|---------|--|-------------------------|---------------------|
| No | | | |
| PDR 1 | s.162 Planning and Development Act 2005 | Chief Executive Officer | Development Control |
| | cl. 82 Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 Deemed Provisions for local planning schemes cl. 12.2 City of Busselton Local (Town) Planning Scheme 21 | | |

Delegator

Council.

Power/Duty

To undertake the powers and duties of local government under cl. 82 Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 *Deemed Provisions for local planning schemes* and cl 12.2 of the City of Busselton Local (Town) Planning Scheme 21, subject to the following *Exemptions, Limitation* and *Conditions*.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act* 1995 to delegate to the CEO the discharge of its powers and duties provided for in:

- Section 162 of the Planning and Development Act 2005;
- Clause. 82 Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 Deemed Provisions for local planning schemes and
- Clause 12.2 in the City of Busselton Local (Town) Planning Scheme 21.

Planning and Development Act 2005

162. No development except with approval

(1) subject to this act, where a planning scheme or interim development order provides that development referred to in the planning scheme or interim development order is not to be commenced or carried out without approval being obtained upon the making of a development

Existing Delegations

application, a person must not commence or carry out that development on land to which the planning scheme or interim development order applies unless —

- (a) the approval has been obtained and is in force under the planning scheme or interim development order; and
- **2.** (b) the development is carried out in accordance with the conditions subject to which the approval was granted.

Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 Deemed Provisions for local planning schemes

82. Delegations by local government

Attachment A

10.1

- (1) The local government may, by resolution, delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under this Scheme other than this power of delegation.
- (2) A resolution referred to in subclause (1) must be by absolute majority of the council of the local government.
- (3) The delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.

83. Local government CEO may delegate powers

- (1) The local government CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's functions under this Scheme other than this power of delegation.
- (2) A delegation under this clause must be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Subject to any conditions imposed by the local government on its delegation to the local government CEO under clause 82, this clause extends to a power or duty the exercise or discharge of which has been delegated by the local government to the CEO under that clause.

City of Busselton Local (Town) Planning Scheme 21

12.2 Delegation of Functions

- 12.2.1 The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee, the Chief Executive Officer (CEO), within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.
- 12.2.2 The CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 12.2.1.
- **12.2.3** The exercise of the power of delegation under clause 12.2.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.

Exemptions

The following items, are exempted from the affect of this delegation and are matters in the *Description* to be determined by Council, or as required by *Conditions* to be determined by Council.

Existing Delegations 10.1 Attachment A

| Schedule 2 | Scheme 2: | L Description | Conditions |
|---------------|-----------|--|------------|
| | 2.1 | Initiate preparation or amendment of a local (planning) policy. | Nil |
| 4.1 | | Initiate preparation or amendment of a local (planning) policy and | |
| | | forward to the WAPC | |
| | 2.2.3 | Adopt a local (planning) policy and determine to forward to WAPC | Nil |
| | | (2.3.3 (b)). | |
| 4.3 | | Resolves to proceed/adopt a local (planning) policy | |
| 6 | 2.4 | Determine to revoke a local (planning) policy | Nil |
| | | | |
| | 4.14 | Termination of a non-conforming use | Nil |
| | | | |
| | 7.4.10 | Determine to adopt a Structure Plan and determine, if it affects | Nil |
| | | subdivision, to forward it to WAPC for endorsement | |
| 19(1) | | Structure Plans - consider submissions - does not include 29(3) | 2 |
| | | minor amendments | |
| 20(2)(e) | | Structure Plans - make report and recommendations to the WAPC - | 2 |
| | | does not include 29(3) minor amendments condition 2 applies | |
| | | | |
| 35(1) | | Activity Centre Plan- consider submissions - does not include 45(3) | 2 |
| | | minor amendments condition 2 applies | _ |
| 36(2)(e) | | Activity Centre Plan - make report and recommendations to the | 2 |
| | | WAPC - does not include 45(3) minor amendments condition 2 | |
| | | applies | |
| F.4 | | Level Bendance Blancowith and besides | |
| 51 | | Local Development Plan- consider submissions - does not include | 2 |
| F2/1\ | | 59(4) minor amendments condition 2 applies | 2 |
| 52(1) | | Local Development Plan determination does not include 59(4) minor amendments condition 2 applies | 2 |
| | | Inition untertainents condition 2 applies | |
| | 7.7.6 | Adopt a Developer contribution plan and determine if affecting | Nil |
| | 7.7.0 | subdivision to forward to WAPC for endorsement | 1411 |
| | | Subdivision to forward to W/H e for endorsement | |
| 8.3 | 8.1.1 | Identify places and establish a Heritage List, advise the Heritage | Nil |
| 0.0 | 0.1.1 | Council of Western Australia 8.1.4 | |
| | | | |
| 8.4 | 8.1.6 | Remove or modify the entry of a place on the heritage list | Nil |
| | | , , , , | |
| 9 | 8.2.1 | Designate a Heritage Area, advise the Heritage Council of Western | Nil |
| | | Australia 8.2.6 | |
| | | | |
| 10 | 8.3 | Enter in to heritage agreement about land or building with | Nil. |
| | | agreement of the owner | |
| | | | |
| 60(a) | 11.3 | Determination of Applications | 1.1 & 1.2 |
| | | | |
| | 11.10 | Reviews (SAT). Upon being invited by the Tribunal to reconsider a | 1.3 |
| | | decision to either affirm, vary, or substitute a new decision | |
| | | | |
| | 12.1.1(b) | Determine to acquire land or buildings | Nil |
| | | | |
| | 12.1.1(c) | Determine to dispose of land | Nil |
| | | | |

Existing Delegations

| | 12.4 | Determination of compensation for injurious affection | Nil |
|--|------|---|-----|
| | | | |
| | 12.5 | Determine the purchase or the taking of land | Nil |

Limitations

10.1

- Application for the subdivision of land (WAPC), but all other powers and duties of local government leading to the determination by the WAPC are delegated including the power to impose Council's accepted Standards Specifications and Financial Contributions relating to subdivision.
- 2. Application for determination by the JDAP, but all other powers and duties of local government leading to the determination by the JDAP are delegated.

Conditions

1. <u>Determination of applications</u>

Attachment A

1.1 Call ins

- a. The CEO may determine an item to be of significance or public interest and refer the matter for Council's determination.
- b. The Mayor may consider an item is of significance or public interest and *request* the CEO, in writing, to refer it for Council's determination.

1.2 Reconsiderations

Prior to the determination of an application for reconsideration the CEO shall ensure that a copy of the reconsideration request, together with a delegated Officers report and Recommendation, is circulated to all Councillors, giving a period of not less than **seven (7)** days for any Councillor to *request* the reconsideration be referred for Council's determination.

A Councillor's request is to be made in writing to the CEO.

Any *request* will cause the matter to be submitted to the first practicable Council meeting for debate and determination.

If no *request* is received, within the time provided, the matter will proceed to be determined as Recommended in the Officer's report.

1.3 SAT Reviews

- a. The CEO_may determine a Tribunal request, to reconsider a decision, is of significance or public interest and refer the matter for Council's determination.
- 2. <u>Minor Amendments Structure Plan, Activity Centre Plan, and Local Development Plans</u>
 The CEO may refer minor amendments to Council determination, or otherwise is delegated to make a determination once having completed the following procedure.

Prior to determining any application or amendment, for adoption or endorsement of a Development Guide Plan and/or Detailed (Local) Area Plan the CEO shall ensure that a copy of the respective Plan, together with a delegated Officers report and Recommendation, is circulated to all Councillors, giving

10.1

Attachment A

Existing Delegations

a period of not less than **fourteen (14)** days for any Councillor to *request* it be referred for Council's determination.

A Councillor's request is to be made by notice in writing to the CEO.

Any *request* will cause the matter to be submitted to the first practicable Council meeting for determination.

If no *request* is received, within the time provided, the matter will proceed to be determined as recommended in the officer report.

Verification

Review Requirements

At Council's discretion as necessary (no statutory requirement).

Review Dates

2015

10.2 <u>Policy and Legislation Committee - 16/02/2017 - REVIEW OF POLICY 229 - ELECTED</u> MEMBERS MAIL HANDLING

SUBJECT INDEX: Mail Handling

STRATEGIC OBJECTIVE: Governance systems that deliver responsible, ethical and accountable

decision-making.

BUSINESS UNIT: Information Services

ACTIVITY UNIT: Records

REPORTING OFFICER: Manager, Information Services - Hendrik Boshoff **AUTHORISING OFFICER:** Director, Finance and Corporate Services - Cliff Frewing

VOTING REQUIREMENT: Simple Majority

ATTACHMENTS: Attachment A Policy 229 Eleceted Members Mail Handling showing

tracked changes.

Attachment B Revised Policy 229 - Elected Members Mail Handling

This item was considered by the Policy and Legislation Committee at its meeting on 16 February 2017, the recommendations from which have been included in this report.

PRÉCIS

As part of the Council's ongoing policy review process the Elected Members Mail Handling Policy – Policy 229 is presented for review and updating to the current policy format. The review also lines up with the City's recent review of the City's Record Keeping Plan, which flagged this policy as requiring updating.

BACKGROUND

As part of the requirement under the State Records Act 2000 officers have reviewed the City's Record Keeping Plan and submitted the review results to State Records Office (SRO), which was approved by the State Records Commission at its meeting of 12 August 2016. One of the recommendations identified by officers and endorsed by the Commission is the requirement to review City of Busselton Council Policy 229 – Elected Members Mail Handling.

Council adopted the policy 10 March 2004 and it has not been reviewed since. This report documents the review of the policy. With changes recommended to the management of Elected Members Mail, in particular the mail handling guideline section has been updated to aid Councillors and officers to streamline the management of Elected Members corporate communications, as described in the State Records Act 2000:

Local governments must ensure that appropriate practices are established to facilitate the ease of capture and management of elected members' records up to and including the decision making processes of Council

STATUTORY ENVIRONMENT

This report proposes updates of Council Policy 229 Elected Members Mail Handling, which operates under the State Records Act 2000. Furthermore, 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 has proposed to do this on recommendation of a Committee it has established in accordance with Section 5.8 of the Act

RELEVANT PLANS AND POLICIES

The Policy forms part of the City of Busselton's Record Keeping Plan as approved by the State Records Commission at its regular meeting of 12 August 2016.

FINANCIAL IMPLICATIONS

Nil

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The ongoing policy review process is part of the City's governance systems, which ensure responsible, ethical and accountable decision-making.

As the policy provides guidance for Council and the City about customer service expectations, the policy aligns with Council's Strategic Priority Key Goal Area 6:

"Open and Collaborative Leadership"

and more specifically with the Community Objective 6.3:

"An organisation that is managed effectively and achieves positive outcomes for the community".

RISK ASSESSMENT

Not required for this review of this Council policy.

CONSULTATION

As part of the review of the City's Record Keeping Plan officers consulted extensively with internal stakeholders and the State Records Office, to ensure the City's Record Keeping Plan and the Elected Members Mail Handling Policy is in keeping with the State Records Act 2000, whilst ensuring the City's corporate records are functional and usable by the City administration. The proposed changes were presented to Councilors at a Council briefing session on 16 November 2016, at which time officers explained the proposed mail handling process and what Elected Member's responsibilities under the State Records Act 2000 are.

OFFICER COMMENT

This report presents the review of the Elected Members Mail Handling Policy, which aligned with the City's review of the Record Keeping Plan as required by the State Records Commission (reviewed every five years). As technology has significantly improved from the original adoption of the Policy in 2004 and there are currently more digital record keeping avenues available; officers reviewed the management of each of these avenues. It was found the use of a quick lookup table would be the easiest way to reflect the various actions as it relates to each mail management mechanism.

Therefore, the most significant change to the Policy was the inclusion of a Mail Handling Guidelines lookup table, detailing the correspondence type and the subsequent actions to be taken. In addition to the easy lookup table, officers included the State Records Office Information sheet for Elected

Members to utilise as a guide in determining if a piece of correspondence is indeed a City corporate record or not.

CONCLUSION

It is the considered view of officers making these changes to simplify the mail management process, which will assist both Councilors and officers in the management of the Elected Members correspondence, will ensure compliance with the State Records Act 2000 as detailed in the City's Record Keeping Plan.

OPTIONS

The Council could choose not to change the policy or to make additional changes to the policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The policy amendments will be effective immediately upon adoption by the Council.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

That the Council adopts the revised Council Policy 229 – Elected Members Mail Handling as shown in Attachment B.

| 229 | Elected Members Mail Handling | Current |
|-----|-------------------------------|---------|
|-----|-------------------------------|---------|

PURPOSE

The purpose of these guidelines is to assist elected members to manage the official records created or received by them in the course of their role as an elected member and to comply with their responsibilities under the State Records Act 2000.

RECORDKEEPING PRINCIPLES

Accurately created and maintained records are important, and necessary, because they serve as a history of the transactions and business processes of local government. They are a fundamental tool for providing evidence of local government accountability and responsibility. It is for these reasons that legislation exists to ensure that the government record is properly maintained and preserved for future generations.

DEFINITIONS

Government organisation employee means -

- (a) a person who, whether or not an employee, alone or with others governs, controls or manages a government organisation;
- (b) a person who, under the Public Sector Management Act 1994, is a public service officer of a government organisation; or
- (c) a person who is engaged by a government organisation, whether under a contract for services or otherwise and includes, in the case of a government organisation referred to in item 5 or 6 of Schedule 1, a ministerial officer (as defined in the Public Sector Management Act 1994) assisting the organisation. (State Records Act 2000)

Government record – is a record created or received by or for a government organisation or a government organisation employee or contractor in the course of the work for the organisation (State Records Act 2000).

Record – means any record of information however recorded and includes:

- * anything on which there is writing or Braille;
- * a map, plan, diagram or graph;
- a drawing, pictorial or graphic work, or photograph;
- anything on which there are figures, marks, perforations, or symbols, having a meaning for persons qualified to interpret them;
- anything from which images, sounds or writings can be reproduced with or without the aid of anything else; and
- anything on which information has been stored or recorded, either mechanically, magnetically, or electronically (State Records Act 2000).

APPLICABILITY OF THE STATE RECORDS ACT TO ELECTED MEMBERS

It is the view of the Crown Solicitor's Office that although elected members are not employees, they are clearly persons who govern, control and manage the local government in accordance with the Local Government Act 1995.

Therefore, elected members fall under the definition of the term "government organisation employee" as outlined in section 3 of the State Records Act 2000. "Accordingly, records created or received by {elected members} in the course of their capacity as office holders for the local government constitute government records."

The State Records Commission's policy for recordkeeping requirements for local government elected members is as follows:

"In relation to the recordkeeping requirements of local government elected members, records must be created and kept which properly and adequately record the performance of member functions arising from their participation in the decision making processes of Council and Committees of Council.

This requirement should be met through the creation and retention of records of meetings of Council and Committees of Council of local government and other communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business.

Local governments must ensure that appropriate practices are established to facilitate the ease of capture and management of elected members' records up to and including the decision making processes of Council"

ELECTED MEMBERS' RECORDS

Elected Members must create and keep records of communications or transactions, which convey information relating to local government business or functions. These records should be forwarded to the local government for capture into the official recordkeeping system.

Records may include any correspondence received or sent by elected members in any format (e.g. by post, fax, email, courier, hand-delivered) whether received or sent at the City offices or at an elected member's private residence / post box.

Records created or received by elected members can be divided into two broad groups – those of continuing value to the local government and those of temporary value.

Records of continuing value

These are those records which contain information that is of administrative, legal, evidential, fiscal or historical value to the local government. These records may be referred to for many purposes, including the need to:

- * document elected members' decisions, directives, reasons and actions;
- * check an interpretation of the local government policy or the rationale behind it;
- * check the facts on a particular case or provide information;
- monitor progress and coordination of responses to issues; and
- * document formal communications.

Records of temporary value

These are those records which have no continuing value and are considered of interest or used for a short time only, for example, a few hours or a few days.

HOW TO DEAL WITH SPECIFIC KINDS OF RECORDS

To assist elected members' to handle the records created and/or received, the following descriptions and actions relate to some common records with which they may deal.

Diaries / Appointment Books / Calendars

Diaries, appointment books and calendars are generally used to record appointments. They may also be used to record messages and notes, some of which may only be an aide memoire of a routine nature, and some of which may be of significance to the conduct of local government business.

Guidelines

Elected members' diaries, appointment books and calendars that are used to record information such as dates and times of meetings and appointments or to record notes and messages generally, have NO continuing value and may be destroyed when reference to them ceases. However, it is a matter of discretion to be judged by the elected member based on whether the information is:

- relevant;
- worthy of retention; and
- has not already been recorded elsewhere in the recordkeeping system.

2. Telephone and other verbal conversations

Elected members may have telephone or face-to-face conversations at any time on a variety of matters. Some conversations may involve the relay of information, or involve matters, of significance to the conduct of local government business. These conversations should be documented in an appropriate format.

Other conversations may only be very basic or routine in nature, such as the issuing or receiving of basic instructions or information, and need not be documented.

Guidelines

- Conversations involving the exchange of routine or simple administrative instructions or information; and
- * Conversations that do not relate to the business functions of the local government if they are documented in a written or other form, have NO continuing value and may be destroyed when reference to them ceases.
- * Conversations which relate to the business functions of the local government involving the issuing of directives, proposals, recommendations, definitions or interpretations from the elected member to another party or vice versa; and
- * Conversations that are part of an actual business transaction itself, or have policy/procedure implications, or otherwise identified as being significant to the conduct of the local government's business if they are documented in a written or other form, may have continuing value and at the discretion of the elected member should be forwarded to Records for incorporation into the recordkeeping system.

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3. Lobbying

Lobbying is the activity of ratepayers or members of the community attempting to influence the Council through representations to elected members, and may include one or more elected members lobbying other elected members.

Guidelines

Records, such as correspondence or petitions, relating to lobbying matters regardless of whether the lobbying itself is of local government or community interest may have continuing value and at the discretion of the elected member should be forwarded to Records for incorporation into the recordkeeping system.

4. Electioneering material

Electioneering material or records created or received by an elected member in regard to electioneering are private records of the elected member, and do not need to be forwarded to the local government office.

5. Agendas/minutes/information brochures

Notes that are written on Council Agendas, Council Minutes or Information Brochures and are considered relevant to the decision made by Council may have continuing value and at the discretion of the elected member should be forwarded to Records for incorporation into the recordkeeping system.

A copy of the notes can be provided to the elected member for their reference, if required.

6. Confidentialdocuments/records

If the elected member believes that some of the documentation forwarded to the City office for incorporation into the recordkeeping system is of a highly sensitive or confidential nature, the elected member should advise the local government to treat the information as confidential and restrict access to those records.

The State Records Office information sheet on how to handle elected members' records is attached for further assistance in determining which records should be captured in the City of Busselton recordkeeping system

7. Destruction of Records

All records should be returned to the City of Busselton Records Management Unit for authorised and legal destruction.

Policy 229 Eleceted Members Mail Handling showing tracked changes

MAIL HANDLING GUIDELINES

| Correspondence | Action |
|--|--|
| Hard copy mail addressed to | → Opened |
| Councillors and received via COB | → Date stamped by Records |
| | → Registered |
| (Excludes Mayor) | → Tasked to Governance for distribution |
| | → Hard copy retained by Records to allow authorised |
| | disposal to occur |
| Hard copy mail addressed to Mayor | → Opened |
| | → Date stamped by Records |
| | → Registered |
| | → Tasked to Governance Task List for distribution as |
| | appropriate |
| | → Hard copy retained by Records to allow authorised |
| | disposal to occur |
| | |
| Hard copy received directly by | → Councillor to Fforwarded to Records |
| Councillors i.e. at home, meetings | → Date stamped by Records |
| etc | → Registered |
| Service Control of the Control of th | → Tasked to Governance Task List for distribution as |
| | appropriate |
| | → Hard copy retained by Records to allow authorised |
| | disposal to occur |
| Emails received via | → Registered by Records |
| city@busselton.wa.gov.au with | → Task to Governance Task List for distribution as |
| Councillor name or cc to Councillors | appropriate |
| notation | appropriate |
| Emails received via | → Forwarded to Records for registering by the Executive |
| councilors@busselton.wa.gov.au- | Assistant to the Director Finance and Corporate |
| councillors@busselton.wa.gov.au | Services to Records for registering (noting that all |
| | Directors will receive a copy of these emails) |
| Emails received by Councillors that | Councillor refer to SRO Information Sheet for |
| constitute corporate records | guidance |
| | → Councillor to forward email to Records using |
| | city@busselton.wa.gov.au with request to register** |
| Facility of the Control of the Contr | |
| Email responses from Councillors to | → Councillor to include cc to relevant Governance officer |
| incoming records | to enable registration to occur |
| | This will ensure integrity of the email is maintained and allow |
| | capture of the relevant metadata etc |
| | Suprame of the following the suprame of the suprame |
| Hard copy responses from | → Governance Officer to scan and register signed |
| Councillors | response prior to posting |
| | |
| Hard copy responses written on | -> Responsible Officer to scan and register signed |
| behalf of Councillors | response prior to posting |
| | |

Policy 229 Eleceted Members Mail Handling showing tracked changes

31

- If the City Mayor does choose to reply to any given letter, then he/she will ensure that the relevant file number, etc, are quoted on the letter and that the usual procedures regarding copies of the letter for internal file purposes, etc are followed.
- * If the Officer has not received advice from the City Mayor that the City Mayor wishes to reply to the letter, then the officer's reply should commence with the phrase, 'The City Mayor has requested that I respond to your correspondence dated.....
- * The City Mayor must be provided with a photocopy of all replied issued under the above procedures.

Policy 229 Eleceted Members Mail Handling showing tracked changes



INFORMATION SHEET

State Records Office of Western Australia

Local Government Elected Members' Records: Which records to capture?

The State Records Commission policy regarding the records of local government elected members requires the creation and retention of records of the:

"...communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business."

This policy applies regardless of a record's format or where it was received.

Elected members must create and keep records of communications or transactions, which convey information relating to local government business or functions. These records should be forwarded to the local government administration for capture into the official recordkeeping system.

Which records should be captured?

YES - forward to your local government administration

Communications from ratepayers,

- complaints & compliments;
 correspondence concerning corporate matters;
- submissions, petitions & lobbying;
 information for Council's interest relating to local government business

activity & functions.

Telephone, meetings & other verbal conversations – between an elected member and another party, regarding local government projects

or business activities.

Work diaries – containing information that may be significant to the conduct of the elected member on

behalf of the local government.

Presentations and speeches
delivered as part of an elected member's official duties.

NO – do not need to be forwarded to your local government Duplicate copies – of Council meeting agenda, minutes & papers.

meeting agenda, minutes & papers.

Draft documents or working
papers – which are already captured
at the local government.

Publications – such as newsletters,
circulars and journals.
Invitations – to community events
where an elected member is not
representing Council or the local
covernment

government. Telephone, meetings & other verbal conversations which:

- convey routine information only;
- do not relate to local government

business or functions.

Electioneering – or party political information.

Personal records - not related to an elected member's official duties

Destruction of records: return all records to the local government for authorized and legal destruction.

More information: contact your local government administration or State Records Office of Western Australia Tel: 9427 3661 or Email: sro@sro.wa.gov.au

October 2013

| 229 | Elected Members Mail Handling | Current |
|-----|-------------------------------|---------|
| | | |

PURPOSE

The purpose of these guidelines is to assist elected members to manage the official records created or received by them in the course of their role as an elected member and to comply with their responsibilities under the State Records Act 2000.

RECORDKEEPING PRINCIPLES

Accurately created and maintained records are important, and necessary, because they serve as a history of the transactions and business processes of local government. They are a fundamental tool for providing evidence of local government accountability and responsibility. It is for these reasons that legislation exists to ensure that the government record is properly maintained and preserved for future generations.

DEFINITIONS

Government organisation employee means -

- (a) a person who, whether or not an employee, alone or with others governs, controls or manages a government organisation;
- (b) a person who, under the Public Sector Management Act 1994, is a public service officer of a government organisation; or
- (c) a person who is engaged by a government organisation, whether under a contract for services or otherwise and includes, in the case of a government organisation referred to in item 5 or 6 of Schedule 1, a ministerial officer (as defined in the Public Sector Management Act 1994) assisting the organisation. (State Records Act 2000)

Government record – is a record created or received by or for a government organisation or a government organisation employee or contractor in the course of the work for the organisation (State Records Act 2000).

Record – means any record of information however recorded and includes:

- * anything on which there is writing or Braille;
- a map, plan, diagram or graph;
- * a drawing, pictorial or graphic work, or photograph;
- anything on which there are figures, marks, perforations, or symbols, having a meaning for persons qualified to interpret them;
- anything from which images, sounds or writings can be reproduced with or without the aid of anything else; and
- anything on which information has been stored or recorded, either mechanically, magnetically, or electronically (State Records Act 2000).

APPLICABILITY OF THE STATE RECORDS ACT TO ELECTED MEMBERS

It is the view of the Crown Solicitor's Office that although elected members are not employees, they are clearly persons who govern, control and manage the local government in accordance with the Local Government Act 1995.

Revised Policy 229 - Elected Members Mail Handling

Therefore, elected members fall under the definition of the term "government organisation employee" as outlined in section 3 of the State Records Act 2000. "Accordingly, records created or received by {elected members} in the course of their capacity as office holders for the local government constitute government records."

The State Records Commission's policy for recordkeeping requirements for local government elected members is as follows:

"In relation to the recordkeeping requirements of local government elected members, records must be created and kept which properly and adequately record the performance of member functions arising from their participation in the decision making processes of Council and Committees of Council.

This requirement should be met through the creation and retention of records of meetings of Council and Committees of Council of local government and other communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business.

Local governments must ensure that appropriate practices are established to facilitate the ease of capture and management of elected members' records up to and including the decision making processes of Council"

ELECTED MEMBERS' RECORDS

Elected Members must create and keep records of communications or transactions, which convey information relating to local government business or functions. These records should be forwarded to the local government for capture into the official recordkeeping system.

Records may include any correspondence received or sent by elected members in any format (e.g. by post, fax, email, courier, hand-delivered) whether received or sent at the City offices or at an elected member's private residence / post box.

Records created or received by elected members can be divided into two broad groups – those of continuing value to the local government and those of temporary value.

Records of continuing value

These are those records which contain information that is of administrative, legal, evidential, fiscal or historical value to the local government. These records may be referred to for many purposes, including the need to:

- document elected members' decisions, directives, reasons and actions;
- * check an interpretation of the local government policy or the rationale behind it;
- * check the facts on a particular case or provide information;
- * monitor progress and coordination of responses to issues; and
- document formal communications.

Records of temporary value

These are those records which have no continuing value and are considered of interest or used for a short time only, for example, a few hours or a few days.

HOW TO DEAL WITH SPECIFIC KINDS OF RECORDS

To assist elected members' to handle the records created and/or received, the following descriptions and actions relate to some common records with which they may deal.

35

Diaries / Appointment Books / Calendars

Diaries, appointment books and calendars are generally used to record appointments. They may also be used to record messages and notes, some of which may only be an aide memoire of a routine nature, and some of which may be of significance to the conduct of local government business.

Guidelines

Elected members' diaries, appointment books and calendars that are used to record information such as dates and times of meetings and appointments or to record notes and messages generally, have NO continuing value and may be destroyed when reference to them ceases. However, it is a matter of discretion to be judged by the elected member based on whether the information is:

relevant; worthy of retention; and has not already been recorded elsewhere in the recordkeeping system.

2. Telephone and other verbal conversations

Elected members may have telephone or face-to-face conversations at any time on a variety of matters. Some conversations may involve the relay of information, or involve matters, of significance to the conduct of local government business. These conversations should be documented in an appropriate format.

Other conversations may only be very basic or routine in nature, such as the issuing or receiving of basic instructions or information, and need not be documented.

Guidelines

- Conversations involving the exchange of routine or simple administrative instructions or information; and
- * Conversations that do not relate to the business functions of the local government if they are documented in a written or other form, have NO continuing value and may be destroyed when reference to them ceases.
- * Conversations which relate to the business functions of the local government involving the issuing of directives, proposals, recommendations, definitions or interpretations from the elected member to another party or vice versa; and
- * Conversations that are part of an actual business transaction itself, or have policy/procedure implications, or otherwise identified as being significant to the conduct of the local government's business if they are documented in a written or other form, may have continuing value and at the discretion of the elected member should be forwarded to Records for incorporation into the recordkeeping system.

10.2

Revised Policy 229 - Elected Members Mail Handling

3. Lobbying

Lobbying is the activity of ratepayers or members of the community attempting to influence the Council through representations to elected members, and may include one or more elected members lobbying other elected members.

Guidelines

Records, such as correspondence or petitions, relating to lobbying matters regardless of whether the lobbying itself is of local government or community interest may have continuing value and at the discretion of the elected member should be forwarded to Records for incorporation into the recordkeeping system.

4. Electioneering material

Electioneering material or records created or received by an elected member in regard to electioneering are private records of the elected member, and do not need to be forwarded to the local government office.

5. Agendas/minutes/information brochures

Notes that are written on Council Agendas, Council Minutes or Information Brochures and are considered relevant to the decision made by Council may have continuing value and at the discretion of the elected member should be forwarded to Records for incorporation into the recordkeeping system.

A copy of the notes can be provided to the elected member for their reference, if required.

6. Confidentialdocuments/records

If the elected member believes that some of the documentation forwarded to the City office for incorporation into the recordkeeping system is of a highly sensitive or confidential nature, the elected member should advise the local government to treat the information as confidential and restrict access to those records.

The State Records Office information sheet on how to handle elected members' records is attached for further assistance in determining which records should be captured in the City of Busselton recordkeeping system

7. Destruction of Records

All records should be returned to the City of Busselton Records Management Unit for authorised and legal destruction.

MAIL HANDLING GUIDELINES

| Correspondence | Action | |
|--------------------------------------|---------------|---|
| Hard copy mail addressed to | \rightarrow | Opened |
| Councillors and received via COB | | Date stamped by Records |
| | \rightarrow | Registered |
| (Excludes Mayor) | \rightarrow | Tasked to Governance for distribution |
| | \rightarrow | Hard copy retained by Records to allow authorised |
| | | disposal to occur |
| Hard copy mail addressed to Mayor | \rightarrow | Opened |
| | \rightarrow | Date stamped by Records |
| | \rightarrow | Registered |
| | \rightarrow | Tasked to Governance Task List for distribution as |
| | | appropriate |
| | \rightarrow | Hard copy retained by Records to allow authorised |
| | | disposal to occur |
| | | |
| Handan and Handard | | |
| Hard copy received directly by | 1 | Councillor to forward to Records |
| Councillors i.e. at home, meetings | l | Date stamped by Records |
| etc | | Registered |
| | → | Tasked to Governance Task List for distribution as |
| | | appropriate |
| | → | Hard copy retained by Records to allow authorised disposal to occur |
| Emails received via | | Registered by Records |
| city@busselton.wa.gov.au with | I | Task to Governance Task List for distribution as |
| Councillor name or cc to Councillors | ~ | appropriate |
| notation | | арргорпасс |
| Emails received via | \rightarrow | Forwarded to Records for registering by the Executive |
| councillors@busselton.wa.gov.au | | Assistant to the Director Finance and Corporate |
| | | Services (noting that all Directors will receive a copy |
| | | of these emails) |
| Emails received by Councillors that | \rightarrow | Councillor to forward email to Records using |
| constitute corporate records | | city@busselton.wa.gov.au |
| | | |
| Email responses from Councillors to | \rightarrow | Councillor to include cc to relevant Governance officer |
| incoming records | | to enable registration to occur |
| | T | U annum internituratalia annulli |
| | | Il ensure integrity of the email is maintained and allow |
| | capture | e of the relevant metadata etc |
| Hard copy responses from | | Governance Officer to scan and register signed |
| Councillors | → | response prior to posting |
| | | response prior to posting |
| Hard copy responses written on | | Responsible Officer to scan and register signed |
| behalf of Councillors | ´ | response prior to posting |
| | | |



INFORMATION SHEET

State Records Office of Western Australia

Local Government Elected Members' Records: Which records to capture?

The State Records Commission policy regarding the records of local government elected members requires the creation and retention of records of the:

"...communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business."

This policy applies regardless of a record's format or where it was received.

Elected members must create and keep records of communications or transactions, which convey information relating to local government business or functions. These records should be forwarded to the local government administration for capture into the official recordkeeping system.

Which records should be captured?

YES – forward to your local government administration

Communications from ratepayers, such as:

- complaints & compliments;
- correspondence concerning corporate matters;
- submissions, petitions & lobbying;
- information for Council's interest relating to local government business activity & functions.

Telephone, meetings & other verbal conversations – between an elected member and another party, regarding local government projects or business activities.

Work diaries – containing information that may be significant to the conduct of the elected member on behalf of the local government.

Presentations and speeches delivered as part of an elected member's official duties.

NO – do not need to be forwarded to your local government

Duplicate copies – of Council meeting agenda, minutes & papers.

Draft documents or working papers – which are already captured at the local government.

Publications – such as newsletters, circulars and journals.

Invitations – to community events where an elected member is *not* representing Council or the local government.

Telephone, meetings & other verbal conversations which:

- convey routine information only;
 or
- do not relate to local government business or functions.

Electioneering – or party political information.

Personal records – not related to an elected member's official duties.

Destruction of records: return all records to the local government for authorized and legal destruction.

More information: contact your local government administration or State Records Office of Western Australia Tel: 9427 3661 or Email: sro@sro.wa.gov.au

October 2013

Policy Background

Policy Reference No. - 229 Owner Unit – Records Originator – Records Coordinator Policy approved by – Council Date Approved – 10 March, 2004

<u>History</u>

| Council Resolution | Date | Information | |
|--------------------|----------------|------------------------|--|
| C0403/064 | 10 March, 2004 | Date of implementation | |
| | | Version 1 | |

10.3 <u>Policy and Legislation Committee - 16/02/2017 - BUILDING LISTS - THE SALE OF - FOR</u> REVIEW

SUBJECT INDEX: Community Policy

STRATEGIC OBJECTIVE: Governance systems that deliver responsible, ethical and accountable

decision-making.

BUSINESS UNIT: Development Services and Policy **ACTIVITY UNIT:** Development Services and Policy

REPORTING OFFICER: Manager, Development Services and Policy - Anthony Rowe **AUTHORISING OFFICER:** Director, Planning and Development Services - Paul Needham

VOTING REQUIREMENT: Simple Majority

ATTACHMENTS: Nil

This item was considered by the Policy and Legislation Committee at its meeting on 16 February 2017, the recommendations from which have been included in this report.

PRÉCIS

To reaffirm the continued sale of the Building and Development List (Building Permits) for commercial purposes.

BACKGROUND

The City's consideration is sought to making the list of recent building approvals (Building and Development List (Building Permits)) available sale for commercial purposes.

The arrangement for a business to purchase the Building and Development List is of longstanding, excess of 20 years.

The City has 27 subscribers to the list. These are companies purchase the lists either annually (\$272) or on a monthly basis (\$46).

The City sends updated lists to subscribers on a monthly basis. The City earns approximately \$6,000 from the sale of the list.

In addition to the commercial purchasers, the City also provides the same lists to the utility providers, ie Water Corporation, but this is provided at no charge.

The list contains:

- The applicants name not the owner's
- The location
- The type of development
- The size/area of the building
- The value of the development

The City has not reviewed this policy since the Building Act, 2011, commenced operation in April 2012.

STATUTORY ENVIRONMENT

Building Act 2011

The most relevant legislation is the *Building Act, 2011*. At Section 129 of the Act it directs that the City must make the register of Building Permits available for public inspection during normal office hours.

Section 129 also provides a discretion to local government, that it may, on payment of a prescribed fee provide a copy of a *Register*. There is presently no prescribed fee, so in its absence a council can determine the charge.

Section 129 however, only refers only to an individual's request, it does not address the provision of the Register for commercial purposes.

This City has consulted the Building Commission. It has advised there is no restriction upon any council from distributing lists and setting a fee for that service.

RELEVANT PLANS AND POLICIES

Community Policy 039 Building and Development Lists

The Community Policy Building and Development Lists authorises that the register of Building and Development information (Building Permits) can be made available for commercial purposes at a charge set by the Council in its *Fees and Charges* schedule.

FINANCIAL IMPLICATIONS

Nil

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

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

RISK ASSESSMENT

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework. The assessment identifies 'downside' risks only, rather than 'upside' risks as well.

A 'minor' reputational risk has been identified – the receipt of unsolicited mail. This is discussed in the *Officer Comment*, it is however a consequence Council's decision, it is not one applicable to a control/remedy.

CONSULTATION

Western Australian Building Commission.

The Building Commission has advised that a council can make its list of building permits approved, available for purchase at a fee set by the council.

Public Consultation is not required as part of the Review of this Community Policy.

OFFICER COMMENT

The City practice of making its building list available for sale is a longstanding one.

There is a statutory requirement to make the list available to the public for inspection by an individual but the *Building Act 2011* is silent about making the lists available beyond an individual enquiry.

Consultation with the Building Commission revealed the practice of selling lists is widespread and it is up to each council to determine the fee. Equally there is no compulsion upon a council to supply lists, or to charge for the supply of the list. The City could for instance make the list freely available and displayed on the City website.

The issues of potential concern are *privacy* and the facilitation of *unsolicited mail*.

Privacy

Owners may be concerned about their privacy. The intention for s129 however, is the list should be available to people other than the owner. Other people most likely to **inspect** the *Register* are neighbors and prospective purchasers checking that all structures are approved.

Those **purchasing** the list are only interested in the recent approvals as their interest is in selling their products.

There are however opportunities to reduce some of the privacy concerns that the owners may have.

The information provided from the *Register*, and provided for purchase, is already limited. It only identifies the development's location, the applicant/builder (not the owner), a broad description of the work, the value, and the building area. It does not include any building plans that might give rise to concern about security.

It is conceivable that the "value of works" in particular, may give rise for embarrassment for the owner.

Generally speaking an explicit identification of building value is not necessary because the building industry, that purchases the list, will have an expectation of the cost of a development from its application description, the building size and its location.

The value of the building work is not relevant to the Utility providers that are also provided with the list, the value of work is also not an essential requirement of the Register, pursuant to s.129.

There is no practical benefit in providing details of the 'value of works' to warrant the potential concern for privacy and anxiety that it might cause for some owners.

Un-solicited mail

The Building list has a value to a broad range of businesses who may be interested in 'direct mail' as a means to advance consideration of their services or products. Building lists have been made widely available for excess of 30 years.

Making the list commercially available means the property owner/occupiers will receive unsolicited mail and may be inconvenienced by it. This would occur regardless of whether the City charges for the list or makes it freely available.

The availability/refreshing the list on a monthly basis is considered to be an adequate frequency. The availability on an annual basis, as an alternative, would be too long; the purchasing decisions would mostly have been completed by the owner during this timeframe.

At this time electronic details about the owner are not available, so the promotions are usually made by hard copy to the 'Occupier' at the development address.

There has been a rapid advance in the way companies can now obtain information for marketing purposes. Over time these advances, through direct and indirect information, are expected to overtake the value of the City service in providing the Building lists.

In the meantime the City's Building list will remain a simple way of identifying potential customers for many small businesses in the Busselton area.

CONCLUSION

The City is required to keep a *Register* of building permits issued and obliged to supply a list of Building approvals to Utility providers.

The sale of the list has the benefit of offsetting the costs of preparing the list. Whilst maintaining a list is a straight forward process, it does rely on the City's investment in Information Technology systems to produce it. It is recommended that the City continue to make the list available for purchase, but that the current policy be modified as follows:

"Community policy 039 - Building Permit lists

A list of Building Permits issued by the City each month can be made available for commercial purposes, to be purchased at a fee determined annually by the City.

The information to be provided will be limited to only the following items:

- The applicants name
- The location
- The development floor area size
- The type of development

Please note that the 'value' of works is not to be included in the contents of the list for the purpose of improving the privacy for the property owner.

OPTIONS

- Support the Officer Recommendation replace Community Policy 039, as per the Officer Recommendation
- 2. Delete Community Policy 039, and cease making the Building and Development List available for commercial services, and refund the proportion remaining on any current 12 month subscription.
- 3. Delete Community Policy 039 and make the City's Building Permit register available to view at the City's website (in addition to maintaining the copy for inspection at the City Offices) and refund the proportion remaining on any current 12 month subscription.
- 4. Retain Community Policy 039, subject to further amendment.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

To come into effect upon resolution of Council.

OFFICER RECOMMENDATION

That Council resolve to replace the Community Policy – 039 Building and development Lists, with: "Community policy 039 – Building Permit lists

A list of Building Permits issued by the City each month can be made available for commercial purposes, to be purchased at a fee determined annually by the City.

The information provided will be limited to only the following items

- The applicants name
- The location
- The development floor area size
- The type of development"

Note:

The Committee proposed an Alternative Motion for consideration that would make the list available on the City's webpage.

COMMITTEE RECOMMENDATION

That Council resolve to replace the Community Policy – 039 Building and development Lists, with:

"Community policy 039 – Building Permit lists

A list of Building Permits issued by the City each month to be made available via the City's webpage.

The information provided will be limited to only the following items

- The applicants name
- The location
- The development floor area size
- The type of development"

10.4 Policy and Legislation Committee - 16/02/2017 - SALARY PACKAGING POLICY

SUBJECT INDEX: Policy, Procedures and Manuals

STRATEGIC OBJECTIVE: An organisation that is managed effectively and achieves positive

outcomes for the community.

BUSINESS UNIT: Corporate Services
ACTIVITY UNIT: Human Resources

REPORTING OFFICER: Manager Corporate Services - Sarah Pierson

AUTHORISING OFFICER: Director, Finance and Corporate Services - Cliff Frewing

VOTING REQUIREMENT: Simple Majority

ATTACHMENTS: Attachment A Salary Packaging Policy

Attachment B Salary Packaging Policy - Track Changes !

This item was considered by the Policy and Legislation Committee at its meeting on 16 February 2017, the recommendations from which have been included in this report.

PRÉCIS

This report presents a revised Salary Packaging Policy (Attachment A) for Council approval, with the Policy having been simplified and more operational aspects moved into a new operational level practice and procedure.

Salary packaging is considered an effective attraction and retention tool and continuing to offer these benefits will assist the City in meetings its Workforce Planning strategy of "Retaining our staff through attractive remuneration, benefits and innovative practices".

BACKGROUND

In April 2012 Council endorsed a new Salary Packaging Policy which allowed City employees to salary package a number of benefits in addition to those that were available at the time (Superannuation, City uniforms and recreational facility fees). These additional benefits were Remote Area Rent, Living Away From Home Allowance and Novated Leasing of Vehicles (C1204/095). The policy provided that an external provider specialised in packaging arrangements administer these benefits. To this end the City has been working with Pay Plan for the past nearly five (5) years.

As part of the 2013 Enterprise Agreement negotiations staff requested that the City further look into the possibility of providing additional benefits that would allow them to access greater tax savings through a legitimate avenue. In particular employees with mortgages were seeking the ability to access remote area housing assistance. The City committed to further researching the options available noting its obligation to ensure that any benefits introduced could be effectively managed and did not pose a risk for the City.

As a result of this research Officers identified a number of additional benefits that could be offered, namely:

- Airline Lounge Membership
- Remote Area Housing Mortgage Interest
- Remote Area Domestic Energy

In August 2014 Council endorsed a revised Salary Packaging Policy which included the provision of these additional benefits (C1408/197). Living Away From Home Allowance however was removed on the basis that it had very limited availability to the City, with legislative changes having reduced this further since adoption of the policy in 2012.

The remote area benefits provided within the policy are available to employees by virtue of a portion of the City of Busselton and surrounding localities being considered a 'Remote Locality' by the ATO. Under the ATO's definition of 'remote area' a locality is considered remote if it is one of the following:

- At least 40 kms from an urban centre with a population of 14,000 or more
- At least 100 kms from an urban centre with a population of 130,000 or more

Remote area concessions can be utilised to offset the increased cost of living expense incurred by individuals living in a remote locality with Fringe Benefits Tax (FBT) exemptions / concessions for the City.

STATUTORY ENVIRONMENT

Salary packaging is a complex area of remuneration management and the Council must comply with the requirements of the Australian Taxation Office ("ATO") and relevant State and Federal taxation legislation and regulations associated with FBT and salary packaging.

Fringe Benefits Tax

Legally FBT is payable by the employer for any non-cash benefits provided to employees. There are however certain benefits which are classified as concessional or FBT exempt benefits. With the exception of novated lease motor vehicles, remote area housing for mortgages and remote area domestic energy, the benefits offered under the policy are FBT exempt. Remote area housing for mortgages and remote area domestic energy attract FBT on 50% of the value packaged. Under the current policy any FBT costs and / or related costs associated with the benefits are borne by the employee and factored into the packaging arrangement.

Fringe benefits provided to staff (whether salary packaged or not) are, unless exempt, required to be reported on a staff member's **Payment Summary** where the aggregate taxable value exceeds \$2,000 per FBT year. Further it is the grossed-up value (i.e. multiplied by 1.9417) that is required to be shown on the Payment Summary. Whilst this amount will not be taxable income, it will be taken into account for the purposes of determining the application of certain surcharges, levies and Government entitlements, such as the additional Medicare levy and Family Tax Benefits. Employees need to be aware of this and seek their own financial advice prior to entering into any salary packaging arrangement.

Australian Taxation Office Requirements - Tax Compliance

Employees cannot claim a tax deduction on packaged benefits and are required to observe all standards set by the ATO regarding salary packaging. The standards require complete proof of expenditure and adherence to the employees nominated flexible remuneration. Regular requests for proof of expenditure are undertaken by the City's external salary packaging provider. Failure to observe these standards can result in ATO penalties for the employee.

RELEVANT PLANS AND POLICIES

The Salary Packaging Policy provides for improved employee benefits, and aids the City in achieving its Workforce Plan strategy of "Retaining our staff through attractive remuneration, benefits and innovative practices.

The aim of this policy revision is to simplify the policy and remove some of the operational level detail that is more suited to an operational practice and procedure. A Salary Packaging Operational Practice and Procedure (OPP) has been created to ensure we maintain clear parameters and controls for the application of salary packaging at the City.

FINANCIAL IMPLICATIONS

The revised policy has no additional financial implications. The cost of any associated fees and charges for each package arrangement (administrative or FBT) are borne by the employee.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The Officers recommendation aligns with and supports the Council's Strategic Community Plan 2013 (review 2015), specifically Key Goal – "Open and Collaborative Leadership" and Community Objective 6.3 – "An organisation that is managed effectively and achieves positive outcomes for the community".

RISK ASSESSMENT

The revised policy does not materially change the City's position or offering in relation to salary packaging, and hence poses no risk.

A risk assessment was previously undertaken to assess potential risks associated with offering salary packaging benefits to employees, with the overall risk being assessed as low. In introducing the current range of benefits the City sought and received Tax Rulings from the ATO on various aspects and liaised extensively with its tax advisers.

The City, through its external administrator Pay-Plan, conducts a thorough assessment of eligibility prior to packaging benefits, with employees having to provide documentary evidence related to the benefit being claimed, for instance rental agreements in relation to remote area rent and mortgage settlement documents and loan statements in relation to remote area mortgage interest.

A Salary Packaging Agreement is also entered into between the City, Pay-Plan and the employee which contains obligations for the employee to comply with all ATO and declaration requirements.

CONSULTATION

No consultation has been done in relation to the revision of this policy, although Officers have checked with the ATO website to confirm that parts of the City are still considered a remote area.

OFFICER COMMENT

The revised policy presented does not materially change the City's position or offering in relation to salary packaging. The policy is simply being streamlined with more operational aspects removed and instead covered in a new OPP.

There are currently 36 employees who take advantage of the benefits offered through the policy with 33 packaging remote area rent, 1 remote area mortgage interest, 5 remote area domestic energy and 3 novated leasing a vehicle.

A brief overview of the salary packaging benefits available is provided below.

Work Related Items

Where used for **work purposes only,** and not provided by the City, the following items may be paid for from an employee's pre-tax salary:

- portable electronic devices (laptops, mobile phones and PDA's)
- protective clothing
- briefcase
- calculator
- computer software

Airline Lounge Membership

Employees can apply to salary package the cost of the following:

- Airline lounge membership joining fee
- Airline membership annual renewal fee

These membership fees are "tax free" when provided to an employee as part of a salary packaging arrangement.

Novated Leasing of Vehicles

Novated car leases for new or used cars may be packaged by employees. In entering into a novated lease, Council and an employee enter into an agreement with the financier whereby Council ensures repayments under the finance lease are made by deducting the repayment amount from the employee's salary. The employee owns the vehicle and has the right to take the vehicle with them should they leave employment of the City, with full responsibility for the vehicle passed on to the employee.

Remote Area Housing Rent

Rent - Employer Provided Housing

Council, at its discretion may agree to provide eligible employees with a Council owned or leased rental property as part of their package, and the employee may apply to salary package 100% of the rental value tax free.

Rent - Private Rentals

Employees renting privately (i.e. employees who have a rental agreement with a landlord or agency), within a Remote Area can apply to salary package 50% of their rental value tax free.

Remote Area Housing Mortgage Interest

Subject to qualifying criteria, employees with a mortgage on their home which is in a Remote Area can apply to salary package their interest expenses on the mortgage. The home must be their usual place of residence.

The employee receives reimbursement of 100% of their interest expenses paid. 50% of the reimbursement does however attract FBT, which is payable by the employee. The reimbursement is not a reportable fringe benefit and is therefore exempt from payment summary reporting.

Remote Area Domestic Energy

Subject to qualifying criteria, employees who package remote area housing benefits can apply to salary package 100% of the value of the cost of their residential electricity and gas expenses. 50% of the reimbursement does however attract FBT, which is payable by the employee. The reimbursement is not a reportable fringe benefit and is therefore exempt from payment summary reporting.

The employee is only able to package energy costs paid during the period of their employment with the City of Busselton and for the period that they are / have been claiming a remote housing benefit.

CONCLUSION

It is recommended that Council continue to support the Salary Packaging Policy in its revised form, with salary packaging a useful staff attraction and retention tool. An OPP has been developed to maintain the operational parameters that exist within the current policy.

OPTIONS

The Council may not agree with the revisions to the policy and may seek for the policy to be reendorsed in its current format.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The new policy will be effective as of its adoption by Council.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

That the revised Salary Packaging Policy as shown in Attachment A be adopted.

| Number | Salary Packaging | Version 3 |
|--------|------------------|-------------|
| Namber | Salary rackaging | VCI SIOTI S |

1. PURPOSE

The objective of this policy is to provide the guiding document for the provision of various salary packaging options to eligible City of Busselton employees. Salary Packaging is primarily an attraction and retention tool and hence this policy aims to increase staff attraction and retention.

2. SCOPE

This policy applies to all full time, part time and fixed term employees (longer than 12 months duration), subject to meeting specific eligibility criteria relevant to the packaged benefit sought.

This Policy provides for the salary packaging of an Allowable Benefit as defined.

Definitions

Allowable Benefit

The following range of Salary Packaging Benefits:

- Work Related Items i.e. laptops, mobile phones
- Leisure Centre and Child Care Fees (at City operated premises only)
- Novated Leasing of Vehicles
- o Remote Area Housing Benefit
 - Rental
 - Mortgage Interest
 - Remote Area Domestic Energy
- o Airline Lounge Membership

ATO Australian Taxation Office

Base Cash Salary Remuneration in accordance with relevant workplace agreement or

contract of employment paid by way of regular periodic cash payments subject to PAYG tax. This does not include superannuation

guarantee contributions.

Benefit Any non-cash benefit and cash payment (other than Base Cash

Salary) made or expected to be made for the benefit of the

employee

Fringe Benefits Tax (FBT)

Tax payable by the City to the Government on some categories of

benefits provided to employees

FBT Year 1 April to 31 March each year

PAYG Pay As You Go taxation

Remote Area An area which is one of the following:

 $\circ~$ At least 40 kms from an urban centre with a population of

14,000 or more

o At least 100 kms from an urban centre with a population of

130,000 or more

Note, not all of the City of Busselton district is classified as a Remote Area. A map showing the cut off is available in the City's Salary

Packaging Guide.

Salary Packaging An arrangement between an employee and employer whereby the

employee elects to exchange Base Cash Salary for a Benefit but for

the purposes of this Policy does not include superannuation.

Total Remuneration Total package value assigned to the permanently occupied position

that the employee is entitled to receive under an agreement or contract of employment with the City expressed as an annual sum.

3.0 POLICY CONTENT

Salary Packaging will be made available to employees as a benefit in accordance with City operational practices and procedures and in accordance with ATO legislation, rulings, and any other relevant legislation, as amended from time to time, but only to the extent of an Allowable Benefit as defined in this Policy.

Salary packages will be adjusted accordingly (within an employee's agreed Total Remuneration) to account for variations in a salary packaging arrangement, including variations in an Allowable Benefit, taxation, and scheme participation.

Salary Packaging arrangements will be administered at minimal financial cost to the City and where required by the CEO, by an external Salary Packaging provider approved by the City. As part of any Salary Packaging arrangement, the cost of administering the package (if applicable) is to be met by the participating employee.

Any Fringe Benefits Tax (FBT) or other tax liability is to be met by the participating employee.

All employees entering into a Salary Packaging arrangement must enter into an agreement appropriate to the type of Benefit. All employees must ensure compliance with the agreement entered into and all organisational practices and procedures, as amended from time to time.

It is an individual employee's responsibility to monitor packaging arrangements and to be aware of and responsible for any individual consequences of participating in an arrangement relating to an Allowable Benefit. The City strongly urges employees contemplating Salary Packaging to seek independent financial or other appropriate advice. Benefits of participation will vary according to

individual circumstances and individual participation, therefore participation is a matter of individual employee decision, responsibility and risk.

3.1 Responsibilities:

Elected Members will:

• Adopt and review this policy on a periodic basis as required.

CEO will:

- Endorse and enforce all standards documented in this policy;
- Endorse and enforce operational Salary Packaging practices and procedures which include, but are not limited to:
 - Eligibility and participation criteria
 - Rules for application of Salary Packaging;
 - o Processes and/or forms to ensure an effective, compliant scheme;
 - Information capture requirements;
 - o Training requirements.
- Regularly review Salary Packaging opportunities to continuously identify opportunities for improved attraction and retention of staff.
- Establish mechanisms to monitor compliance with this policy;
- Establish processes to deal with instances of non-compliance to this policy or related operational practices and procedures.

3.2 Eligibility Criteria

Specific eligibility and participation criteria apply dependant on an employee's employment status at a point in time, and the Allowable Benefit provided. The City's operational practices and procedures detail criteria further to that outlined below.

Work Related Items

The following items, where used for **work purposes only** and not provided by the City, may be paid for from an employee's pre-tax salary:

- portable electronic devices (laptops, mobile phones and PDA's)
- protective clothing
- briefcase
- calculator
- computer software

There is a limit of one item per category per FBT year.

Novated Leasing of Vehicles

Novated car leases for new or used cars may be packaged by employees. A car classified as 'luxury' by the ATO cannot be salary packaged. Novated leases may not be entered into for City provided (fleet) vehicles.

In entering into a novated lease, Council and an employee will enter into an agreement with the financier whereby Council will ensure repayments under the finance lease are made by deducting the repayment amount from the employee's salary.

The employee will own the vehicle and has the right to take the vehicle with them should they leave employment of the City, with responsibility for the vehicle passed on to the employee.

Remote Area Housing

Eligible employees may salary package the following items under this Policy:

Rent – Employer Provided Housing

Council, at its discretion may agree to provide eligible employees with a Council owned or leased rental property as part of their package, and the employee may apply to salary package 100% of the rental value tax free by being paid part of their Total Remuneration as a non-taxable remote housing reimbursement. Their Base Cash Salary will be reduced accordingly.

Rent - Private Rentals

Employees renting privately (i.e. employees who have a rental agreement with a landlord or agency), within a Remote Area can apply to salary package 50% of their rental value tax free through being paid part of their Total Remuneration as a non-taxable remote housing reimbursement. Their Base Cash Salary will be reduced accordingly.

Mortgage Interest

Subject to qualifying criteria outlined in the City's operational practice and procedure, employees with a mortgage on their home which is in a Remote Area can apply to salary package their interest expenses on the mortgage. The home must be their usual place of residence.

The employee receives reimbursement of 100% of their interest expenses paid through being paid part of their Total Remuneration as a reimbursement. Their Base Cash Salary will be reduced accordingly. 50% of the reimbursement does however attract FBT, which is payable by the employee. The reimbursement is not a reportable fringe benefit and is therefore exempt from payment summary reporting.

The employee is only able to package interest paid during the period of their employment with the City of Busselton and only from 1 July 2014 onwards.

Remote Area Domestic Energy

Subject to qualifying criteria outlined in the City's operational practice and procedure, employees who package remote area housing benefits can apply to salary package 100% of the value of the cost of their residential electricity and gas expenses tax free through being paid part of their Total Remuneration as a reimbursement. Their Base Cash Salary will be reduced accordingly. 50% of the reimbursement does however attract FBT, which is payable by the employee. The reimbursement is not a reportable fringe benefit and is therefore exempt from payment summary reporting.

The employee is only able to package energy costs paid during the period of their employment with the City of Busselton and for the period that they are / have been claiming a remote housing benefit.

Airline Lounge Membership

Employees can apply to salary package the cost of the following:

- Airline lounge membership joining fee
- Airline membership annual renewal fee

Their Base Cash Salary will be reduced accordingly. These membership fees are "tax free" when provided to an employee as part of a Salary Packaging arrangement.

Membership fees to more than one airline lounge facility are permitted.

Frequent Flyer membership fees are not eligible for salary packaging as they do not give an entitlement to use an airline lounge facility.

Policy Background

Policy Reference No. -

Owner Unit – Employee Services & Risk
Originator – Employee Services & Risk

Policy approved by – Council

Date Approved - For consideration
Date Reviewed - As required

Related Documents Salary Packaging Operational Practices, Procedures and Manuals

Salary Packaging Agreement City of Busselton Enterprise Agreement 2014

<u>History</u>

| Council Resolution | Date | Information |
|---------------------------|------|--|
| | | Date of implementation |
| | | Version 1 |
| | | Amended Policy to include Remote Area Mortgage Interest, |
| | | Remote Area Domestic Energy, Airline Lounge Membership |
| | | Version 2 |
| | | Amended Policy to streamline and simplify |
| | | Version 3 |

10.4 Attachment A Salary Packaging Policy

| Number | Salary Packaging | Version 3 |
|---------------------------------------|----------------------|-----------|
| · · · · · · · · · · · · · · · · · · · | i Jaiai y i achaging | VC. 5.0 5 |

1. PURPOSE

The objective of this policy is to provide the guiding document for the provision of various salary packaging options to eligible City of Busselton employees. Salary Packaging is primarily an attraction and retention tool and hence this policy aims to increase staff attraction and retention.

2. SCOPE

This policy applies to all full time, part time and fixed term employees (longer than 12 months duration), subject to meeting specific eligibility criteria relevant to the packaged benefit sought.

This Policy provides for the salary packaging of an Allowable Benefit as defined.

Definitions

Allowable Benefit The following range of Salary Packaging Benefits:

O Work Related Items – i.e. laptops, mobile phones

 Leisure Centre and Child Care Fees (at City operated premises only)

Novated Leasing of Vehicles

Remote Area Housing Benefit

Rental

Mortgage Interest

Remote Area Domestic Energy

Airline Lounge Membership

ATO Australian Taxation Office

Base Cash Salary Remuneration in accordance with relevant workplace agreement or

contract of employment paid by way of regular periodic cash payments subject to PAYG tax. This does not include superannuation guarantee

contributions.

Benefit Any non-cash benefit and cash payment (other than Base Cash Salary)

made or expected to be made for the benefit of the employee

Fringe Benefits Tax (FBT)

Tax payable by the City to the Government on some categories of benefits

provided to employees

FBT Year 1 April to 31 March each year

PAYG Pay As You Go taxation

Remote Area An area which is one of the following:

 At least 40 kms from an urban centre with a population of 14,000 or more Council 55 8 March 2017

10.4 Attachment A Salary Packaging Policy

 \circ At least 100 kms from an urban centre with a population of 130,000 or

more

Note, not all of the City of Busselton district is classified as a Remote Area. A map showing the cut off is available in the City's Salary Packaging Guide.

Salary Packaging An arrangement between an employee and employer whereby the

employee elects to exchange Base Cash Salary for a Benefit but for the

purposes of this Policy does not include superannuation.

Total Remuneration Total package value assigned to the permanently occupied position that

the employee is entitled to receive under an agreement or contract of

employment with the City expressed as an annual sum.

3.0 POLICY CONTENT

Salary Packaging will be made available to employees as a benefit in accordance with City operational practices and procedures and in accordance with ATO legislation, rulings, and any other relevant legislation, as amended from time to time, but only to the extent of an Allowable Benefit as defined in this Policy.

Salary packages will be adjusted accordingly (within an employee's agreed Total Remuneration) to account for variations in a salary packaging arrangement, including variations in an Allowable Benefit, taxation, and scheme participation.

Salary Packaging arrangements will be administered at minimal financial cost to the City and where required by the CEO, by an external Salary Packaging provider approved by the City. As part of any Salary Packaging arrangement, the cost of administering the package (if applicable) is to be met by the participating employee.

Any Fringe Benefits Tax (FBT) or other tax liability is to be met by the participating employee.

All employees entering into a Salary Packaging arrangement must enter into an agreement appropriate to the type of Benefit. All employees must ensure compliance with the agreement entered into and all organisational practices and procedures, as amended from time to time.

It is an individual employee's responsibility to monitor packaging arrangements and to be aware of and responsible for any individual consequences of participating in an arrangement relating to an Allowable Benefit. The City strongly urges employees contemplating Salary Packaging to seek independent financial or other appropriate advice. Benefits of participation will vary according to individual circumstances and individual participation, therefore participation is a matter of individual employee decision, responsibility and risk.

3.1 Responsibilities:

Elected Members will:

• Adopt and review this policy on a periodic basis as required.

CEO will:

Endorse and enforce all standards documented in this policy;

10.4 Attachment A

Salary Packaging Policy

- Endorse and enforce operational Salary Packaging practices and procedures which include, but are not limited to:
 - o Eligibility and participation criteria
 - Rules for application of Salary Packaging;
 - o Processes and/or forms to ensure an effective, compliant scheme;
 - o Information capture requirements;
 - o Training requirements.
- Regularly review Salary Packaging opportunities to continuously identify opportunities for improved attraction and retention of staff.
- Establish mechanisms to monitor compliance with this policy;
- Establish processes to deal with instances of non-compliance to this policy or related operational practices and procedures.

3.2 Eligibility Criteria

Specific eligibility and participation criteria apply dependant on an employee's employment status at a point in time, and the Allowable Benefit provided. The City's operational practices and procedures detail criteria further to that outlined below.

Work Related Items

The following items, where used for **work purposes only** and not provided by the City, may be paid for from an employee's pre-tax salary:

- portable electronic devices (laptops, mobile phones and PDA's)
- protective clothing
- briefcase
- calculator
- computer software

There is a limit of one item per category per FBT year.

Novated Leasing of Vehicles

Novated car leases for new or used cars may be packaged by employees. A car classified as 'luxury' by the ATO cannot be salary packaged. Novated leases may not be entered into for City provided (fleet) vehicles.

In entering into a novated lease, Council and an employee will enter into an agreement with the financier whereby Council will ensure repayments under the finance lease are made by deducting the repayment amount from the employee's salary.

The employee will own the vehicle and has the right to take the vehicle with them should they leave employment of the City, with responsibility for the vehicle passed on to the employee.

Remote Area Housing

Eligible employees may salary package the following items under this Policy:

Rent - Employer Provided Housing

Council, at its discretion may agree to provide eligible employees with a Council owned or leased rental property as part of their package, and the employee may apply to salary package 100% of the rental value

10.4 Attachment A

Salary Packaging Policy

tax free by being paid part of their Total Remuneration as a non-taxable remote housing reimbursement. Their Base Cash Salary will be reduced accordingly.

Rent - Private Rentals

Employees renting privately (i.e. employees who have a rental agreement with a landlord or agency), within a Remote Area can apply to salary package 50% of their rental value tax free through being paid part of their Total Remuneration as a non-taxable remote housing reimbursement. Their Base Cash Salary will be reduced accordingly.

Mortgage Interest

Subject to qualifying criteria outlined in the City's operational practice and procedure, employees with a mortgage on their home which is in a Remote Area can apply to salary package their interest expenses on the mortgage. The home must be their usual place of residence.

The employee receives reimbursement of 100% of their interest expenses paid through being paid part of their Total Remuneration as a reimbursement. Their Base Cash Salary will be reduced accordingly. 50% of the reimbursement does however attract FBT, which is payable by the employee. The reimbursement is not a reportable fringe benefit and is therefore exempt from payment summary reporting.

The employee is only able to package interest paid during the period of their employment with the City of Busselton and only from 1 July 2014 onwards.

Remote Area Domestic Energy

Subject to qualifying criteria outlined in the City's operational practice and procedure, employees who package remote area housing benefits can apply to salary package 100% of the value of the cost of their residential electricity and gas expenses tax free through being paid part of their Total Remuneration as a reimbursement. Their Base Cash Salary will be reduced accordingly. 50% of the reimbursement does however attract FBT, which is payable by the employee. The reimbursement is not a reportable fringe benefit and is therefore exempt from payment summary reporting.

The employee is only able to package energy costs paid during the period of their employment with the City of Busselton and for the period that they are / have been claiming a remote housing benefit.

Airline Lounge Membership

Employees can apply to salary package the cost of the following:

- Airline lounge membership joining fee
- Airline membership annual renewal fee

Their Base Cash Salary will be reduced accordingly. These membership fees are "tax free" when provided to an employee as part of a Salary Packaging arrangement.

Membership fees to more than one airline lounge facility are permitted.

Frequent Flyer membership fees are not eligible for salary packaging as they do not give an entitlement to use an airline lounge facility.

10.4 Attachment A Salary Packaging Policy

Policy Background

Policy Reference No. -

Owner Unit – Employee Services & Risk
Originator – Employee Services & Risk

Policy approved by – Council

Date Approved - For consideration
Date Reviewed - As required

Related Documents Salary Packaging Operational Practices, Procedures and Manuals

Salary Packaging Agreement

City of Busselton Enterprise Agreement 2014

History

| Council Resolution | Date | Information |
|---------------------------|------|-------------------------------------|
| | | Date of implementation |
| | | Version 1 |
| | | Amended Policy to include Remote |
| | | Area Mortgage Interest, Remote Area |
| | | Domestic Energy, Airline Lounge |
| | | Membership |
| | | Version 2 |
| | | Amended Policy to streamline and |
| | | simplify |
| | | Version 3 |

| \parallel | Number | Salary Packaging | Version 23 |
|-------------|--------|------------------|------------|

PURPOSE 1.

The objective of this policy is to provide the guiding document for the provision of make-various salary packaging options available-to eligible City of Busselton employees-and-to-provide the guiding document for the provision of such benefits. Salary Packaging is primarily an attraction and retention tool and hence this policy aims to increase staff attraction and retention.

SCOPE

This policy applies to all full time, part time and fixed term employees (longer than 12 months duration), subject to meeting specific eligibility criteria relevant to the packaged benefit sought. Due to the variant hours of casual employees, they are able to access salary packaging of superannuation only, and are therefore not covered under this policy.

This Policy provides for the salary packaging of an aAllowable Bbenefits as defined.:

Superannuation is already offered as a salary packaging benefit by Council and will continue to be offered outside of this Policy.

Definitions

| Allowable | Renefite |
|-----------|----------|
| Allowable | benents |

The following range of Salary Packaging Benefits:

- o Work Related Items i.e. laptops, mobile phones
- o Leisure Centre and Child Care Fees (at City operated premises only)
- Novated Leasing of Vehicles
- o Remote Area Housing Benefit
 - Rental
 - Mortgage Interest
- Remote Area Domestic Energy
- Remote Area Domestic Energy Airline Lounge Membership

ATO Australian Taxation Office

Base Cash Salary

Remuneration in accordance with relevant workplace agreement or contract of employment paid by way of regular periodic cash payments subject to PAYG tax. This does not include superannuation guarantee

contributions.

Benefit Any non-cash benefit and cash payment (other than Bbase Cash Ssalary)

made or expected to be made for the benefit of the employee

Fringe Benefits Tax (FBT) Tax payable by the City to the Government on some categories of benefits

provided to employees

FBT Year 1 April to 31 March each year

60

Last undated vy/vy/vvvv (implementation)

Otherwise deductible A legitimate expense incurred in the course of earning assessable income which could otherwise be claimed by the employee at the time of submitting an income tax return PAYG Pay As You Go taxation Formatted: Indent: Left: 0 cm, First Remote Area An area which is one of the following: Formatted: Space Before: 0 pt, After: 0 pt, Bulleted + Level: 1 + Aligned at: 5.08 cm + Indent at: 5.71 cm o At Jeast 40 kms from an urban centre with a population of 14,000 or more At least 100 kms from an urban centre with a population of 130,000 or Formatted: Font: Not Bold more 'over 40 kms from a town with a population of 14,000 to less than 130,000, and over 100 kms from a town with a population of 130,000 or more'. Note, not all of the City of Busselton district is classified as a Rreemote Aarea. A map showing the cut off is available in the City's Salary Packaging Guide. An arrangement between an employee and employer whereby the **Salary Packaging** employee elects to exchange Base Ceash Ssalary for a Bbenefits but for the purposes of this Policy does not include superannuation.

Allocation of amount of money to be deducted from gross earnings before

Total package value assigned to the permanently occupied position that the employee is entitled to receive under an agreement or contract of

3.0 POLICY CONTENT

Total Remuneration

Salary Ppackaging will be made available to employees as a benefit in accordance with City operational practices and procedures and in accordance with ATO legislation, rulings, and any other relevant legislation, as amended from time to time, but only to the extent of anthe-Allowable-Benefits as defined in this Policy.

employment with the City expressed as an annual sum.

PAYG tax deductions are calculated

Salary packages will be adjusted accordingly (within an employee's agreed <u>T</u>total <u>R</u>remuneration) to account for variations in a salary packaging arrangement, including variations in <u>an Allowable Benefits</u>, taxation, and scheme participation. <u>No employee may salary package more than 50% of their Total Remuneration</u>

Salary Packaging Aarrangements will be administered at minimal financial cost to the City and where required by the CEO, Executive or Human Resources staff, by an external Salary Packaging provider approved by the City. As part of any Salary Packaging arrangement, the cost of administering the package (if applicable) is to be met by the participating employee.

Last undated vy/vy/vvvv (implementation)

Any Fringe Benefits Tax (FBT) or other tax liability is to be met by the participating employee.

and the employee must agree to this by signing a salary packaging agreement prior to entering into a salary packaging arrangement with the City.

All employees entering into a Salary Packaging arrangement must enter into an agreement appropriate to the type of Benefit. All employees must ensure compliance with the agreement entered into and all organisational practices and procedures, as amended from time to time.

It is an individual employee's responsibility to monitor packaging arrangements and to be aware of and responsible for any individual consequences of participating in an arrangement relating to an Aallowable Beenefits. The City strongly urges employees contemplating Salary Peackaging to seek independent financial or other appropriate advice.

Benefits of participation will vary according to individual circumstances and individual participation, therefore participation is a matter of individual employee decision, responsibility and risk.

3.1 Responsibilities:

Elected Members will:

- Ensure guidelines for salary packaging are put in place via this policy;
- Adopt and rReview this policy on a periodic basis as required.

CEO and Executives will:

- Endorse and enforce all standards documented in this policy;
- Endorse and enforce operational <u>S</u>salary <u>P</u>packaging practices and procedures which includes, but <u>areis</u> not limited to:
 - Eligibility and participation Ccriteria
 - Rules for application of <u>S</u>salary <u>P</u>packaging;
 - o Processes and/or forms to ensure an effective, compliant scheme;
 - Information capture requirements;
 - Training requirements.
- Regularly review <u>S</u>salary <u>P</u>packaging opportunities to continuously identify opportunities for improved attraction and retention of staff.
- Establish mechanisms to monitor compliance with this policy;
- Establish processes to deal with instances of non-compliance to this policy or related operational
 practices and procedures.

Managers will:

- Ensure officers under direct and indirect supervision are aware of and are following guidelines
 detailed in this policy and related operational practices and procedures;
- Ensure new employees are made aware of the salary packaging policy and related operational practices and procedures;
- Implement endorsed procedures to deal with instances of non-compliance to this policy or related operational practices and procedures.

Human Resources will:

Last undated xy/xy/xxxx (implementation)

- Develop operational salary packaging practices and procedures for the effective, compliant implementation of this policy;
- Support Managers and Employees in the application of this Policy and related operational practices and procedures;
- Monitor the integrity of the scheme in liaison with relevant finance staff;
- Assist the CEO and Executives in the review of salary packaging opportunities.

Employees will:

- Comply with this policy and associated procedures;
- Consider personal implications of participation and take and pay for their own expert advice where
 necessary.
- Sign the appropriate Agreement provided to them.

3.2 Eligibility Criteria

Specific eligibility and participation criteria will-apply dependant on an employee's employment status at a point in time, and the <u>Allowable Bb</u>enefit provided. The <u>se will be detailed in the City</u>'s operational practices and procedures <u>detail criteria further to that outlined below</u>.

All salary packaging arrangements, with the exception of novated leasing, cease immediately when an employee leaves the City or is on Leave Without Pay (LWOP) for a period exceeding 10 days. This includes employees on parental leave. Employees on LWOP must ensure that the reduced income and any payment consequences of that are notified and discussed with HR or the relevant external provider at least one (1) month prior to taking the leave.

Salary Packaging, with the exception of novated leasing, will be suspended during claims for Workers Compensation. As Workers Compensation is calculated on the taxable income, figures submitted to LGIS in relation to a claim will be based on the normal base wage applying to that employee (as would be the case without salary packaging).

Superannuation contributions are calculated on base salary i.e. salary before the deduction of any salary sacrifice monies.

The following benefit specific eligibility criteria applies:

Remote Area Housing - Rental

All employees, within the scope of this Policy, may be eligible for remote area housing benefits whereby they rent a property privately within a Remote Area.

CEO and Directors, subject to the prior agreement of the Council only, may be eligible for City provided housing and associated remote housing benefits.

Remote Area Housing - Mortgage Interest

All employees, within the scope of this Policy, may be eligible for remote area mortgage interest benefit whereby they own and live in a property located within a Remote Area.

3.3 Salary Packaging Benefits – Participation Requirements and Rules

General Requirements

All employees entering into a salary packaging arrangement for the purposes of an allowable benefit must enter into an agreement as appropriate to the type of benefit. All employees must ensure compliance with the agreement entered into and all organisational practices and procedures, as amended from time to time.

Specific Repefit Requirements

Work Related Items

The following items, where used for **work purposes only** and not provided by the City, may be paid for from an employee's pre-tax salary:

- · portable electronic devices (laptops, mobile phones and PDA's)
- protective clothing
- briefcase
- calculator
- computer software

There is a limit of one item per category per FBT year.

Novated Leasing of Vehicles

Novated car leases for new or used cars may be packaged by employees. A car classified as 'luxury' by the ATO cannot be salary packaged. Novated leases may not be entered into for City provided (fleet) vehicles.

In entering into a novated lease, Council and an employee will enter into an agreement with the financier whereby Council will ensure repayments under the finance lease are made by deducting the repayment amount from the employee's salary.

The employee will own the vehicle and has the right to take the vehicle with them should they leave employment of the City, with τ

On termination of the employee's employment, or on termination of the novated lease, the responsibility for of the vehicle is-passed on to the employee. This will also occur when the employee is on extended periods of LWOP and/or Workers Compensation

Remote Area Housing

A portion of the City of Busselton district, is considered a 'Remote Locality' under the ATO's definition of 'Remote Area'. Additionally areas outside of the City of Busselton district where employees may reside are also considered a Remote Area. Where an employer subsidises certain costs that employees incur in acquiring accommodation in Remote Areas, housing assistance concessions may be applicable. Specifically, eEligible employees may salary package the following items under this Policy:

Rent - Employer Provided Housing

Council, at its discretion may agree to provide eligible employees with a Council owned or leased rental property as part of their package, whereby and the employee may apply to salary package enter into a salary sacrifice arrangement to salary package-100% of the rental value tax free by being paid part of their Total Remuneration as a non-taxable remote housing reimbursement. Their Base Cash Salary will be reduced accordingly.

Rent - Private Rentals

Last undated vy/vy/vvv (implementation

Employees renting privately (i.e. employees who have a rental agreement with a landlord or agency), within a Remote Area can apply to salary package 50% of their rental value tax free through being paid part of their <u>tTotal rRemuneration</u> as a non-taxable remote housing reimbursement. Their Base Cash Salary will be reduced accordingly.

Rental value relates to the employee's portion of the rental payment only, i.e. if an employee rents with another non dependant person, then the rental value will be half of the total rental value paid.

The employee must provide to the City a copy of their rental lease and this must clearly specify the rent payable, the term of the lease, and show them as the lessee or co lessee of the rental property. The employee must also sign a declaration stating whether they rent the property alone or with others and whether those others are dependants or not.

Mortgage Interest

Subject to further qualifying criteria <u>outlined in the City's operational practice and procedurebelow</u>, employees <u>with that have</u> a mortgage on their home <u>and</u>-which is in a Remote Area can apply to salary package their interest expenses on the mortgage. The home must be their usual place of residence.

The employee receives reimbursement of 100% of their interest expenses paid through being paid part of their Itotal Remuneration as a reimbursement. Their Base Cash Salary will be reduced accordingly. 50% of the reimbursement does however attract FBT, which is payable by the employee. The reimbursement is not a reportable fringe benefit and is therefore exempt from payment summary reporting.

The employee is only able to package interest paid during the period of their employment with the City of Busselton and only from 1 July 2014 onwards.

To be eligible to access a Mortgage Interest benefit under this Policy, the mortgage that an employee holds must be in strict accordance with the following criteria:

- The sole purpose of the loan must have been for the purchase of the employees home;
 - The employee must reside in this property as their primary place of residence;
 - The loan can be fixed and/or variable;
 - The loan may be a principal and interest type loan or an interest only loan. In the event that an
 interest only loan is converted to a principal and interest loan, consolidation of other debts into
 the loan will disqualify it from eligibility;
 - The loan cannot have a redraw facility;
 - The "home" must be a house, unit, flat or apartment (a caravan or mobile home is not considered a 'home' for these purposes)

The employee must provide to the City any evidence required to demonstrate the above criteria is met. Typically this will be:

- Property settlement papers showing the purchase details for the house
- Copy of bank letter showing the loan arrangement whereby the loan must be in the employee's name or jointly with their spouse and for the purposes of the purchase of the house only
- Mortgage statements clearly identifying the interest reimbursement sought

Remote Area Domestic Energy

<u>Subject to qualifying criteria outlined in the City's operational practice and procedure, Eemployees who</u> package remote area housing benefits can apply to salary package 100% of the value of the cost of their residential electricity and gas expenses tax free through being paid part of their <u>T</u>total <u>R</u>remuneration as a reimbursement. Their Base Cash Salary will be reduced accordingly. 50% of the reimbursement does

65

Last updated xx/xx/xxxx (implementation

however attract FBT, which is payable by the employee. The reimbursement is not a reportable fringe benefit and is therefore exempt from payment summary reporting.

The employee is only able to package energy costs paid during the period of their employment with the City of Busselton and for the period that they are / have been claiming a remote housing benefit.

The employee must provide to the City tax invoices and any other required evidence of purchase and payment of the domestic energy and that the energy was used in the house being packaged (e.g. electricity bills and / or gas bills). Reimbursements for gas will be for connected mains gas or for the purchase of large-size (45kg or greater) bottles only. These must be submitted to the City on a regular basis. The invoices must be in the employee's name or jointly with their spouse or partner.

Airline Lounge Membership

Employees can apply to salary package the cost of the following:

- Airline lounge membership joining fee
- Airline membership annual renewal fee

ir "entitlement to use an Australian Airline Lounge Membership", e.g. the Qantas Club, by being paid part of their total remuneration as a reimbursement.—Their Base Cash Salary will be reduced accordingly. These membership fees are "tax free" when provided to an employee as part of a Salary Ppackaging arrangement.

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Allowable under this benefit are:

- · Airline lounge membership joining fee
- Airline membership annual renewal fee
- Membership fees to more than one airline lounge facility are permitted

Membership fees to more than one airline lounge facility are permitted.

Frequent Flyer membership fees are not eligible for salary packaging as they do not give an entitlement to use an airline lounge facility.

To be eligible for this benefit, the tax invoice must be in the employee's name.

Policy Background

Policy Reference No. -

Owner Unit – Employee Services & Risk
Originator – Employee Services & Risk

Policy approved by – Council

Date Approved - For consideration
Date Reviewed - As required

Related Documents Salary Packaging Operational Practices, Procedures and Manuals

Salary Packaging Agreement

City of Busselton Enterprise Agreement 2014

History

| Council Resolution | Date | Information |
|---------------------------|------|------------------------|
| | | Date of implementation |

8 March 2017

Last updated xx/xx/xxxx (implementation)

| Version 1 |
|-------------------------------------|
| Amended Policy to include Remote |
| Area Mortgage Interest, Remote Area |
| Domestic Energy, Airline Lounge |
| Membership |
| Version 2 |
| Amended Policy to streamline and |
| simplify |
| Version 3 |

10.5 Policy and Legislation Committee - 16/02/2017 - REVIEW OF POLICY 018 - CUSTOMER

SERVICE

SUBJECT INDEX: Customer Service

STRATEGIC OBJECTIVE: An organisation that is managed effectively and achieves positive

outcomes for the community.

BUSINESS UNIT: Information Services
ACTIVITY UNIT: Customer Servcie

REPORTING OFFICER: Manager, Information Services - Hendrik Boshoff **AUTHORISING OFFICER:** Director, Finance and Corporate Services - Cliff Frewing

VOTING REQUIREMENT: Simple Majority

ATTACHMENTS: Attachment A Revised Policy 018 - Customer Service showing

tracked changes.

This item was considered by the Policy and Legislation Committee at its meeting on 16 February 2017, the recommendations from which have been included in this report.

PRÉCIS

As part of the Council's ongoing policy review process the Customer Service Policy – Policy 018 is presented for review and updating to the current policy format.

BACKGROUND

The Policy and Legislation Committee has endorsed an ongoing policy review process, whereby all policies of the Council will be reviewed, with the aim of determining the ongoing applicability of the policies, along with standardisation and reduction.

Council adopted the policy 12 May 2010 and not been reviewed since. This report documents the review of the policy, finding it only requires minor updates to bring the policy up to current standards.

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 has proposed to do this on recommendation of a Committee it has established in accordance with Section 5.8 of the Act

RELEVANT PLANS AND POLICIES

This report proposes updates of Council policy 018 Customer Service

FINANCIAL IMPLICATIONS

Nil

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The ongoing policy review process is part of the City's governance systems which ensure responsible, ethical and accountable decision-making.

As the policy provides guidance for Council and the City about customer service expectations, the policy aligns with Council's Strategic Priority Key Goal Area 6:

"Open and Collaborative Leadership"

and more specifically with the Community Objective 6.3:

"An organisation that is managed effectively and achieves positive outcomes for the community".

RISK ASSESSMENT

Not required for this review of a Council policy.

CONSULTATION

During the process of the first stage of the policy review, consideration was given to the policy to determine whether there was a need to invite submissions on any proposed changes to policies. This policy review is not considered to require any public consultation.

OFFICER COMMENT

This report presents the review of the Customer Service Policy. The policy has provided consistent guidance to the Council and the City to meet their service provision obligations to the community, its residents and stakeholders.

The Customer Service Policy has been reviewed and officers found the policy is working well for the City's current needs. The only update required is replacing the word Shire to City in numerous places to bring the policy into alignment with the City's current name.

CONCLUSION

No substantial changes are recommended. The operation of the policy has been examined in detail to ensure no other changes are required. It is the considered view of officers that the policy included in this report has been operating efficiently and effectively since it was adopted by the Policy and Legislation Committee and the Council

OPTIONS

The Council could choose not to change the policy or to make additional changes to the policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The policy amendments will be effective immediately upon adoption by the Council

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

That the revised Council Policy 018 – Customer Service as shown in Attachment A be adopted:

| 018 Customer Service V1 Current | |
|---------------------------------|--|
|---------------------------------|--|

STATEMENT

The Council recognises and acknowledges the importance of providing excellence in customer services to the community, its residents and stakeholders.

PURPOSE / RATIONALE

The intent of this policy is to provide the guiding document for the Council and the City to meet their service provision obligations to the community, its residents and stakeholders.

The development of this policy has taken into account the key factors impacting on customer service provision including, but not limited to, customer expectations, existing policy and legislation, identified risks and endorsed service delivery models.

SCOPE

This Policy applies to all Councillors, Employees, Apprentices, Trainees and Contractors of the City of Busselton.

DEFINITIONS

Customer is defined as any person, external and internal to this organisation, who approaches Councillors, Employees, Apprentices, Trainees and Contractors of the City of Busselton with a request for information or services.

Customer Advocacy is defined as an approach to customer service that focuses on what is best for the customer. Customer Advocates are facilitators between the customers and the organisation.

Customer Service is defined as the direct provision of information or services to customers. This includes assisting our customers to identify others within our community that may be able to meet the needs of our citizens.

City of Busselton Customer Service Charter is a document that details the City of Busselton's commitment to delivering excellence in customer service to the community. This document clearly states the organisation's mission as well as customer service deliverables established by the Council. This document is referred to here after as the Charter.

POLICY CONTENT

The City of Busselton regards the provision of excellent customer services as a core strategic responsibility. In development of this policy, the Council has considered community feedback and expectations, external drivers, relevant constraints and organisational priorities. In addition, this policy takes into account the existing City of Busselton Code of Conduct (037/1 V6), which broadly outlines responsible behavior for all Councillors and City Officers. This policy applies directly to the delivery of services documented in the City of Busselton Customer Service Charter and remains valid regardless of future reviews and changes to that document. This policy is to ensure that everyone within the organisation understands the duties and responsibilities applicable at each level.

The City of Busselton Customer Service Policy is our commitment to the community to:

- Act with integrity, timeliness, efficiency and economy;
- Be open, available, accountable and transparent in our decision making;
- Treat others honestly, respectfully, fairly and in a timely manner;
- Provide accessible, consistent, accurate and relevant information and;
- Invite and be informed by community requests, suggestions and feedback.

Responsibility

Elected Members shall:

- Ensure guidelines for customer service delivery as stated in this Policy and the Charter are current and relevant;
- Review this Policy and the Charter on a periodic basis as required by changing community needs;
- Identify performance indicators for expected customer service outcomes, including expected levels of compliance and reporting periods;

- Support CEO and Executives in the provision of excellence in customer service;
- Regularly review, with the CEO, performance against agreed standards to continuously identify opportunities for improvement.

CEO and Executives shall:

- Endorse and support all standards documented in this Policy and the Charter;
- Contribute to the regular periodic review of this Policy and the Charter by:
 - Engaging in regular, community consultation to ensure current and future customers' needs and requirements are reflected in organisational processes, systems and structures;
 - Identifying opportunities for improvements to service delivery;
- Support Managers and other staff in the provision of excellence in customer service;
- Establish mechanisms to monitor compliance with this Policy and the Charter across all areas of responsibility;
- Establish processes to deal with failure to meet endorsed standards;
- Report to the Council on performance indicators for customer service delivery.

Management shall:

- Optimize and support service delivery mechanisms to comply with this Policy and the Charter;
- Ensure staff under direct and indirect supervision are aware of and are following guidelines detailed in this Policy and the charter;
- Ensure provision of ongoing training to all areas of the organisation to further develop skills relevant to customer service provision;
- Implement established procedures to deal with failure to meet endorsed standards of service delivery;
- Report to CEO and Executives on performance indicators for customer service.

Employees, Contractors, Apprentices and Trainees shall:

- Comply with this Policy and the Charter
- Actively support others in compliance with this Policy and the Charter
- Undertake training and performance management as required to maintain excellence in customer service.
- Report to Managers as required on performance indicators for customer service.

Customer Focus Staff shall additionally:

- Undertake Customer Advocacy through the direct provision of complaint, dispute and grievance support as required by members of the public and within guidelines provided in this Policy and the Charter and the Code of Conduct;
- Undertake support across the organisation in the form of coaching and training to ensure customer service expectations are being met;
- Seek and report on customer feed back, positive and negative, during the course of customer interaction.

Policy Background

Policy Reference No. - 018
Owner Unit – Customer Service
Originator – Customer Service Coordinator
Policy approved by – Council
Date Approved - 12 May, 2010

<u>History</u>

| Council Resolution | Date | Information |
|--------------------|--------------|------------------------|
| C1005/150 | 12 May, 2010 | Date of implementation |
| | | Version 1 |

Revised Policy 018 - Customer Service showing tracked changes

Last updated 12/05/2010 (implementation)

| ı | 018 | Customer Service | V1 Current |
|---|-----|------------------|------------|

STATEMENT

The Council recognises and acknowledges the importance of providing excellence in customer services to the community, its residents and stakeholders.

PURPOSE / RATIONALE

The intent of this policy is to provide the guiding document for the Council and the ShireCity to meet their service provision obligations to the community, its residents and stakeholders.

The development of this policy has taken into account the key factors impacting on customer service provision including, but not limited to, customer expectations, existing policy and legislation, identified risks and endorsed service delivery models.

SCOPE

This Policy applies to all Councillors, Employees, Apprentices, Trainees and Contractors of the ShireCity of Busselton.

DEFINITIONS

Customer is defined as any person, external and internal to this organisation, who approaches Councillors, Employees, Apprentices, Trainees and Contractors of the ShireCity of Busselton with a request for information or services.

Customer Advocacy is defined as an approach to customer service that focuses on what is best for the customer. Customer Advocates are facilitators between the customers and the organisation.

Customer Service is defined as the direct provision of information or services to customers. This includes assisting our customers to identify others within our community that may be able to meet the needs of our citizens.

Shire City of Busselton Customer Service Charter is a document that details the Shire City of Busselton's commitment to delivering excellence in customer service to the community. This document clearly states the organisation's mission as well as customer service deliverables established by the Council. This document is referred to here after as the Charter.

POLICY CONTENT

The ShireCity of Busselton regards the provision of excellent customer services as a core strategic responsibility. In development of this policy, the Council has considered community feedback and expectations, external drivers, relevant constraints and organisational priorities. In addition, this policy takes into account the existing ShireCity of Busselton Code of Conduct (037/1 V6), which broadly outlines responsible behaviour for all Councillors and ShireCity Officers. This policy applies directly to the delivery of services documented in the ShireCity of Busselton Customer Service Charter and remains valid regardless of future reviews and changes to that document. This policy is to ensure that everyone within the organisation understands the duties and responsibilities applicable at each level.

Last updated 12/05/2010 (implementation)

The ShireCity of Busselton Customer Service Policy is our commitment to the community to:

- Be open, available, accountable and transparent in our decision making;
- Treat others honestly, respectfully, fairly and in a timely manner;

Act with integrity, timeliness, efficiency and economy;

- Provide accessible, consistent, accurate and relevant information and;
- · Invite and be informed by community requests, suggestions and feedback.

Responsibility

Elected Members shall:

- Ensure guidelines for customer service delivery as stated in this Policy and the Charter are current and relevant;
- Review this Policy and the Charter on a periodic basis as required by changing community needs;
- Identify performance indicators for expected customer service outcomes, including expected levels of compliance and reporting periods;
- · Support CEO and Executives in the provision of excellence in customer service;
- Regularly review, with the CEO, performance against agreed standards to continuously identify opportunities for improvement.

CEO and Executives shall:

- Endorse and support all standards documented in this Policy and the Charter;
- · Contribute to the regular periodic review of this Policy and the Charter by:
 - Engaging in regular, community consultation to ensure current and future customers' needs and requirements are reflected in organisational processes, systems and structures;
 - Identifying opportunities for improvements to service delivery;
- Support Managers and other staff in the provision of excellence in customer service;
- Establish mechanisms to monitor compliance with this Policy and the Charter across all areas of responsibility;
- Establish processes to deal with failure to meet endorsed standards;
- Report to the Council on performance indicators for customer service delivery.

Management shall:

- Optimize and support service delivery mechanisms to comply with this Policy and the Charter;
- Ensure staff under direct and indirect supervision are aware of and are following guidelines detailed in this Policy and the charter;
- Ensure provision of ongoing training to all areas of the organisation to further develop skills relevant to customer service provision;
- Implement established procedures to deal with failure to meet endorsed standards of service delivery;
- Report to CEO and Executives on performance indicators for customer service.

Employees, Contractors, Apprentices and Trainees shall:

- · Comply with this Policy and the Charter
- · Actively support others in compliance with this Policy and the Charter
- Undertake training and performance management as required to maintain excellence in customer service.
- · Report to Managers as required on performance indicators for customer service.

Last updated 12/05/2010 (implementation)

Customer Focus Staff shall additionally:

- Undertake Customer Advocacy through the direct provision of complaint, dispute and grievance support as required by members of the public and within guidelines provided in this Policy and the Charter and the Code of Conduct;
- Undertake support across the organisation in the form of coaching and training to ensure customer service expectations are being met;
- Seek and report on customer feed back, positive and negative, during the course of customer interaction.

Policy Background

Policy Reference No. - 018 Owner Unit – Customer Service Originator – Customer Service Coordinator Policy approved by – Council Date Approved - 12 May, 2010

History

| Council Resolution | Date | Information |
|--------------------|--------------|------------------------|
| C1005/150 | 12 May, 2010 | Date of implementation |
| | | Version 1 |

10.6 <u>Policy and Legislation Committee - 16/02/2017 - REVIEW OF LEGAL REPRESENTATION - COSTS INDEMNIFICATION POLICY AND ASSOCIATED INSTRUMENT OF DELEGATION</u>

SUBJECT INDEX: Governance: Committee Meetings

STRATEGIC OBJECTIVE: Governance systems that deliver responsible, ethical and accountable

decision-making.

BUSINESS UNIT: Governance Services

ACTIVITY UNIT: Governance

REPORTING OFFICER: Councillor Support Officer - Lisa Haste

AUTHORISING OFFICER: Director, Finance and Corporate Services - Cliff Frewing

VOTING REQUIREMENT: Absolute Majority

ATTACHMENTS: Attachment A Current Legal Representation Costs Indemnification

Policy.

Attachment B Marked up version of Legal Representation Costs

Indemnification Policy.

Attachment C Local Government Guideline Number 14.

Attachment D Current Instrument of Delegation !

Attachment E Marked up version of Instrument of Delegation !

This item was considered by the Policy and Legislation Committee at its meeting on 16 February 2017, the recommendations from which have been included in this report.

PRÉCIS

As part of the Council's ongoing policy review, the policy relating to Legal Representation PO85 – Costs Indemnification has been reviewed. The recommended policy is in accordance with the model policy in the Department's guideline.

In addition, it is proposed to amend the associated Council delegation, Delegation 5A, but there is no change to the intent of the delegation.

BACKGROUND

The Policy and Legislation Committee has endorsed an ongoing policy review process, whereby all policies of the Council will be reviewed, with the aim of determining the ongoing applicability of the policies, along with standardisation and reduction.

There is a legislative requirement to review Delegations on an annual basis.

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 has proposed to do this on recommendation of a Committee it has established in accordance with Section 5.8 of the Act.

RELEVANT PLANS AND POLICIES

This report proposes the adoption of a Council policy to replace an existing policy.

FINANCIAL IMPLICATIONS

Nil.

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

Sound policy development and review processes contribute to a responsible and accountable Local Government in accordance with the City's Strategic Plan.

RISK ASSESSMENT

If the City does not have this Policy in place, then the employees and elected members are not provided with appropriate legal cover, and it may also require Special Council meetings to be called to consider applications.

CONSULTATION

As a policy with an internal focus, this policy is not considered to require any public consultation.

OFFICER COMMENT

As identified in the Department's guideline on this matter, it is acknowledged that there is an increased risk of legal action being taken or threatened against individual Council members or employees. The policy that has been developed as a model by the Department seeks to provide a standard set of parameters for all local governments for protection of their interests in this regard. The new policy that is proposed is not different in its intent from the existing policy, it simply fully covers all matters recommended to be in the policy by the Department.

The existing policy (Attachment A) and proposed policy (Attachment B) are appended to this report. The proposed policy modifies the existing policy so that it reflects the content of the Local Government Operations Guidelines Number 14 – Legal Representation for Council members and Employees (Attachment C).

It is also proposed as part of the consideration of this matter, that the Council updates its delegation to the CEO to deal with applications of an urgent nature. This requires an absolute majority decision of the Council. The current delegation (Attachment D) and the proposed new delegation (Attachment E) are attached to this report.

CONCLUSION

The intent of the new proposed policy is the same as the existing policy, however it simply covers all of the matters that the Department of Local Government have recommended be in the policy

OPTIONS

The Council may determine to maintain the existing policy or to revise aspects of the recommended policy, for example the monetary limit to which the CEO can provide approval.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The revised policy and delegation that is recommended would be effective immediately upon adoption by the Council.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Committee recommends to Council that it:

1. adopts the amended "Legal Representation for Council Members and Employees" Policy to replace the existing "Legal Representation – Costs Indemnification Policy":

| 085 | Legal Representation for Council Members and Employees | V2 Current |
|-----|--|------------|
|-----|--|------------|

1.0 PURPOSE

This policy is designed to protect the interests of Council members and employees (including past members and former employees) where they become involved in legal proceedings because of their official functions. In most situations the City of Busselton may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings. In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district.

2.0 SCOPE

The policy applies to any current or former Council member or employee of the City of Busselton, subject to meeting the criteria set out in the policy.

3.0 POLICY CONTENT

3.1 Definitions

approved lawyer is to be -

- (a) a 'certified practitioner' under the *Professions Act 2008*
- (b) from a law firm on the City's or WALGA's panel of legal service providers, if relevant, unless the Council considers that this is not appropriate for example where there is or may be a conflict of interest or insufficient expertise; and
- (c) approved in writing by the Council or the CEO under delegated authority.

council member or employee means a current or former Commissioner, Council member or employee of the City of Busselton.

legal proceedings may be civil, criminal or investigative.

legal representation is the provision of legal services, to or on behalf of a Council member or employee, by an approved lawyer that are in respect of:

- (a) a matter or matters arising from the performance of the functions of the Council member or employee; and
- (b) legal proceedings involving the Council member or employee that have been, or may be, commenced.

legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

legal services includes advice, representation or documentation that is provided by an approved lawyer.

payment by the City of Busselton of legal representation costs may be either by –

- (a) a direct payment to the approved lawyer (or the relevant firm); or
- (b) a reimbursement to the Council member or employee.

3.2 Payment Criteria

There are four major criteria for determining whether the City of Busselton will pay the legal representation costs of a Council member or employee. These are –

- (a) the legal representation costs must relate to a matter that arises from the performance, by the Council member or employee, of his or her functions;
- (b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;
- (c) in performing his or her functions, to which the legal representation relates, the Council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

3.3 Examples of legal representation costs that may be approved

If the criteria in clause 3.2 of this policy are satisfied, the City may approve the payment of legal representation costs –

- (a) where proceedings are brought against a Council member or employee in connection with his or her functions for example, an action for defamation or negligence arising out of a decision made or action taken by the Council member or employee; or
- (b) to enable proceedings to be commenced and/or maintained by a Council member or employee to permit him or her to carry out his or her functions - for example where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Council member or employee; or
- (c) where exceptional circumstances are involved for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about council members or employees.

The City will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a Council member or employee.

3.4 Application for payment

A Council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the Council or the CEO. The written application for payment of legal representation costs is to give details of –

- (a) the matter for which legal representation is sought;
- (b) how that matter relates to the functions of the Council member or employee making the application;
- (c) the lawyer (or law firm) who is to be asked to provide the legal representation;
- (d) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
- (e) an estimated cost of the legal representation; and
- (f) why it is in the interests of the City for payment to be made.

The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates. As far as possible the application is to be made before commencement of the legal representation to which the application relates.

An application to the Council is also to be accompanied by a report prepared by the CEO or where the CEO is the applicant by an appropriate employee.

3.5 Written Statement

The application is to be accompanied by a signed written statement by the applicant that he or she –

(a) has read, and understands, the terms of this Policy;

- (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of Clause 3.11 and any other conditions to which the approval is subject; and
- (c) undertakes to repay to the City any legal representation costs in accordance with the provisions of clause 3.11 of this policy.

3.6 Application for Payment

In relation to clause 3.5 (c), when a person is to be in receipt of such monies the person should sign a document which requires repayment of those monies to the local government as may be required by the local government and the terms of the policy.

3.7 Legal representation costs – Limit

The council in approving an application in accordance with this policy shall set a limit on the costs to be paid based on the estimated costs in the application. A council member or employee may make a further application to the council in respect of the same matter.

3.8 Council Powers – Decision process and conditions

The council may -

- (a) refuse;
- (b) grant; or
- (c) grant subject to conditions

an application for payment of legal representation costs.

Conditions may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.

In assessing an application, the Council may have regard to any insurance benefits that may be available to the applicant under the City's Councilmembers' or employees' insurance policy or its equivalent.

3.9 Revocation and variation

The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

The Council may, subject to natural justice principles, determine that a Council member or employee whose application has been approved has, in respect of the matter for which legal representation costs were approved –

- (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
- (b) given false or misleading information in respect of the application

A determination under this clause may be made by the Council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry.

Where the Council makes a determination under this clause, the legal representation costs paid by the City are to be repaid by the Council member or employee in accordance with 3.11.

3.10 Delegation to Chief Executive Officer

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the council, the powers of the council under clause 3.8, to a maximum of \$10,000 in respect of each application.

An application approved by the CEO is to be submitted to the next ordinary meeting of the Council. Council may exercise any of its powers under this Policy.

3.11 Repayment of legal representation costs

A Council member or employee whose legal representation costs have been paid by the City is to repay the City –

- (a) all or part of those costs in accordance with a determination by the Council under clause 3.9;
- (b) as much of those costs as are available to be paid by way of set-off where the Council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid legal representation costs.

The City may take action in a court of competent jurisdiction to recover any monies due to it under this Policy.

Policy Background

Policy Reference No. - 085

Owner Unit – Office of the Chief Executive

Originator – Manager, Governance Services

Policy approved by – Council

Date Approved – 27 June, 2012

Review Frequency – As required

Related Documents – N/A

History

Local Government Operational Guidelines Number 14 – modified April 2006

| Council Resolution | Date | Information |
|--------------------|---------------|---|
| C1206/166 | 27 June, 2012 | Department of Local Government has republished its model policy. This version is based on that model policy Version 2 |
| | | Version 1 |

b) adopts the amended delegation 5A – Legal Representation for Council Members and Employees:

INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject | |
|--------|------------|-------------------------|------------------------------------|--|
| 5A | 5.42(1)(a) | Chief Executive Officer | Provision of Urgent Legal Services | |

Delegator

Council.

Power/Duty

To provide authorisation to the CEO to approve applications for urgent legal assistance in accordance with Clause 3.10 of Council policy PO85 "Legal Representation for Council members and employees" to a maximum of \$10,000.

3.10 Delegation to Chief Executive Officer

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the Council, the powers of the council under Clause 3.8 to a maximum of \$10,000 in respect of each application.

An application approved by the CEO is to be submitted to the next ordinary meeting of Council. Council may exercise any of its powers under this Policy.

Conditions

The determination must be made in accordance with the provisions of the Council policy "Legal Representation for Council members and employees".

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act* 1995.

Verification

Council Resolution

C1606/140

Council Resolution

C1506/161

Council Resolution

C1406/161

Council Resolution

C1306/168

Council Resolution

C1206/166

Council Resolution

C1106/199

Council Resolution

C1006/217

Council Resolution

C0906/243

Council Resolution

C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, Delegations are reviewed at least once every financial year.

Related Documents

Legal Representation Policy – PO85

Notes of Alterations

7/2/2017 – Amended to be fully consistent with Department of Local Government Guideline 14 27/06/2012 – New policy adopted.

22/06/2011 - Update to refer to the correct section of the Local Government Act 1995.

Policy

| 085 | Legal | Representation | for | Council | Members | and | V2 Current |
|-----|--------|----------------|-----|---------|---------|-----|------------|
| | Employ | yees | | | | | |

1.0 **PURPOSE**

This policy is designed to protect the interests of Council members and employees (including past members and former employees) where they become involved in legal proceedings because of their official functions. In most situations the City of Busselton may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings. In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district.

2.0 **SCOPE**

The policy applies to any current or former Council member or employee of the City of Busselton, subject to meeting the criteria set out in the policy.

3.0 **POLICY CONTENT**

Definitions 3.1

approved lawyer is to be -

- a 'certified practitioner' under the Legal Practice Act 2003; (a)
- approved in writing by the Council or the CEO under delegated authority. (b)

council member or employee means a current or former Council member or employee of the City of Busselton.

legal proceedings may be civil, criminal or investigative.

legal representation is the provision of legal services, to or on behalf of a Council member or employee, by an approved lawyer.

legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

legal services includes advice, representation or documentation that is provided by an approved lawyer.

payment by the City of Busselton of legal representation costs may be either by -

- a direct payment to the approved lawyer (or the relevant firm); or (a)
- a reimbursement to the Council member or employee. (b)

3.2 **Payment Criteria**

There are four major criteria for determining whether the City of Busselton will pay the legal representation costs of a Council member or employee. These are -

- the legal representation costs must relate to a matter that arises from the (a) performance, by the Council member or employee, of his or her functions;
- (b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;

- (c) in performing his or her functions, to which the legal representation relates, the Council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

3.3 Examples of legal representation costs that may be approved

If the criteria in clause 3.2 of this policy are satisfied, the City may approve the payment of legal representation costs –

- (a) where proceedings are brought against a Council member or employee in connection with his or her functions for example, an action for defamation or negligence arising out of a decision made or action taken by the Council member or employee; or
- (b) to enable proceedings to be commenced and/or maintained by a Council member or employee to permit him or her to carry out his or her functions for example where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Council member or employee; or
- (c) where exceptional circumstances are involved.

The City will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a Council member or employee.

3.4 Application for payment

A Council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the Council or the CEO. The written application for payment of legal representation costs is to give details of –

- (a) the matter for which legal representation is sought;
- (b) how that matter relates to the functions of the Council member or employee making the application;
- (c) the lawyer (or law firm) who is to be asked to provide the legal representation;
- (d) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
- (e) an estimated cost of the legal representation; and
- (f) why it is in the interests of the City for payment to be made.

The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter. As far as possible the application is to be made before commencement of the legal representation to which the application relates.

The application is to be accompanied by a signed written statement by the applicant that he or she –

- (a) has read, and understands, the terms of this Policy;
- (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions and any other conditions to which the approval is subject; and
- (c) undertakes to repay to the City any legal representation costs in accordance with the provisions of clause 3.9 of this policy.

An application is also to be accompanied by a report prepared by the CEO or where the CEO is the applicant by an appropriate employee.

10.6 Attachment A

Current Legal Representation Costs Indemnification Policy

3.5 Legal representation costs – Limit

The council in approving an application in accordance with this policy shall set a limit on the costs to be paid. A council member or employee may make a further application to the council in respect of the same matter.

3.6 Decision process and conditions

The council may -

- (a) refuse;
- (b) grant; or
- (c) grant subject to conditions

an application for payment of legal representation costs.

Conditions may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.

In assessing an application, the Council may have regard to any insurance benefits that may be available to the applicant under the City's Council members' or employees' insurance policy or its equivalent.

3.7 Revocation and variation

The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

The Council may, subject to natural justice principles, determine that a Council member or employee whose application has been approved has, in respect of the matter for which the approval was made –

- (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
- (b) given false or misleading information in respect of the application and require the repayment by the Council member or employee the legal representation costs paid by the City.

3.8 Delegation to Chief Executive Officer

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the council, the powers of the council under clause 3.6 to determine the application and set conditions, to a maximum of \$10,000 in respect of each application.

An application approved by the CEO is to be submitted to the next ordinary meeting of the Council. Council may exercise any of its powers under this Policy.

3.9 Repayment of legal representation costs

A Council member or employee whose legal representation costs have been paid by the City is to repay the City –

(a) all or part of those costs – in accordance with a determination by the Council under clause 3.7;

(b) as much of those costs as are available to be paid by way of set-off – where the Council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid legal representation costs.

The City may take action in a court of competent jurisdiction to recover any monies due to it under this Policy.

Policy Background

Policy Reference No. - 085 Owner Unit – Office of the Chief Executive Originator – Manager, Governance Services Policy approved by – Council Date Approved – 27 June, 2012 Review Frequency – As required Related Documents – N/A

History

| Council Resolution | Date | Information |
|--------------------|---------------|---|
| C1206/166 | 27 June, 2012 | Department of Local Government has republished its model policy. This version is based on that model policy Version 2 |
| | | Version 1 |

Marked up version of Legal Representation Costs Indemnification Policy

| 085 | Legal | Representation | for | Council | Members | and | V2 Current |
|-----|-----------|----------------|-----|---------|---------|-----|------------|
| | Employees | | | | | | |

1.0 PURPOSE

This policy is designed to protect the interests of Council members and employees (including past members and former employees) where they become involved in legal proceedings because of their official functions. In most situations the City of Busselton may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings. In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district.

2.0 SCOPE

The policy applies to any current or former Council member or employee of the City of Busselton, subject to meeting the criteria set out in the policy.

3.0 POLICY CONTENT

3.1 Definitions

approved lawyer is to be -

- (a) a 'certified practitioner' under the *Professions Act 2008*
- (b) from a law firm on the City's or WALGA's panel of legal service providers, if relevant, unless the Council considers that this is not appropriate – for example where there is or may be a conflict of interest or insufficient expertise; and
- (c) approved in writing by the Council or the CEO under delegated authority.

council member or employee means a current or former Commissioner, Council member or employee of the City of Busselton.

legal proceedings may be civil, criminal or investigative.

legal representation is the provision of legal services, to or on behalf of a Council member or employee, by an approved lawyer that are in respect of:

- (a) a matter or matters arising from the performance of the functions of the Council member or employee; and
- (b) legal proceedings involving the Council member or employee that have been, or may be, commenced.

legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

legal services includes advice, representation or documentation that is provided by an approved lawyer.

payment by the City of Busselton of legal representation costs may be either by -

- (a) a direct payment to the approved lawyer (or the relevant firm); or
- (b) a reimbursement to the Council member or employee.

10.6 Attachment B

Marked up version of Legal Representation Costs Indemnification Policy

3.2 Payment Criteria

There are four major criteria for determining whether the City of Busselton will pay the legal representation costs of a Council member or employee. These are –

- (a) the legal representation costs must relate to a matter that arises from the performance, by the Council member or employee, of his or her functions;
- (b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;
- (c) in performing his or her functions, to which the legal representation relates, the Council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

3.3 Examples of legal representation costs that may be approved

If the criteria in clause 3.2 of this policy are satisfied, the City may approve the payment of legal representation costs –

- (a) where proceedings are brought against a Council member or employee in connection with his or her functions for example, an action for defamation or negligence arising out of a decision made or action taken by the Council member or employee; or
- (b) to enable proceedings to be commenced and/or maintained by a Council member or employee to permit him or her to carry out his or her functions for example where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Council member or employee; or
- (c) where exceptional circumstances are involved for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about council members or employees.

The City will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a Council member or employee.

3.4 Application for payment

A Council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the Council or the CEO. The written application for payment of legal representation costs is to give details of –

- (a) the matter for which legal representation is sought:
- (b) how that matter relates to the functions of the Council member or employee making the application;
- (c) the lawyer (or law firm) who is to be asked to provide the legal representation;
- (d) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
- (e) an estimated cost of the legal representation; and
- (f) why it is in the interests of the City for payment to be made.

The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates. As far as possible the

10.6 Attachment B

Marked up version of Legal Representation Costs Indemnification Policy

application is to be made before commencement of the legal representation to which the application relates.

An application to the Council is also to be accompanied by a report prepared by the CEO or where the CEO is the applicant by an appropriate employee.

3.5 Written Statement

The application is to be accompanied by a signed written statement by the applicant that he or she –

- (a) has read, and understands, the terms of this Policy;
- (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of Clause 3.11 and any other conditions to which the approval is subject; and
- (c) undertakes to repay to the City any legal representation costs in accordance with the provisions of clause 3.11 of this policy.

3.6 Application for Payment

In relation to clause 3.5 (c), when a person is to be in receipt of such monies the person should sign a document which requires repayment of those monies to the local government as may be required by the local government and the terms of the policy.

3.7 Legal representation costs – Limit

The council in approving an application in accordance with this policy shall set a limit on the costs to be paid based on the estimated costs in the application. A council member or employee may make a further application to the council in respect of the same matter.

3.8 Council Powers – Decision process and conditions

The council may -

- (a) refuse:
- (b) grant; or
- (c) grant subject to conditions

an application for payment of legal representation costs.

Conditions may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.

In assessing an application, the Council may have regard to any insurance benefits that may be available to the applicant under the City's Councilmembers' or employees' insurance policy or its equivalent.

3.9 Revocation and variation

The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

Marked up version of Legal Representation Costs Indemnification Policy

The Council may, subject to natural justice principles, determine that a Council member or employee whose application has been approved has, in respect of the matter for which legal representation costs were approved –

- (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
- (b) given false or misleading information in respect of the application
- A determination under this clause may be made by the Council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry.

Where the Council makes a determination under this clause, the legal representation costs paid by the City are to be repaid by the Council member or employee in accordance with 3.11.

.3.10 Delegation to Chief Executive Officer

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the council, the powers of the council under clause 3.8, to a maximum of \$10,000 in respect of each application.

An application approved by the CEO is to be submitted to the next ordinary meeting of the Council. Council may exercise any of its powers under this Policy.

3.11 Repayment of legal representation costs

A Council member or employee whose legal representation costs have been paid by the City is to repay the City –

- (a) all or part of those costs in accordance with a determination by the Council under clause 3.9:
- (b) as much of those costs as are available to be paid by way of set-off where the Council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid legal representation costs.

The City may take action in a court of competent jurisdiction to recover any monies due to it under this Policy.

Policy Background

Policy Reference No. - 085 Owner Unit – Office of the Chief Executive Originator – Manager, Governance Services Policy approved by – Council Date Approved – 27 June, 2012 Review Frequency – As required Related Documents – N/A

<u>History</u>

Local Government Operational Guidelines Number 14 – modified April 2006

| Council Resolution | Date | Information |
|--------------------|---------------|---|
| C1206/166 | 27 June, 2012 | Department of Local Government has republished its model policy. This version is based on that model policy Version 2 |
| | _ | Version 1 |





Local Government Operational Guidelines

Number 14 - April 2006

Legal Representation for Council Members and Employees

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Legal Representation for Council Members and Employees

1. Introduction

In today's society there is an increased risk of legal action being taken or threatened against individual council members and employees. Council members and employees may require legal advice and representation and expect their local government to provide financial assistance to meet the cost of the advice or representation.

For example, council members or employees may be threatened with legal action when an aggrieved party believes that they will not, or have not, carried out their legislative functions or responsibilities in the correct and appropriate manner. Legal action may also be threatened where it is anticipated that such action will influence a vote or a recommendation.

Council members and employees may feel inhibited in undertaking their roles in a full, frank and impartial manner if they do not have an assurance that they are protected from threats and will be given proper legal representation if any legal action is taken against them. Local governments have a legislative duty of care to their employees to provide a safe working environment and morally have the same duty to council members. Accordingly, it is appropriate and prudent for local governments to assist council members and employees by adopting a policy to fund or partly fund the cost of providing legal representation in appropriate circumstances.

The Inquiry into the City of Joondalup criticised some council members for making uninformed and ill-advised decisions to pay personal legal expenses of the Chief Executive Officer (CEO). It is therefore important that council adopts a policy on the provision of financial

assistance so that its position is known to the council members, employees and the community in advance of applications for funding being made. Non-elected council committee members may also require assistance and should be considered in any policy adopted by council.

This guideline, and the incorporated model policy, are provided to assist councils when making decisions or developing a policy. It is important that a council devotes time to understanding the issues outlined in this guideline.

If a policy is adopted and legal representation costs are granted under the policy, it is critical that council has presented to it full and detailed accounts from the lawyer approved to provide the legal representation to ensure that the representation provided complies with the approval given. Repayment of any costs associated with matters not approved should be enforced.

This guideline does not address the situation where council members and employees are interviewed during, or are required to give evidence to, an inquiry into their local government. Determining whether financial assistance is given in these situations is a complex matter and one that will relate to the circumstances and reasons for the inquiry.

2. Legislation

Section 9.56 of the Local Government Act 1995 (the Act) provides protection from actions of tort for anything a council member or employee has, in good faith, done in the performance or purported performance of a function under the Act or under any other written law. However, the legislation does not preclude people

Legal Representation for Council Members and Employees

Page 3 of 10

taking action against individual council members or employees if they believe that the council member or employee has not acted in good faith.

Section 3.1 of the Act provides that the general function of a local government is to provide for the good government of persons in its district. Section 6.7(2) provides that money held in the municipal fund may be applied towards the performance of the functions and the exercise of the powers conferred on the local government by the Act or any other written law. Under these provisions, a council can expend funds to provide legal representation for council members and employees, as long as it believes that the expenditure falls within the scope of the local government's function.

3. Determining a Suitable Policy

The policy should have a clear set of principles or directives to help the council deal with a situation where a council member or employee is defending or will need to defend a legal action or requires advice or representation and is requesting financial assistance. The policy should set out the circumstances under which funding will be provided, the level of funding that will be provided and the processes to be followed by the applicant when making a request.

The degree of complexity of an appropriate policy may vary but generally could include the following matters –

- under what circumstances would financial assistance be provided. For example, where legal action is taken against a council member or employee in connection with the performance of their duties and they have not acted illegally, dishonestly or in bad faith;
- who would make the decision that financial support would be provided (eg council or the CEO);
- who would provide the legal services (eg the local government's lawyers, other lawyers);
- what limits, if any, would be placed on financial assistance;
- how applications would be made for assistance;
- what obligations a council member or employee receiving assistance should have (eg an obligation to disclose anything that might affect representation or to act reasonably);
- whether contingent authorisation in urgent cases would be provided for and who would exercise that authority;
- under what circumstances could financial assistance be withdrawn (eg person having acted illegally, dishonestly or otherwise in bad faith);
- provision for the recoup of money already provided under the policy where approval is withdrawn; and
- a clear statement that legal representation will not be provided for matters that relate to the personal affairs of a council member or employee (eg under investigation for a matter not related to a legislative function or an employee seeking legal advice on a contract of employment).

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Legal Representation for Council Members and Employees

3.1 Other Circumstances where Funding Requests may be Made

Under legislation, any expenditure of a local government's funds must be justified on the basis that the expenditure will 'provide for the good government of persons in its district'. Therefore, in formulating a policy on legal representation the council must take into account the need to satisfy itself that the expenditure can be justified as providing for that good government.

Local government council members and employees will at times be subject to personal public criticism they consider to be unfair. Depending on the circumstances and the veracity of the criticism, council members or employees may seek to redress the situation by taking legal action. Legal advice received by the Department suggests that only in exceptional circumstances would a local government be able to justify, under the 'good government' provisions, funding the initiation of legal action by a council member or employee.

It is important to note that where public criticism is made about the local government, ie the City, Town, or Shire, funding could not be justified. Legal precedent dictates that it is fundamental to public scrutiny that governments be open to criticism by members of the community. The threat of civil action against any person who publicly criticises a local government will have an inhibiting effect on freedom of speech and inevitably lessen a local government's accountability to its community.

Council members, if asked to vote on such a request, should ask themselves 'would a reasonable person, given all the facts, conclude that the expenditure provides for the good government of the persons in the district'. If a majority of council members are satisfied, council could, under its general function power, resolve that the local government fund the obtaining of advice or initiation of legal action by the council member or employee.

Council members should ensure that they receive appropriate documentation that presents reasons for and against the recommendation when considering an application for such funding as they may be asked to justify the decision at a future date. Documentation provides a proper decision-making trail that can be used to support the decision.

As a condition of approval, the council may require the council member or employee to undertake to refund the costs of legal representation paid by the local government should their action be successful.

3.2 Support for Former Council Members and Employees

The council, when considering the scope of its policy, will need to determine if the policy extends to the funding of legal representation for former council members, commissioners and employees and under what circumstances funding would be provided.

Legal Representation for Council Members and Employees

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3.3 Delegation

A number of councils have, in adopting a policy on this issue, delegated to their CEO the power to deal with requests for the payment of legal representation costs. Because of the sensitive nature of providing funding, some CEOs have asked council not to delegate the power. A council should discuss the matter with the CEO before making any decision to delegate any aspect of its legal representation policy.

It may be appropriate for council to seek agreement from the CEO for a delegation limited to circumstances where a delay in approving a request will be detrimental to the legal rights of the council member or employee.

4. Adopting a Policy

In considering the policy all relevant people are encouraged to study and thoroughly understand the implications and likely consequences of adopting the policy.

A model policy has been provided on the following pages as an example for local governments undertaking their own policy-making on legal representation of adopting the policy. The Department welcomes any comments that individuals or local governments believe will assist in the improvement of the model policy.

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Legal Representation for Council Members and Employees

Model Policy

Legal Representation for Council Members and Employees

Explanation of key terms

approved lawyer is to be -

- (a) a 'certified practitioner' under the Professions Act 2008:
- (b) from a law firm on the City/Town/ Shire's panel of legal service providers, if relevant, unless the council considers that this is not appropriate – for example where there is or may be a conflict of interest or insufficient expertise; and
- (c) approved in writing by the council or the CEO under delegated authority.

council member or employee means a current or former commissioner, council member, non-elected member of a council committee or employee of the City/Town/Shire.

legal proceedings may be civil, criminal or investigative.

legal representation is the provision of legal services, to or on behalf of a council member or employee, by an approved lawyer that are in respect of –

- (a) a matter or matters arising from the performance of the functions of the council member or employee; and
- (b) legal proceedings involving the council member or employee that have been, or may be, commenced.

legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

legal services includes advice, representation or documentation that is provided by an approved lawyer.

payment by the City/Town/Shire of legal representation costs may be either by –

- (a) a direct payment to the approved lawyer (or the relevant firm); or
- (b) a reimbursement to the council member or employee.

1. Payment Criteria

- 1.1 There are four major criteria for determining whether the City/Town/Shire will pay the legal representation costs of a council member or employee.

 These are –
- (a) the legal representation costs must relate to a matter that arises from the performance, by the council member or employee, of his or her functions;
- (b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;
- (c) in performing his or her functions, to which the legal representation relates, the council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

Legal Representation for Council Members and Employees

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2. Examples of Legal Representation Costs that may be Approved

- 2.1 If the criteria in clause 1 of this policy are satisfied, the City/Town/Shire may approve the payment of legal representation costs –
- (a) where proceedings are brought against a council member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the council member or employee; or
- (b) to enable proceedings to be commenced and/or maintained by a council member or employee to permit him or her to carry out his or her functions – for example, where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the council member or employee; or
- (c) where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about council members or employees.
- 2.2 The City/Town/Shire will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a council member or employee.

3. Application for Payment

- 3.1 A council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the council or the CEO.
- 3.2 The written application for payment of legal representation costs is to give details of –
- (i) the matter for which legal representation is sought;
- (ii) how that matter relates to the functions of the council member or employee making the application;
- (iii) the lawyer (or law firm) who is to be asked to provide the legal representation;
- (iv) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
- (v) an estimated cost of the legal representation; and
- (vi) why it is in the interests of the City/ Town/Shire for payment to be made.
- 3.3 The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.
- 3.4 As far as possible, the application is to be made before commencement of the legal representation to which the application relates.

- 3.5 The application is to be accompanied by a signed written statement by the applicant that he or she –
- (a) has read, and understands, the terms of this policy;
- (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject; and
- (c) undertakes to repay to the City/Town/ Shire any legal representation costs in accordance with the provisions of clause 7.
- 3.6 In relation to clause 3.5(c), when a person is to be in receipt of such monies the person should sign a document which requires repayment of those monies to the local government as may be required by the local government and the terms of the policy.
- 3.7 An application is also to be accompanied by a report prepared by the CEO or, where the CEO is the applicant, by an appropriate employee.

Legal Representation Costs – Limit

- 4.1 The council in approving an application in accordance with this policy shall set a limit on the costs to be paid based on the estimated costs in the application.
- 4.2 A council member or employee may make a further application to the council in respect of the same matter.

5. Council's Powers

- 5.1 The council may -
- (a) refuse;
- (b) grant; or
- (c) grant subject to conditions,
- an application for payment of legal representation costs.
- 5.2 Conditions under clause 5.1 may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.
- 5.3 In assessing an application, the council may have regard to any insurance benefits that may be available to the applicant under the City's/Town's/Shire's council members 'or employees' insurance policy or its equivalent.
- 5.4 The council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.
- 5.5 The council may, subject to clause 5.6, determine that a council member or employee whose application for legal representation costs has been approved has, in respect of the matter for which legal representation costs were approved –
- (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
- (b) given false or misleading information in respect of the application.

Legal Representation for Council Members and Employees

Attachment C

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- 5.6 A determination under clause 5.5 may be made by the council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry.
- 5.7 Where the council makes a determination under clause 5.5, the legal representation costs paid by the City/ Town/Shire are to be repaid by the council member or employee in accordance with clause 7.

6. Delegation to Chief **Executive Officer**

- 6.1 In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the council, any of the powers of the council under clause 5.1 and 5.2, to a maximum of \$10,000 in respect of each application.
- 6.2 An application approved by the CEO under clause 6.1, is to be submitted to the next ordinary meeting of the council. Council may exercise any of its powers under this policy, including its powers under clause 5.4.

7. Repayment of Legal **Representation Costs**

- 7.1 A council member or employee whose legal representation costs have been paid by the City/Town/Shire is to repay the City/Town/Shire -
- (a) all or part of those costs in accordance with a determination by the council under clause 5.7;
- (b) as much of those costs as are available to be paid by way of set-off - where the council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City/Town/Shire paid the legal representation costs.
- 7.2 The City/Town/Shire may take action in a court of competent jurisdiction to recover any monies due to it under this policy.

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Legal Representation for Council Members and Employees

These guidelines are also available on the Department's website at www.dlgc.wa.gov.au



About the Guideline series

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance requirement. The content is based on Department officer knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

For more information about this and other guidelines, contact the Local Government Regulation and Support Branch at:

Department of Local Government and Communities

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Attachment D



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject | |
|--------|------------|-------------------------|------------------------------------|--|
| 5A | 5.42(1)(a) | Chief Executive Officer | Provision of Urgent Legal Services | |

Delegator

Council.

Power/Duty

To provide authorisation in accordance with Council policy "Legal Representation for Council members and employees" for urgent legal services to a maximum of \$10,000.

Conditions

The determination must be made in accordance with the provisions of the Council policy "Legal Representation for Council members and employees".

Legal Representation for Council Members and Employees

1.0 PURPOSE

This policy is designed to protect the interests of Council members and employees (including past members and former employees) where they become involved in legal proceedings because of their official functions. In most situations the City of Busselton may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings. In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district.

2.0 SCOPE

The policy applies to any current or former Council member or employee of the City of Busselton, subject to meeting the criteria set out in the policy.

3.0 POLICY CONTENT

3.1 Definitions

approved lawyer is to be -

- (a) a 'certified practitioner' under the Legal Practice Act 2003;
- (b) approved in writing by the Council or the CEO under delegated authority.

council member or employee means a current or former Council member or employee of the City of Busselton.

legal proceedings may be civil, criminal or investigative.

10.6 Attachment D

legal representation is the provision of legal services, to or on behalf of a Council member or employee, by an approved lawyer.

legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

legal services includes advice, representation or documentation that is provided by an approved lawyer.

payment by the City of Busselton of legal representation costs may be either by -

- a direct payment to the approved lawyer (or the relevant firm); or
- (b) a reimbursement to the Council member or employee.

3.2 **Payment Criteria**

There are four major criteria for determining whether the City of Busselton will pay the legal representation costs of a Council member or employee. These are -

- the legal representation costs must relate to a matter that arises from the performance, by the Council member or employee, of his or her functions;
- the legal representation cost must be in respect of legal proceedings that have been, or may be, (b) commenced;
- (c) in performing his or her functions, to which the legal representation relates, the Council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

3.3 Examples of legal representation costs that may be approved

If the criteria in clause 3.2 of this policy are satisfied, the City may approve the payment of legal representation costs -

- where proceedings are brought against a Council member or employee in connection with his or (a) her functions - for example, an action for defamation or negligence arising out of a decision made or action taken by the Council member or employee; or
- (b) to enable proceedings to be commenced and/or maintained by a Council member or employee to permit him or her to carry out his or her functions - for example where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Council member or employee; or
- (c) where exceptional circumstances are involved.

The City will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a Council member or employee.

3.4 Application for payment

A Council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the Council or the CEO. The written application for payment of legal representation costs is to give details of -

- the matter for which legal representation is sought; (a)
- how that matter relates to the functions of the Council member or employee making the (b) application;
- (c) the lawyer (or law firm) who is to be asked to provide the legal representation;
- (d) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
- an estimated cost of the legal representation; and (e)

10.6 Attachment D

(f) why it is in the interests of the City for payment to be made.

The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter. As far as possible the application is to be made before commencement of the legal representation to which the application relates.

The application is to be accompanied by a signed written statement by the applicant that he or she —

- has read, and understands, the terms of this Policy; (a)
- (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions and any other conditions to which the approval is subject; and
- (c) undertakes to repay to the City any legal representation costs in accordance with the provisions of clause 3.9 of this policy.

An application is also to be accompanied by a report prepared by the CEO or where the CEO is the applicant by an appropriate employee.

3.5 Legal representation costs - Limit

The council in approving an application in accordance with this policy shall set a limit on the costs to be paid. A council member or employee may make a further application to the council in respect of the same matter.

3.6 **Decision process and conditions**

The council may -

- (a) refuse;
- (b) grant; or
- (c) grant subject to conditions

an application for payment of legal representation costs.

Conditions may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.

In assessing an application, the Council may have regard to any insurance benefits that may be available to the applicant under the City's Council members' or employees' insurance policy or its equivalent.

Revocation and variation 3.7

The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

The Council may, subject to natural justice principles, determine that a Council member or employee whose application has been approved has, in respect of the matter for which the approval was made -

- not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or (a)
- given false or misleading information in respect of the application (b) and require the repayment by the Council member or employee the legal representation costs paid by the

City.

3.8 **Delegation to Chief Executive Officer**

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the council, the powers of the council under clause 3.6 to

10.6 Attachment D

determine the application and set conditions, to a maximum of \$10,000 in respect of each application.

An application approved by the CEO is to be submitted to the next ordinary meeting of the Council. Council may exercise any of its powers under this Policy.

3.9 Repayment of legal representation costs

A Council member or employee whose legal representation costs have been paid by the City is to repay the City -

- all or part of those costs in accordance with a determination by the Council under clause 3.7; (a)
- as much of those costs as are available to be paid by way of set-off where the Council member (b) or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid legal representation costs.

The City may take action in a court of competent jurisdiction to recover any monies due to it under this Policy.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the Local Government Act 1995.

Verification

Council Resolution C1606/140

Council Resolution C1506/161

Council Resolution C1406/161

Council Resolution C1306/168

Council Resolution C1206/166

Council Resolution C1106/199

Council Resolution C1006/217

Council Resolution C0906/243

Council Resolution C0806/188

Current Instrument of Delegation

10.6 Attachment D

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

08 June, 2016

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

25 June, 2008 (implementation).

Related Documents

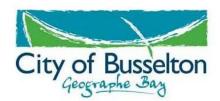
Legal Representation Policy.

Notes of Alterations

27/06/2012 – New policy adopted.

22/06/2011 - Update to refer to the correct section of the Local Government Act 1995.

Marked up version of Instrument of Delegation



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject | |
|--------|------------|-------------------------|------------------------------------|--|
| 5A | 5.42(1)(a) | Chief Executive Officer | Provision of Urgent Legal Services | |

Delegator

Council.

Power/Duty

To provide authorisation to the CEO to approve applications for urgent legal assistance in accordance with Clause 3.10 of Council policy PO85 "Legal Representation for Council members and employees" to a maximum of \$10,000.

3.10 Delegation to Chief Executive Officer

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the Council, the powers of the council under Clause 3.8 to a maximum of \$10,000 in respect of each application.

An application approved by the CEO is to be submitted to the next ordinary meeting of Council. Council may exercise any of its powers under this Policy.

Conditions

The determination must be made in accordance with the provisions of the Council policy "Legal Representation for Council members and employees".

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Verification

Council Resolution C1606/140

Council Resolution C1506/161

Council Resolution C1406/161

Council Resolution

Council 106 8 March 2017

10.6 Attachment E Marked up version of Instrument of Delegation

C1306/168

Council Resolution C1206/166

Council Resolution C1106/199

Council Resolution C1006/217

Council Resolution C0906/243

Council Resolution C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, Delegations are reviewed at least once every financial year.

Related Documents

Legal Representation Policy - PO85

Notes of Alterations

7/2/2017 – Amended to be fully consistent with Department of Local Government Guideline 14

27/06/2012 – New policy adopted.

22/06/2011 - Update to refer to the correct section of the Local Government Act 1995.

11. PLANNING AND DEVELOPMENT SERVICES REPORT

11.1 DEVELOPMENT APPLICATION FOR ADDITIONAL DWELLING TO FORM TWO GROUPED

DWELLINGS - 50 HAMMOND ROAD, YALLINGUP

SUBJECT INDEX: Development/Planning Applications

STRATEGIC OBJECTIVE: A City of shared, vibrant and well planned places that provide for

diverse activity and strengthen our social connections.

BUSINESS UNIT: Development Services and Policy
ACTIVITY UNIT: Development Services and Policy
REPORTING OFFICER: Planning Officer - Justin Biggar

AUTHORISING OFFICER: Director, Planning and Development Services - Paul Needham

VOTING REQUIREMENT: Simple Majority

ATTACHMENTS: Attachment A Location Plan

Attachment B Site Plan

Attachment C Elevations and Floor Plan . Attachment D Table of Submissions .

PRÉCIS

The Council is asked to consider a development (planning) application seeking approval for an Additional Dwelling to Form Two Grouped Dwellings at 50 Hammond Road, Yallingup.

The proposal is placed before the Council due to the discretionary nature of the development and the level of community interest in the further subdivision and development of land in the Yallingup townsite generally.

The proposal has been submitted under Clause 5.3.1 of the City of Busselton Local Planning Scheme No. 21 ('the Scheme') which creates discretion to develop two dwellings on lots in the area in question that are larger than 900m², applying a minimum site area of 450m² per dwelling.

The proposal utilizes an irregular and unusual lot boundary layout to achieve the required site area. The resulting lots are considered to lack sufficient residential amenity and it is considered that approval would be contrary to both the intent of the aforementioned clause and orderly and proper planning.

It is considered that the application is inconsistent with the relevant planning framework and is recommended for refusal.

BACKGROUND

The City has received a development application for an additional dwelling to form two grouped dwellings at 50 Hammond Road, Yallingup. A location plan is provided at Attachment A.

The parent lot is 913m² in size and zoned R10 Residential under the Scheme, where the average lot size requirement is ordinarily 1,000m². As per clause 5.3 (Special Application of the Residential Design Codes) the site is of sufficient size to allow discretion for the approval of two grouped dwellings with a minimum lot size of 450m².

The proposal includes the retention of the existing house with the new dwelling to be located at the rear of the parent lot. The proposed lot sizes are 462m² (existing house) and 451m² (new dwelling). The rear lot utilizes 90m² of the battle-axe access leg to achieve the required 450m², which at 20% is the maximum portion of the lot area allowed to be encompassed by the battle-axe. A site plan is provided at Attachment B.

The new dwelling is relatively compact with a building footprint of 89.52m² and less than 40% coverage of the site area. Elevations and floor plan has been provided at Attachment C.

Due to the irregular shape of the parent lot, a number of modifications are required to the existing house to both accommodate the additional dwelling and comply with Residential Design Codes provisions. A section of balcony is required to be removed as well as the installation of privacy screening to upper storey windows.

As a discretionary development, in relation to both the land use and the works/building part of the proposed development, the application was referred to immediate neighbours and the Yallingup Residents' Association. Four submissions were received, with three objections and one neutral. Further details are provided in the Table of Submissions (Attachment D).

STATUTORY ENVIRONMENT

The key statutory environment is set out in the City of Busselton Local Planning Scheme No.21 ('the Scheme'), as modified by the *Deemed Provision for Local Planning Schemes* set out in Schedule 2 of the *Planning and Development Regulations 2015* ('the Deemed Provisions').

Residential Zone

The site is located in the Residential zone. Objectives of the zone relevant to this application are as follows;

(a) To ensure, as a primary consideration, that the amenity and character of residential areas are maintained

Policies of the Residential zone relevant to this application are as follows;

- (a) To provide for other development (including medium density in-fill development), only where it is
 - (i) Compatible with the residential environment and afford services to residents at a local level
 - (ii) Unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing

Special Application of the Residential Design Codes

The proposal utilizes clause 5.3.1 of the Scheme, which allows for development of R10 coded 900m² lots, applying a minimum lot size of 450m² as follows (underlining added);

- 5.3.1 Notwithstanding any other provision of the Scheme, the following variations and exclusions to the R-Codes apply:
 - (a) The local government <u>may</u> grant planning approval for the development of not more than two grouped dwellings on any lot comprising not less than 900m², applying a minimum site area of 450m² per grouped dwelling, within any area coded R10 or greater on the Scheme map, excluding standard residential lots with direct canal frontage in the Port Geographe development area.

In determining any application for development approval lodged pursuant to this clause, the local government must take into consideration the matters listed at clause 67 of the deemed provisions, clause 6.7 (Special Character Area) and Schedule 4 of the Scheme.

Special Character Area

The site is located in the Yallingup Special Character Area. Any development applications in the locality are subject to assessment against the criteria of the Special Character Area policy, outlined in greater detail at the Relevant Plans and Policies section.

Schedule 4 - Special Character Area

The site is subject to Schedule 4 of the Scheme which states that in the Yallingup Special Character Area, group housing development at R20 density (450m² lot size) may only be approved where the Council is satisfied that:

- (i) Buildings shall have an appearance of lightweight construction and fit with the site topography which will normally require the use of stumped construction
- (ii) Site coverage should be no more than 40% of the lot area and where possible, remnant vegetation should be used to reduce the visual mass/bulk of dwellings;
- (iii) Clearing shall only be permitted within approved footprint areas and the immediate surrounds;
- (iv) Building style shall be reflective of and sensitive to the existing residential character through the use of prominent windows, lightweight and prominent balconies, relatively steep and multi-pitched roofs.

Landscape Value Area

The site is within a Landscape Value Area under the Scheme. The provisions of this special control area relevant to this application are as follows:

- 6.4.1 The local government shall not grant planning approval for the clearing or development of any land identified within a Landscape Value area on the Scheme map, unless it has considered -
 - (a) whether the development will be compatible with the maintenance and enhancement, as far as is practicable, of the existing rural and scenic character of the locality;

Matters to be considered by local government

Clause 67 of the Deemed Provisions outlines the key matters to be considered by local government when considering a development application. Those matters which are considered to be particularly relevant to this application are as follows:

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving....
- (g) any local planning policy for the Scheme area....
- (n) the amenity of the locality including the following
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development....
- (y) any submissions received on the application;

RELEVANT PLANS AND POLICIES

Local Planning Policy 3A - Yallingup Special Character Area

LPP 3A establishes the assessment criteria for any development within the Yallingup locality, as the area has been identified as possessing a special character worthy of preservation.

FINANCIAL IMPLICATIONS

The recommendation of this report is a planning determination. There are no significant financial implications of the recommendation of this report.

STRATEGIC COMMUNITY OBJECTIVES

The recommendations in this report reflect Community Objective 5.2 of the City's Strategic Community Plan 2013 – 'A City of shared, vibrant and well planning places that provide for diverse activity and strength our social connection.'

RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City's risk assessment framework. The assessment identifies 'downside' risks only, rather than 'upside' risks as well. Risks are only identified in Council reports where the residual risk, once controls are identified, is 'medium' or greater. No such risks have been identified.

CONSULTATION

As per Clause 10.4 of the Scheme, the proposal was referred to all five adjoining landowners and the Yallingup Residents Association for a period of 21 days.

A total of four submissions were received, three objecting and one neutral (Attachment B). The main concern raised in objections was the detrimental impact of further subdivision and increased density on the special character of the Yallingup locality.

OFFICER COMMENT

The City has assessed the proposal having regard to the requirements of the Scheme and the matters to be considered, in particular whether the proposal constitutes orderly and proper planning.

In determining whether this requirement is satisfied, it is necessary to consider if the resulting lots provide an appropriate level of residential amenity for future occupiers/owners.

As indicated at Attachment B, the angular arrangement of the rear lot appears to be designed merely to accommodate the required size of 450m² without clear regard being given to the needs of future residents. Where departing from the type of rectangular shape usually best suited to accommodating a dwelling, lots should still aim to achieve the benefits offered by that shape, namely maximizing private space and the amenity of the lot.

It is not considered that this has been achieved with the proposed lot shape. The arguably contrived boundary limits the ability of residents to utilize space external to the dwelling for outdoor recreation and does not provide a balanced setting between buildings and the natural landscape. Nor does the building design itself appear to support the use of this triangular shaped space.

Of particular concern is the area of open space to the east of the new dwelling. Due to the positioning of both the existing house and new dwelling, this is an area of 40m^2 with little to no access to northern sun. In the most likely circumstance, this area would be rendered largely unusable as outdoor space and become an area of limited utility to either dwelling.

The resulting rear lot is left with approximately 60m² of useable open space, in a density coding (R20) with a Deemed to Comply requirement of 225m² of open space under the Residential Design Codes.

Drafters of the Scheme clearly intended approval of higher densities through Clause 5.3.1 as a discretionary decision. It is worthwhile considering the broader intent of that clause, which is to accommodate higher density where it can be demonstrated to be consistent with the matters listed under clause 67 (matters to be considered). The unusual lot boundaries of the proposal are not considered to meet this test.

Clause 5.3.1 does not provide landowners the right to develop grouped dwellings on a site that meets the minimum size requirements. Rather it provides the City the discretion to grant permission for such development only where it is considered appropriate.

CONCLUSION

It is considered that due to the irregular nature of the lot boundaries and the relatively low residential amenity of the resulting lots, approval of the proposal would be contrary to the objectives of the Residential zone and the interests of orderly and proper planning.

The application is therefore recommended for refusal.

OPTIONS

Should the Council be minded to approve the development; the Council could determine the application is consistent with the objectives and policies of the zone in which development is proposed, and approve the proposal subject to appropriate conditions. If a Councillor is minded to support this option officers can assist in the drafting of a suitable alternative motion.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The applicant will be notified of the Council's decision within two weeks of a decision consistent with the officer recommendation.

OFFICER RECOMMENDATION

That the Council resolve to refuse the development application for an Additional Dwelling to Form Two (2) Grouped Dwellings at Lot 25 (HSE 50) Hammond Road, Yallingup because it is inconsistent with Local Planning Scheme No. 21 for the following reasons —

- 1. The irregular nature of the lot boundaries would result in the creation of lots of relatively low residential amenity that do not adequately meet the needs of future residents.
- 2. The proposal is inconsistent with the amenity of the locality.
- 3. The proposal does not constitute orderly and proper planning.

11.1 Attachment A Location Plan



LEGEND Limited boundary marks found. Boundary resurvey DRAINAGE GULLEY recommended if building on or close to boundary. SIDE ENTRY PIT JUNCTION PIT SQUARE PEG FD 2. Datum is AHD. POWER Above ground services located by survey. Underground POWER E JUNCTION PIT ROUND services plotted from plans supplied by the relevant authorities. WATER HYDRANT No liability is accepted for errors in underground service locations. All services to be located on site prior to any work being done. METER WATER VALVE WATER METER Soil type_sand. WATER TAP SEWER MANHOLE GRASS TREE EXISTING SURFACE HEIGHT LOT 24 P8037 TELSTRA/ ELECTRICAL PIT POWER METER/ BOX STAY WIRE ANCHOR POWER POLE POWER DOME 0 BOUNDARY ROAD CENTRELINE GARAGE ON BDY ROOF RL 18.28 90 m² KERB FACE KERB TOP BRICKPAVED EDGE OF SEAL ROOF EAVE/ GUTTER PROPOSED LOT FACE OF BUILDING 462m² RETAINING WALL FENCE CONCRETE EDGE ROOF EAVE BANK BOTTOM BANK TOP GAS MAIN LOT 25 UNDERGROUND ELECTRICAPTIME OVERHEAD POWER LINE P8037 POWER 913m² EXISTING TWO STOREY RESIDENCE P8037 WATER MAIN DASHED LINE IS GROUND FLOOR GRD FFL 18.99 1ST FLOOR FFL 21.65 RIDGE RL 25.62 SEWER MAIN SURVEY STN AHD RL 21.52 PEG FD 1ST FLOOR OUTLINE SHOWN PROPOSED LOT 2 (451m²) TREE ANNOTATION DETAIL PROPOSED SUBDIVISION SUMMARY AREA(m2)
PARENT LOT 25_CT 531/144A 913 THICK VEGETATION PEG FD PROPOSED LOTS 462 451 90 LOT 1 LOT 2 TOTAL RED GUM/ MARRI TRUNK 0.3m RADIUS HEIGHT 5m LOT 26 P8037 BATTLE AXE LOT EFFECTIVE AREA LOT 34 SURVEY STN CANOPY 3m RADIUS CANOPY TO SCALE P8037 AHD RL 18.39 PROPOSED SURVEY STRATA SUBDIVISION LOT 25 ON PLAN 8037, HAMMOND ROAD, YALLINGUP.

Drawn Date Checked

Scale: 1:200 A3

NAIL AND PLATE LOT 32 FOUND IN WALL KRISTIAN MOORE

Tel: (08) 9756 7719 Fax: (08) 9756 8000

mail@survcon.com.au www.survcon.com.au

Dunsborough WA 6261

SULVEON

PROJ Michael DATUM

7507-WAPC-B

8 March 2017

As part of this submission, works will be undertaken to ensure that any section of balcony and roof on the existing dwelling which dos not meet required setbacks to proposed development will be removed- namely the section of balcony and roof at the north-western corner adjacent to the proposed driveway. In addition windows to existing bedroom 1 and Bedroom 3 will be LOT 24 P8037 replaced with new in accordance with overlooking requirements set out in the Residential Design Codes of Western Australia GARAGE ON BDY ROOF RL 18.28 SECTION OF EXISTING BALCONY 4 ROOF TO BE REMOVED - SEE NOTE HAMMOND ROAD LOT 23 P8037 LOT 25 913m² P8037 LOT 34 PROPOSED RESIDENCE GF FFL 16.00 U.F FFL 18.92 PROPOSED LOT PROPOSED LOT 2 361m² (451m²) 462m² 42.26m LOT 26 11178 SETBACK TO HOUSE GROUND FLOOR SITE PLAN 1:200 SETBACKS CLIENT: KRISTIAN MOORE **PREBECCA PICHARDS** LOT 25 HAMMOND ROAD YALLINGUP WA DRAWING TITLE: SCALE: DATE: REVISION NO: DRAWN BY: © DRAWING/PAGE NO:

1:200

21.10.2016

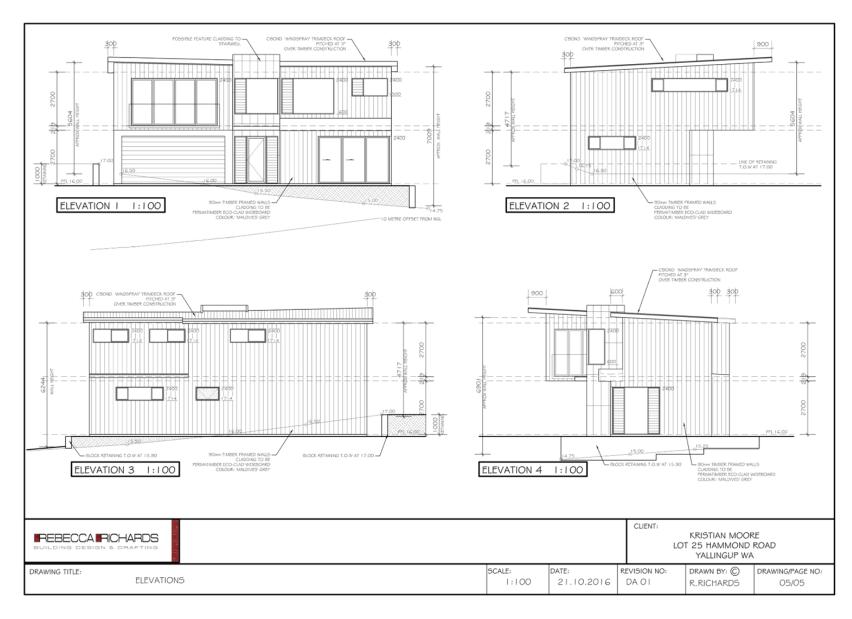
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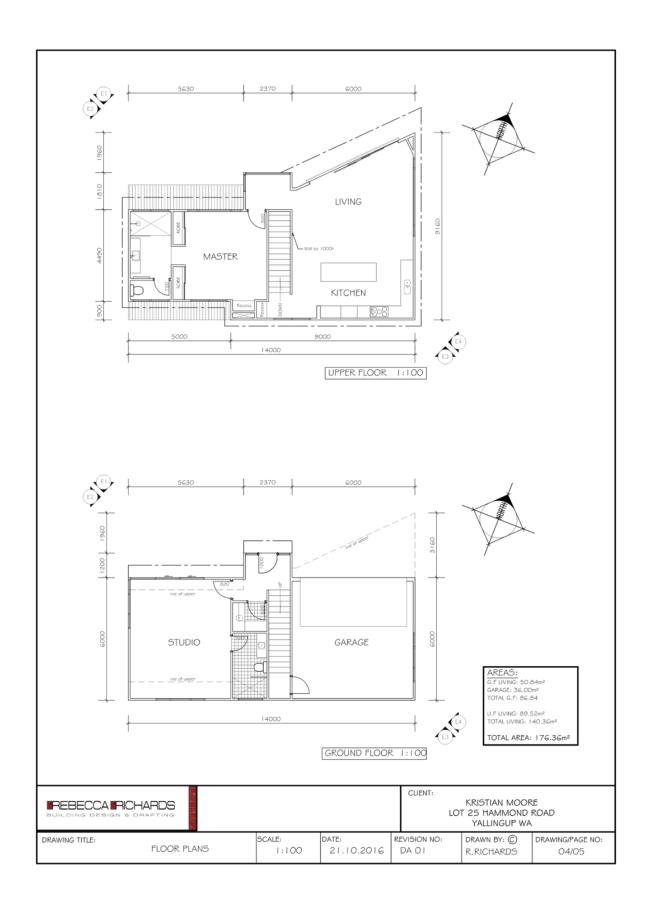
R.RICHARDS

01/05

SITE DIAGRAM- BOUNDARY SETBACKS

115 Attachment C Elevations and Floor Plan





| SUBMITTER: | NATURE OF SUBMISSION | COMMENT: |
|---|---|---|
| William Reid (on behalf of Yallingup Residents Association) | Objection: Development will cause loss of vegetation cover and impact viewing channels Neighbours to south will be confronted with large amount of built form Irregular shape exacerbates the concerns and creates squeezing of setbacks Net effective area of rear lot is only 361sqm, | No significant trees at the rear of site, with mostly overgrown shrubs House is compact with relatively little building bulk. House to south is also situated higher than 50 Hammond Road, reducing impact of bulk As addressed in council report As addressed in council report |
| Barry Lloyd (48 Hammond Road) | Objection: No 4m separation between buildings as required by Yallingup Special Character policy | 4m separation is designed to maintain streetscape appearance of low density. As dwelling is located at rear of site, reduction in 4m requirement is not considered to impact on streetscape. |
| R & A Webster (25 Dawson Drive) | Neutral: No objective to proposal as long as the following occurs: Boundary between 24 Dawson and 50 Hammond be resurveyed to ensure fence is correctly located Trees that are removed should be replanted Normal working hours be observed Appropriate screening for new dwelling to prevent overlooking | Noted, majority of concerns can be addressed through planning conditions and building permit conditions |
| Jeremy Warren (46 Hammond Road, Yallingup) | Objection: The proposal will have a detrimental impact on the Yallingup community and future visitors | • Noted |

11.2 SCHEME AMENDMENT 10 TRANSPORTABLE AND PREFARICATED BUILDING CONTROLS

SUBJECT INDEX: Town Planning Scheme Amendments

STRATEGIC OBJECTIVE: Governance systems that deliver responsible, ethical and accountable

decision-making.

BUSINESS UNIT: Development Services and Policy **ACTIVITY UNIT:** Development Services and Policy

REPORTING OFFICER: Manager, Development Services and Policy - Anthony Rowe **AUTHORISING OFFICER:** Director, Planning and Development Services - Paul Needham

VOTING REQUIREMENT: Simple Majority

ATTACHMENTS: Attachment A Port Geographe Development Plan Area U

Attachment B Schedule of Submissions !

PRÉCIS

The Amendment was approved by Council for advertising and was advertised from 12 October 2016 to 23 November 2016.

Pursuant to Regulation 50(3), *Planning and Development (Local Planning Schemes) Regulations 2015,* Council must now pass a resolution to either: support the amendment; support the amendment with modifications; or not support the amendment.

The Officer Recommendation is the Amendment be supported with no modifications.

BACKGROUND

Council's consideration is requested to approve Scheme Amendment AMD21/0010 following its consideration of the submissions received.

The Amendment has had a complicated history. This is effectively the second time the Amendment has been advertised and now recommended for approval.

Council had resolved on 25 November 2015 to seek the Minister's approval (initial amendment) to amend its Scheme and introduce controls for transportable homes. This had resulted from community concern arising from a second hand dilapidated dwelling placed at a water front lot at Port Geographe, together with a realisation that the City's urban renewal initiatives could see similar occurrences arise across the City; encouraging the replacement of dilapidated buildings in the older parts of the City close to the town centre by increasing the density and development potential.

It has subsequently occurred, through negotiation between the City and the owner, that the particular matter of the house at Port Geographe has now been largely resolved.

The initial Amendment was to include a new definition for *prefabricated buildings* that would capture the feature of a *transportable home*. This would require that for all *prefabricated buildings* a planning approval would be required and that it would be assessed against a new *development standard* to be introduced into the Scheme (at Part 5). It also provided discretion to consult with the community as part of the decision-making process.

The initial Amendment also included a 'prohibition' on prefabricated buildings being located within the area defined by a Special Control Area on the Scheme map and referred to in the Scheme at subpart 6.9 as the Port Geographe Development Plan Area.

On 3 May 2016, the City received the Minister's decision (27 April 2016). The Minister decided to decline the City's *Amendment 10 - Prefabricated Buildings*. The Minister also specifically declined the

request to prohibit transportable buildings/prefabricated buildings in the Port Geographe Development Plan area.

The Minister, as an alternative, offered to the City the opportunity to introduce new definitions for *Re-purposed dwellings* and *Second—hand dwellings* together with the City's development control, and to make that such development needed to have the City's planning approval prior to its relocation. The outcome of this policy would be to remove the current exemption from planning approval, now given to *single houses*, and if the proposal was captured by either the definition of a *Re-purposed dwelling* or a *Second—hand dwelling* it would require the City's approval. The City could then be able to assess the merit of the proposal and be satisfied it was in keeping with the amenity of the locality or it could impose conditions to align it.

The Minister's offer was a substantive change to the City's initial amendment. Consequently the Council, at its meeting 27 July 2016, adopted the recommendations of the Minister and approved the Amendment for re-advertising.

The City was procedurally required to provide the opportunity for the EPA to comment prior to commencing advertising.

The Amendment was advertised from 12 October 2016 to 23 November 2016 as a Standard Amendment for 28 days, following the expiry period for the EPA to make comment (42 days).

STATUTORY ENVIRONMENT

Planning and Development (Local Planning Schemes) Regulations 2015.

The Regulations provide procedures for Scheme amendments and importantly set timeframes around the process steps. They establish 3 classes of amendment: *Basic; Standard;* and *Complex*.

Basic – Advertising not required.

Standard - Advertising required, 28 days.

Complex - WAPC approval prior to Advertising, 42 days.

The City's Amendment 10, is required to proceed as a *Standard* amendment.

The minimum advertising period for a 'standard' amendment is 28 days.

Deemed Provisions Schedule 2, Planning and Development (Local Planning Schemes) Regulations 2015.

The *Deemed Provisions* prevail over any provision in a local government town planning scheme.

The *Deemed Provisions* exempt a *single house* and associated developments from requiring planning approval where they meet the *Deemed-to-Comply* provisions of the R-Codes. An exception is made where a *single house* is to be located in an area identified in the Scheme as a Special Control Area.

The Minister's proposal is to introduce a new land use for *Re-purposed Dwellings* and *Second–hand dwellings* so that proposals for such would not be included in the definition of a *single house* and therein would require planning approval.

R- Codes

The R-Codes prescribe design controls for areas zoned 'Residential', as shown on a Scheme map. The R-Codes provisions may also apply to other zones in the Scheme, where residential development is permissible.

The R-Codes are arranged as a series of Objectives, and under each is listed Deemed to Comply criteria (the proposal meets the Objective and is permitted) or Design Principles (only where deemed to comply criteria is not met are these guidelines used for a planning judgement).

The R-Codes provide a limited opportunity for a local government to vary the Deemed to Comply criteria but this is subject to WAPC approval. The items that can be varied are restricted and presently do not address simple but important factors that contribute to a consistent character.

Factors that contribute to a consistent character not presently facilitated in the R-Codes include:

- a) building height minimum for a consistent mass and proportion;
- b) required roof form, and pitch; and
- c) required façade elements including building articulation on the lot, verandahs, eaves, parapets and building colours.

RELEVANT PLANS AND POLICIES

The City does not have a Local Planning Policy addressing transportable or prefabricated buildings.

Single houses in R-Coded areas, by virtue of the deemed provisions, do not require planning approval if they meet the *Deemed to Comply* requirements of the R-Codes (exemption). This however does not apply to areas identified in the Scheme as a Special Control Area.

The Port Geographe Development Plan Area is identified as a Special Control Area in Scheme 21, and it in turn refers to the City's Urban Centres Policy (LPP4) which includes Port Geographe.

This Local Planning Policy includes the general residential area within the Port Geographe Development Plan area and it specifies the use of 'masonry' as a ground level construction material.

The Local Planning Policy is reflective of a *restrictive covenant* that applies to the title lots within the Port Geographe Development Area. The Port Geographe development area makes up 3% of the City's residential area and in that area only 23 titled lots remain to be developed.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from the recommendations of this report.

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

The amendment is considered to be consistent with the following community objectives of the City's Strategic Community Plan 2013 –

2.2 A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections;

RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City's risk assessment framework. The assessment identified 'downside' risks only, rather than upside risks as well.

No significant risks are identified consequential to the implementation of the Officer Recommendation.

CONSULTATION

The City received advice from the WAPC confirming the Amendment is a 'Standard amendment' and approved it to be advertised.

The City received advice from the EPA (after 42 days) that no additional environmental conditions are required.

The Amendment was advertised from 12 October 2016 to 23 November 2016.

One community submission was received during the consultation period. It was received from the Port Geographe Land Owners Association. It advised that it had met the Minister who it has said would support the re-inclusion of a restriction on transportable homes and a restriction on building materials if it only affects a relatively small area, like Port Geographe Development Plan Area.

The Schedule of Submissions is attached at Attachment A.

OFFICER COMMENT

The intent to introduce controls over *Re-purposed dwellings* and a new definition of *Second hand dwellings*; as offered by the Minister has not drawn any opposition from the community.

The Minister's definition will address dongas, shipping containers, railway carriages, caravan park homes and the like.

The Minister's definition for *Secondhand dwellings* will also address the attempt to transfer a dwelling from one area to another. Both definitions will exclude a 'single house' from the exemption to obtain planning approval and as such it enables the City to assess applications for single houses that fit the definition of either a *Re-purposed dwellings* or *Second hand dwellings* by a development standard.

The proposed development standard is:

"The local government shall not grant planning approval for development of Re-purposed dwellings and Second-hand dwellings unless it is satisfied that the development will be consistent with the character of the locality in which development is proposed, the maintenance of the amenity of the locality in which development is proposed and the objectives, policies and other provisions of the Scheme which apply to the land where development is proposed. The local government may, if it considers it appropriate to do so, advertise an application for development of a Re-purposed dwelling and Second-hand dwelling pursuant to clause 10.4 of the Scheme.

These definitions however, do not apply to a new transportable home and this has remained a concern to some elements in the community. A new transportable single house is a 'single house' and exempt from planning approval if compliant with the R Code and located in a Residential Zone.

The City understands the basis for not including new transportable buildings, to foster innovation. It is anticipated that an increasing number of buildings will in the future be of a prefabricated construction. However this should not, or need not, be an argument to accept a lesser standard in terms of the maintenance of the amenity of a locality, or that existing areas that do not have restrictive covenants should not also expect the same courtesy; that new development contribute positively to the amenity of the locality.

On this basis the City continues to advocate that the R-Codes need further design control over factors that contribute to a desired amenity; this is more important than the building materials and method of construction. These further design controls include:

- 1. building height and space around a building for a consistent mass and proportion;
- 2. required roof form and pitch; and
- 3. required façade elements including positioning on the lot, verandahs, eaves, parapets and building colours.

The City continues to advocate for the inclusion of these controls.

Port Geographe

The City had previously advocated for a restriction on transportable homes/ transportable buildings' in the Port Geographe Development Plan Area but this was rejected in the Minister's correspondence 3 May 2016.

Notwithstanding the advice received by the Port Geographe Landowners Association, there is uncertainty whether the restrictions it advocates would be approved, as it is noted to be a reversal on previous decision, and a formal consideration of an amendment would be after recommendation from the WAPC.

Present controls

The City following the placement of the relocated Building at Port Geographe amended the Local Planning Policy (Urban Centres Port Geographe Village Centre - Design Guidelines and Performance Standards). The Local Planning Policy was applied to all 'titled' lots within the Port Geographe Development Plan area.

The amendment to the planning policy introduced the following requirement.

"all residential development within the area of the Village Centre Precinct Map requires planning approval,"

and

"(b) Ground floor walls should be of masonry construction."

Further, because the Port Geographe Development Plan Area is a Special Control Area, it was unaffected by recent changes to the Planning Regulations to exempt 'single houses' from the need to obtain planning approval. All 'single houses' in the Port Geographe Development Plan Area need a planning approval from the City.

With regard to Port Geographe, the control on building materials is for a purpose of amenity. There is no particularly need for robustness of material that cannot be achieved by a range of other technologies.

Since the Local Planning Policy amendment was introduced there have been no transportable or secondhand buildings placed in Port Geographe. The City however, is obligated, because the planning system is practical, i.e. 'due regard', to consider an application for consistency with the 'purpose'. On this basis the practice has been that if the outcome meets the 'purpose' of the Local Planning Policy, i.e. if the final product looks like rendered masonry and given the legitimate planning purpose is about appearance, the City has reasonably approved buildings using construction materials that when finished appear the same as rendered masonry.

It is arguable whether a policy/control, placed in the Scheme to restrict building materials, would in practice be an advantage over the current arrangement in the Local Planning Policy.

A prohibition on certain building materials is unlikely to be supported by the State Government in finalizing the Amendment, but in any case, a 'prohibition' was set aside by the SAT and an appeal that involved the specification of only brick construction materials in a Conservation Zone. It was determined that the use of timber was consistent with the amenity sought by Conservation Zone, regardless of the prohibition on anything other than brick.

It should also be noted that there are many examples of arguably discordant brick houses around the City. The control of building materials is no assurance of a positive contribution to the amenity.

The City's position is that it does not support the control of materials as a measure of fit within a locality, but recognises that further design controls over factors that contribute positively to a desired amenity could be pursued.

Restricting Building materials as an Option

Notwithstanding the City does not see an advantage over the current arrangement, the Option to restrict certain building materials is provided for Council's consideration.

The Port Geographe Land Owners Association is seeking two things, a restriction on transportable buildings and a restriction on ground floor building materials.

The City presently does not have a definition for a 'transportable building', and to introduce it into the Amendment is sufficiently substantial that it would warrant the Amendment to be re-advertised (which could not occur unless and until the Minister had approved that re-advertising occur).

The City considers the Port Geographe Land Owners Association's objective to restrict all 'transportable buildings' would also be achieved by restricting the building materials, to types not used in a transportable building.

Whilst it is possible to relocate a brick building, if one only has to pay the cost of relocation it could be financially attractive, such would nonetheless be captured by the Minister's definition of *Repurposed dwelling* or a *Second–hand dwelling* and the City assessment would ensure the outcome was compatible with the locality. City considers it is highly unlikely that a new transportable home, made of brick, would occur because there is no cost advantage over an in-situ construction.

On this basis, restricting the use of construction material to only brick or masonry would restrict transportable buildings. This however, would not entirely eliminate the possibility of a transportable building if such, when completed, would be indistinguishable from that of a masonry construction.

Should Council be inclined to pursue a prohibition, this could be achieved by introducing an additional clause in Part 6, sub part 6.9 - Port Geographe Development Area, that incorporates the use of the word 'shall', to impose a prohibition on the use of all materials other than brick or masonry at the ground level of any dwelling within the Port Geographe Development Plan Area.

A 'Special Control Area' in the Scheme enables specific provisions to be applied in addition to the provisions applying to the underlying zone or any general provisions of the Scheme.

The suggested wording is:

"6.9 (p). The external walls, excluding the extent of any doors and windows, for the ground level of any building intended to be primarily for human habitation, shall only be of masonry construction (stone, brick, rendered cement, or rendered brick)."

The City however, is not confident that such an amendment would be effective at the SAT.

CONCLUSION

The definition of *Re-purposed dwellings* and *Second-hand dwellings*, as proposed by the Amendment, will provide a valuable element of control that will contribute to maintaining the amenity of the City's established areas. (*Noting that most new housing estates have restrictive covenants that stop such development*).

Importantly, and of concern, is that the Amendment, as it was limited by the Minister, does not apply to new transportable dwellings.

The City maintains a position that the materials used, and the construction methods employed, are not as important in maintaining or enhancing the amenity as are design controls addressing building height (max and min), the space around a buildings, the roof form and elements including verandahs, eaves, parapets and building colours.

The City will continue to pursue additional R-Codes design controls that can ensure future development is compatible with its locality, regardless of material or construction method.

In regard to Port Geographe, the original amendment identified factors of a comparably low land price, a coastal location and a potential for a high capital gain that made it attractive to 'park' a transportable building, to realise a rental income whilst building a capital gain.

Some in that community were concerned that this could detract from establishing a 'community', result in anti-social behaviours, despite the holiday home control, and if the building was blighted it would adversely affect the visual amenity of the locality.

The City in response introduced additional controls in the Local Planning Policy, that made all 'single houses' subject to planning approval, and it specified a ground floor construction material.

Since then it has ensured all new buildings are of brick or masonry construction, or have achieved the same visual purpose, when accommodating innovative construction techniques.

The City considers the current control, which requires single houses to have planning assessment, and the requirement that ground floor walls should be of masonry construction has proven to be adequate. No modification to the advertised Amendment is therefore necessary.

OPTIONS

- 1. Approve the Amendment.
- 2. Approve the Amendment as modified by:

Inserting as clause 6.9 (p) in the Scheme (which applies to Port Geographe only) –

"The external walls for the ground level of any building intended to be primarily for human habitation, excluding the extent of any doors and windows, shall be of masonry construction (stone, brick, rendered cement, or rendered brick)."

(to be inserted at Part 3 of the Officer Recommendation)

3. Decline to approve the amendment.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Pursuant to Regulation 50, the Council is required to submit its decision to the WAPC within 60 days from the close of submissions. The City will prepare the required documentation and forward to the WAPC within three weeks of Council's decision.

OFFICER RECOMMENDATION

That the Council:

- 1. Pursuant to Part V of the *Planning and Development Act 2005*, adopts Amendment No. 10 to the City of Busselton Local Planning Scheme No. 21 for final approval, for the following purposes:
 - 1.1 Inserting into Schedule 1 the following:
 - i. **"Repurposed dwelling** means a building or structure not previously used as a single house, which has been repurposed for use as a dwelling"; and
 - ii. **"Second-hand dwelling** means a dwelling that has been in a different location, and has been dismantled and transported to another location, but does not include a new modular or transportable dwelling."
 - 1.2 Inserting in to Table 1 (Zoning Table).
 - i. "Repurposed dwelling", as a separate land use."; and
 - ii. "Second-hand dwelling", as a separate land use"
 - 1.3 Amending the Table 1 (Zoning Table) to make a Re-purposed dwelling or Second-hand dwelling a 'D' use in any zone in which a single house is a 'P' use or 'D' use and 'X' use in the zones where a single house is not permitted.
 - 1.4 Inserting as a new clause 5.9, with subsequent clauses being renumbered accordingly, of the following:

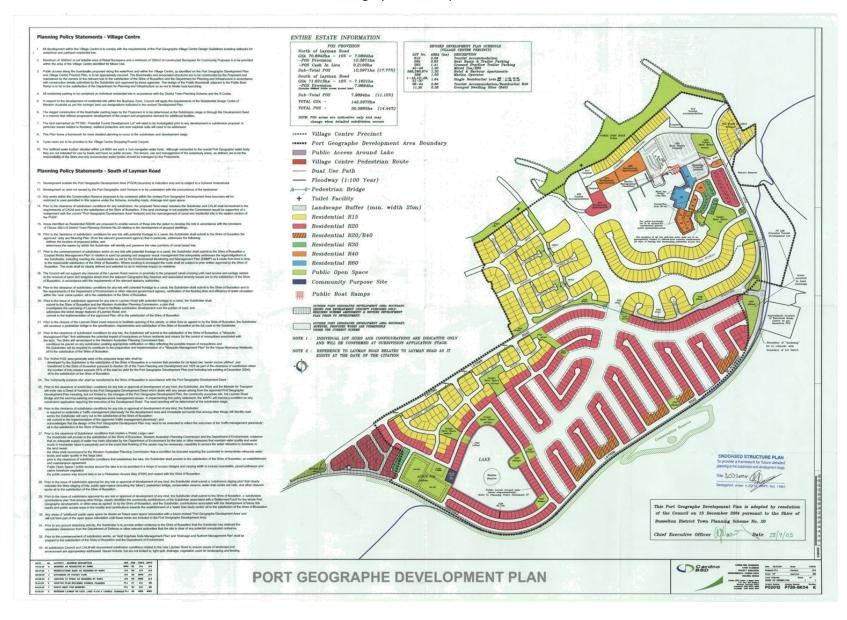
Re-purposed dwelling and Second-hand dwelling

The local government shall not grant planning approval for development of a Re-purposed dwelling or Second-hand dwelling unless it is satisfied that the development will be consistent with the character of the locality in which development is proposed, the maintenance of the amenity of the locality in which development is proposed and the objectives, policies and other provisions of the Scheme which apply to the land where development is proposed. The local government may, if it considers it appropriate to do so, advertise an application for development of a Re-purposed dwelling or Second-hand dwelling pursuant to clause 64 Schedule 2 Development (local Planning Schemes) Regulations 2015.

- 2. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations* 2015, resolves to endorse the Schedule of Submissions at Attachment A prepared in response to the public consultation undertaken in relation to Amendment No. 10.
- 3. Pursuant to r.50(3) of the *Planning and Development (Local Planning Scheme) Regulations* 2015, resolves to make no change to the Amendment following the consideration of submissions.
- 4. Pursuant to r.52 confirms the incorporation of environment conditions has not been required.
- 5. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations* 2015 resolves to forward Amendment No. 10 to the City of Busselton Local Planning Scheme No. 21 to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
- 6. Pursuant to r.56 of the *Planning and Development (Local Planning Schemes) Regulations* 2015, should directions be given that modifications to Amendment No. 10 are required, those modifications being undertaken accordingly on behalf of the Council unless they are considered by Officers to be likely to significantly affect the purpose and intent of the draft Amendment, in which case the matter shall be formally referred back to the Council for assessment and determination.

Attachment A

127 Port Geographe Development Plan Area



SCHEDULE OF SUBMISSIONS

AMENDMENT NO 10 - - FOR ADOPTION

ADVERTISED – 12 October 2016 -23 November 2016

| No | Address | Nature of Submission | Comment | Recommendation |
|----|---|---|---|---|
| 1 | Environment Protection Authority | The EPA advises that that the proposed scheme is not required to be assessed under Part IV Division 3 of the Environmental Protection Act 1986. | The City is free to advertise the Amendment. | No change |
| 2 | Western Australian Planning Commission | Confirmed the amendment is a Standard amendment and Council is required to undertake the procedures set out in clauses 47 to 53 of the Planning and Development (Local Planning Schemes Regulations 2015 (the Regulations). | Noted | No change |
| 3 | Port Geographe Landowners Association | The Port Geographe Landowners Association met with the Minister and has advised, following similar representation by other Councils, that she is comfortable that a Special Control Area, as a discrete area like Port Geographe, can contain the following restriction: (1) New transportable homes, second-hand dwellings and repurposed dwellings will not be allowed in the whole area specified "Port Geographe". | The City understands that the Port Geographe Landowners Association account is correct. The Port Geographe Landowners Association are seeking two things. First, a restriction of new transportable homes, second-hand dwellings and repurposed dwellings, and | That the Amendment not be modified. The City is of the view that a restriction on building materials alone is not a guarantee of a good design, but also |
| | | The Port Geographe Landowners Association request that amendment No 10 of Local Planning Scheme 21 be modified to | second that ground floor areas in the whole area specified "Port | recognises there are weaknesses in the R- |

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encompass the full intent of the original Council motion/Amendment to ensure appropriate standards of development and maintenance are achieved

Port Geographe Landowners Association has advised the Minister is also comfortable that a Special Control Area (i.e. Port Geographe) in this instance can contain a restriction on the types of building materials:

(2) Ground floor areas in the whole area specified "Port Geographe" will be built of masonry construction.

Geographe" will be built of masonry construction.

The City considers controls introduced in in 2015 into the Local Planning Policy 4B (Urban Centres Port Geographe Village Centre - Design Guidelines and Performance Standards), have proven to be adequate in achieving in new buildings, an appearance that is consistent with the amenity as sought at the establishment of the Port Geographe area.

Codes; as it can affect other areas of the City.

For this reason the City will continue to work on improving the design controls to ensure new residential development maintains the amenity of the locality throughout the City.

11.3 AMENDMENT 22 TO LOCAL PLANNING SCHEME 21 TO REZONE LOT 41 (182) GEOGRAPHE BAY ROAD QUINDALUP FROM 12.5 TO R20 - APPROVAL

SUBJECT INDEX: Town Planning Scheme Amendments

STRATEGIC OBJECTIVE: Governance systems that deliver responsible, ethical and accountable

decision-making.

BUSINESS UNIT: Development Services and Policy **ACTIVITY UNIT:** Development Services and Policy

REPORTING OFFICER: Manager, Development Services and Policy - Anthony Rowe **AUTHORISING OFFICER:** Director, Planning and Development Services - Paul Needham

VOTING REQUIREMENT: Simple Majority

ATTACHMENTS: Attachment A Lot 41 Site Plan

Attachment B Schedule of Submissions Attachment C Schedule of Modifications 4

Attachment D Scheme Map Lot 41 Geographe Bay Road !

Attachment E Feature Survey Plan !!

NOTE: This matter was listed on the agenda for the Council's 22 February 2017 ordinary meeting, wherein the Council resolved to defer consideration until this meeting. The matter was deferred at the request of the landowners, who, due to an unavoidable and late change in circumstances, were unable to attend either the meeting or the preceding briefing and community access sessions. The main body of the report presented here is unchanged from the report placed on the 22 February meeting agenda. During the intervening period, however, City officers have managed to further liaise with the landowners' representatives, primarily via teleconference, and the officer recommendation has been revised. An explanation of the change is provided under the heading 'ADDENDUM' just prior to the officer recommendation – the Schedule of Submissions (Attachment B) and Schedule of Modifications (Attachment C) have also been modified to reflect the changes to the officer recommendation.

PRÉCIS

The Council is asked to consider, after consultation, a proposal to rezone Lot 41 (182) Geographe Bay Road, Quindalup from R12.5 to R20 for the purpose of accommodating four dwellings.

The draft amendment was approved by Council for advertising and was advertised from 12 October 2016 to 23 November 2016.

Pursuant to Regulation 50(3), *Planning and Development (Local Planning Schemes) Regulations 2015* Council must now pass a resolution to either: support the amendment; support the amendment with modifications; or not support the amendment.

BACKGROUND

The Council is asked to consider approval of the proposal to rezone land at Lot 41 (182) Geographe Bay Road Quindalup, following its consideration of the submissions received.

The subject land is at Lot 41 (182) Geographe Bay Road, Quindalup and is 2,259 m² in area. The lot has been vacant since 2010 when a single dwelling was demolished to make way for two dwellings that did not proceed. The land is mostly cleared of vegetation except for a stand of peppermint trees in the middle of the block that separates the land into two readily developable areas.

The land is zoned 'Residential' in Scheme 21 and coded R.12.5, but it is also is located in the Quindalup Special Character Area. The provision for the Quindalup Special Character Area (Schedule

4 and LPP) prevails where there is conflict with the R Code, which generally applies to residential land throughout Busselton.

The Quindalup Special Character Area policy sets the minimum lot size. The current policy allows a minimum lot size of 800m^2 and if the original lot exceeds $2,400\text{m}^2$ three or more dwellings may be developed at the R12.5 density of 800m^2 per lot density.

The owner is proposing re-code the land to R20 (average lot size 450m²) to enable 4 dwellings to be accommodated.

The proposal is also to amend the Quindalup Special Character Area provision, at clause 1 (b) to read (addition proposed in bold) -

(b) The local government may only approve the development of three or more grouped dwellings at a density not exceeding R12.5 on lots with a minimum area of 2,400m², except for Lot 41 on Diagram 23175, House 182 Geographe Bay Road, Quindalup, where the development of a maximum of four dwellings may be approved.

The proposal also involves amending the Scheme map so that the R20 code applies to the lot.

STATUTORY ENVIRONMENT

The active statutes affecting this proposal include -

- Planning and Development Act 2005;
- Planning and Development (Local Planning Schemes) Regulations 2015; and
- City of Busselton Local Planning Scheme No. 21.

Planning and Development Act 2005

The *Planning and Development Act 2005* (P&D Act) outlines the relevant considerations when preparing and amending local planning schemes. 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*, 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 deemed to be a 'standard' amendment.

City of Busselton Local Planning Scheme No. 21.

The City of Busselton Local Planning Scheme No. 21 allocates the spatial arrangement of the area by the Scheme Map. The Scheme text describes land uses, the residential densities (identified on the Map) by reference to the R–Codes or a development standard in certain areas, and it prescribes the development standards for works associated with land uses.

The Scheme establishes Special Character Areas which describe special controls that act in conjunction with the Scheme and the R-Codes. The Quindalup Special Character Area is identified in the Scheme (at Schedule 4).

The pertinent provision is cl.1b in Schedule 4 which provides:

(b) council will only permit the construction of grouped housing development of three or more dwellings at a density not exceeding R12.5 on lots with a minimum area of 2,400m²

The Scheme also provides at cl. 5.3 (Special Application of Residential Design Codes) some limited circumstances that enable lots to be created less than indicated by the R-Codes classification shown on the Scheme map. These provisions do not apply to the Special Character Areas such as Quindalup.

RELEVANT PLANS AND POLICIES

- State Planning Policy 3.1 Residential Design Codes of Western Australia
- State Planning Policy 2.6 Coastal Management
- City of Busselton Local Planning Strategy (Draft, advertised 2015)
- City of Busselton Local Planning Policy 3 Special Character Areas and Visual Management Policy

State Planning Policy 3.1 Residential Design Codes of Western Australia

The Residential Design Codes ('R-Codes') address development standards as well as assigning density by prescribing the minimum and average lot sizes for the coded categories, ranging from R2 at the lowest through to R80 at the highest (note that there are denser codes, but the permissible density only increases for multiple dwellings – i.e. flats/apartments – but not for single houses or grouped dwellings – i.e. houses, villas, townhouses).

In areas coded R12.5 the R-Codes prescribe a minimum site area per dwelling of 700m² and an average of 800m². In areas coded R20 it prescribes a minimum site area per dwelling of 350m² and an average of 450m². The area taken by internal driveways servicing grouped dwellings are counted in the average of the site area, but not the minimum.

In the development of Lot 41 an internal driveway will be required.

State Planning Policy 2.6 - Coastal Management

The purpose of this Policy (SPP2.6) is to provide guidance for decision-making within the coastal zone including managing development and land use change. The policy in summary requires development to be setback 170m from the 'horizontal shoreline datum' if not within an 'infill' area.

The subject land, whilst in a coastal location and only around 120m from the HSD, is clearly infill development. The proposal is consistent with SPP 2.6.

City of Busselton Local Planning Strategy

The purpose of the (Draft) Local Planning Strategy (LPS) is to set out the long term form (25 years) of the City and guide progressive amendments to the City's development control framework; within the next ten years. The LPS identifies the Busselton City Centre and the Dunsborough Town Centre as focal activity centres in the area. The town of Dunsborough is planned to have an ultimate population of 20,000 people, to be accommodated through both consolidation and expansion of its urban area.

The Local Planning Strategy identifies urban/residential consolidation at the Dunsborough Town Centre and for an area extending up to Elmore Road; which is specifically identified for *Urban Consolidation* (medium+ density).

The area to the east of Elmore Road, including the subject land, is identified in the Local Planning Strategy to be retained as low density. The proposal is consistent with the LPS, as R20 retains low density development.

City of Busselton Local Planning Policy 3 – Special Character Areas and Visual Management - 3B Quindalup Special Character Area Provisions

The Quindalup Special Character Area extends from Caves Road to Geographe Bay Road from east of Elmore Road through to Toby Inlet.

The background provided in the policy explains its reason:

Increasing pressures for higher density residential and further tourist developments in recent years have prompted the City to act (1993) to preserve the highly valued character of the Quindalup Strip. Concerns with regard to the loss of special character have been particularly evident in the significant level of community reaction received to proposed re-zonings and subsequent developments within the Strip.

The subject land is in Precinct 2 within the Quindalup Special Character Area.

The description for Precinct 2 is an area "of a mixed blend of old and new housing styles". In other words there is no homogeneous built form.

The primary character elements therefore are the building setbacks and the street side vegetation. Accordingly, the development controls in *Precinct 2* describe a building set back of 10m from the street front and other provisions describe maintaining a heavily vegetated street line.

An important development control in the context of this amendment proposal is cl 3.3.2(d) in the Quindalup Special Character Area -

(d) A Residential Development Density of R12.5 will apply to all Group Housing developments involving three or more dwellings (i.e. minimum lot size of 2,100m²).

This Development Control suggests that when the policy originated, notwithstanding the 'policy background', a higher density in Sector 2 was envisaged to provide 3 dwellings from 2,100m² instead of that now described in the Scheme - 3 dwellings from 2,400m² (using present day R-Codes lot sizes at R12.5). It is understood the Scheme was changed from 2,100m² to 2,400m² in response to community concern about the potential for too much redevelopment to occur.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from the recommendations of this report.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The Officer recommendation is consistent with community objective 5.2 of the City's Strategic Community Plan 2013, which is: 'Growth is managed sustainably and our environment is protected and enhanced as we develop'.

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. No significant risks have been identified.

CONSULTATION

Consultation was undertaken in accordance with clause 47 *Planning and Development (Local Planning Schemes) Regulations 2015.*

The Amendment in a Standard Amendment and was advertised for 42 days between 12 October 2016 and 23 November 2016.

Five agency submissions were received and three public submissions were received.

The Schedule of Submissions is attached at Attachment A.

OFFICER COMMENT

There is not a strong basis for either changing or retaining the current arrangement as it now applies to lot 41 (182) Geographe Bay Road Quindalup.

The arguments against change are that the Lot is not within the town centre or identified by the recently consulted Local Planning Strategy, which identified the area 200m east of the subject land for *Urban Consolidation* (medium+ density) and this area extends 1500m to Dunn Bay Road.

The area identified *Urban Consolidation* (medium+ density) is large, providing considerable scope to increase the density of development in the town of Dunsborough over a 25 year time frame. There is therefore no pressing need to look beyond the area that has been identified *Urban Consolidation* (medium+ density).

The principal argument in support of the proposal is that the area is intended for low density development. The proposed Amendment will facilitate four lots with an average size of 500m² and by contemporary standards 500m² is a low density. Provided the front setback is maintained consistent with the policy, it is arguable that lots at 500m² can still maintain-the purpose of a low density environment and therefore are consistent with the State Policy which advocates increasing density at centres – because this proposal is still low density.

The above matters were considered by Council at its meeting on 27 July 2016. These matters are finely balanced and Council resolved to approve the Amendment for community consultation.

The City has now received submissions from the community, three of the five adjoining neighbours opposing the amendment on the following grounds.

- 1. It is inconsistent with the low density intent of the current Scheme and Local Planning Policy for the Quindalup Special Character Area. The location is not within the town centre.
- 2. No change was proposed in the City's recent Local Planning Strategy.
- 3. The development will cause the loss of peppermint trees and Western Ringtail Possum (WRP) habitat.
- 4. The increased intensity (4 dwellings instead of 2) and the internal traffic arrangement will detract from the amenity (noise) to a greater extent than the current policy.

- 5. The increased intensity (4 dwellings instead of 2) will contribute to existing parking congestion on Geographe Bay Road.
- 6. Existing setbacks should be retained.

In addition to the community concern, DPaW requested an extension of the consultation period to assess the property and as a consequence has requested the retention of the peppermint trees. This request has now been heightened by the change of status for the Western Ringtail Possum to a critically endangered status.

The other agency (4) comments are classed as procedural and do not affect the content of the proposed amendment.

The initial discussions regarding the lot were based upon the fact that two, two storey dwellings had been approved at the site, that four dwellings could be placed within the same arrangement without the additional dwellings being noticeable and thereby not adversely affecting the character of the locality. The applicant subsequently changed this to four at ground and then sought approval for five dwellings. This was on the basis that if the 'R20', as generally applies to residential land, was applied to lot 41 then the lot size could accommodate four dwellings and a fifth dwelling if using the area discount available for a single bedroom dwelling. The City indicated it would not support five dwellings.

Mixed responses have also been provided by the applicant, first that they were willing to consider an arrangement consistent with the current policy, then additional design controls to protect the character to allow a more flexible arrangement, but finally rejecting any additional design controls.

The justification for the additional dwellings, considered as 'finely balanced', was not strong. The proposal has now not been supported by the adjoining landowners, and the 'fine balance' has tipped against proceeding with the amendment.

Significantly, and since Council's consideration on 27 July 2016, the comments received by DPaW have placed an increased importance upon the retention of the peppermint trees located at the subject land. Under the current Scheme and the Quindalup Special Character Area policy the trees would not be protected if a development for two dwellings was to proceed. However, there is an opportunity through this amendment to introduce a control, to retain the peppermint trees, in return for supporting the two additional dwellings; to be a total of four dwellings at the site. It is possible through design controls to satisfy the DPaW and the neighbour's desire to retain the peppermint trees, and by also requiring space around the buildings, enhance the habitat for the Wester Ring Tail Possum and present a visually low density development consistent with the Quindalup Special Character Area policy.

It is not uncommon to vary requirements in a Scheme, outside of an LPS, if there is a community benefit in doing so. Compensation for biodiversity enhancement is often used. If the Amendment can in fact preserve the trees and enhance the WRP habitat, above that which is provided by the current policy, it is reason to tip the 'fine balance' in favour of proceeding.

Aside from the above issue the land is physically suitable for its intended use, the amendment supports residential development in a residential zone, services are available and the proposal will have a negligible impact upon local traffic and on street carparking. Other than the matter of local character, and now the retention of the peppermint trees, there are no issues impediments affecting the development of Lot 41 (182), Geographe Bay Road, Quindalup.

Possible way forward

As mentioned previously the land provides two distinct developable areas. The lot is comparably deep. It is dissected in the middle by a substantial stand of peppermint trees but there is a pathway (driveway width) that lies between them. This is potentially advantageous as it also provides the opportunity to keep any increase in vehicle traffic away from the edges of the property; avoiding the potential for disturbance to neighbours which was an expressed concern.

Retaining the peppermint trees also has a number of advantages apart from retaining the WRP habitat. It would also maintain a sense of low density and also create a site amenity.

On this basis it is suggested the amendment be modified to incorporate the following features:

- The retention of the peppermint trees and additional planting locations;
- Ensuring onsite traffic movement to avoid disturbance to neighbours; and
- Specifying the dwellings to be arranged as two, two storey buildings to minimise the onground footprint, to maintain setbacks consistent with the locality and to enhance the space around buildings; to present as low density.

This has been put to the applicant but rejected; both the two building configuration and additional design considerations.

CONCLUSION

The justification for the Amendment, considering the LPS, was finely balanced. At consultation the amendment has not been supported by 3 of the adjacent properties, and DPaW request that that peppermint trees on the site be retained, would require additional controls. The amendment in the form it was advertised is not recommended to proceed.

It is however, possible to address the neighbour concerns by careful design to achieve an outcome that maintains space around buildings to reinforce the presentation of low density that importantly can strengthen the retention of the existing peppermint trees and result in an enhanced habitat for the critically endangered Western Ringtail Possum.

An amendment facilitating the additional dwellings as incentive for retaining the peppermint trees and enhancing the habitat for the critically endangered Western Ringtail Possum is supported, subject to design controls that maintain the low density character.

OPTIONS

- 1. Recommend refusal;
- 2. Recommend approval without change; or
- 3. Recommend approval with further or different changes.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Pursuant to Regulation 50, the Council is required to submit its decision to the WAPC within 60 days from the close of submissions. Given the DPaW requested an extension for its submission the Councils decision will be forwarded within 60 days of the last submission.

ADDENDUM

There were a range of issues raised in submissions, principally associated with the perceived potential of development of the site to not be consistent with the amenity of the locality and, in particular, concerned with the potential removal of mature peppermint trees located on the site. It

should be noted that, with the existing zoning and overall regulatory framework, there are in fact no effective controls over the clearing of the trees on the site at present.

As already noted, subsequent to the publishing of the 22 February agenda and the Council's deferral of the matter, officers have liaised further with the landowners' representatives, and have arrived at a revised officer recommendation, which officers consider both addresses the submitters' concerns more effectively, but is also more consistent with the landowners' objectives. In simple terms, the officer recommendation proposes —

- The retention of all of the mature peppermint trees on the site (i.e. those with a trunk diameter greater than 0.5 metres – these are identified on a feature survey which is provided at Attachment E, but essentially, this includes both the trees in more or less the middle of the block, but also those in the south-western corner);
- The need to have a minimum of 55% open space and a 10 metre front setback and for other setbacks to continue to be as per the R12.5 residential density code which currently applies to the land note that this arises from clause 1 (a) of Schedule 4 of the Scheme, and is not an addition that needs to be made through a Council decision; and
- A requirement that the driveway to access the buildings on the site is placed along the eastern boundary of the lot, providing an additional setback of development from that boundary.

The officer recommendation, if ultimately supported by the Council, WAPC and Minister for Planning would result in a planning outcome that –

- Would preserve mature peppermint trees which could otherwise be removed, preserving habitat and protecting the amenity of the area;
- Would not result in the external appearance of the development from any viewing location outside the subject site being any different from what could result from the existing zoning of the site; and
- Would allow two additional households/owners to have the opportunity to live in such a
 desirable location.

OFFICER RECOMMENDATION

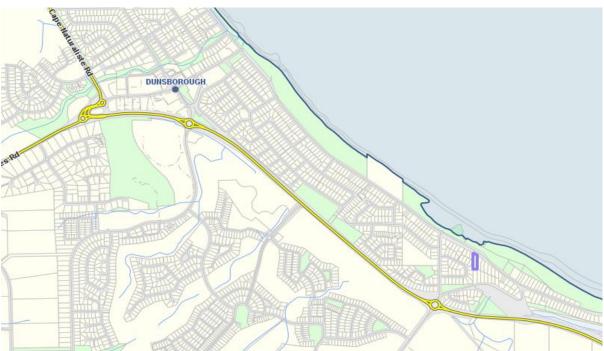
That the Council:

- 1. Pursuant to Part V of the Planning and Development Act 2005, adopts Amendment No. 22 to the City of Busselton Local Planning Scheme No. 21 for final approval, for the purposes of:
 - i. Recoding Lot 41, Geographe Bay Road, Quindalup (Certificate of Title 1226-295) from 'R12.5' to 'R20';
 - ii. Amending the Scheme map accordingly; and
 - iii. Replacing clause 1 (b) of Schedule 4 of the Scheme with the following -
 - (b) The local government may only approve the development of three or more grouped dwellings at a density not exceeding R12.5 on lots with a minimum area of 2,400m2, except for Lot 41 on Diagram 23175, House 182 Geographe Bay Road, Quindalup (Certificate of Title 1226-295), where the development of a maximum of four dwellings may be approved.
- 2. Pursuant to r.53 of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to endorse the Schedule of Submissions at Attachment B prepared in response to the public consultation undertaken in relation to Amendment No. 22.

- 3. Pursuant to r.50(3) of the Planning and Development (Local Planning Scheme) Regulations 2015, resolves to support the modifications to Amendment No. 22 to the City of Busselton Local Planning Scheme No. 21 shown in the Schedule of Modifications at Attachment C, prepared to address issues raised in submissions received during public consultation.
- 4. Pursuant to r.52 the City confirms the incorporation of environment conditions has not been required.
- 5. Pursuant to r.53 of the Planning and Development (Local Planning Schemes) Regulations 2015 resolves to forward Amendment No. 22 to the City of Busselton Local Planning Scheme No. 21 to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
- 6. Pursuant to r.56 of the Planning and Development (Local Planning Schemes) Regulations 2015, should directions be given that modifications to Amendment No. 22 are required, those modifications being undertaken accordingly on behalf of the Council unless they are considered by Officers to be likely to significantly affect the purpose and intent of the draft Amendment, in which case the matter shall be formally referred back to the Council for assessment and determination.

Attachment A – Lot 41 Geographe Bay Road





Attachment B

SCHEDULE OF SUBMISSIONS

AMENDMENT NO 22 - FOR ADOPTION

ADVERTISED – 12 October 2016 -23 November 2016

| No | Address | Nature of Submission | Comment | Recommendation |
|----|---|--|--|----------------|
| 1 | Environment Protection Authority | The EPA advises that that the proposed scheme is not required to be assessed under Part IV Division 3 of the Environmental Protection Act 1986. | The City is free to advertise the Amendment. | No change |
| 2 | Western Australian Planning Commission | Confirmed the amendment is a Standard amendment and Council is required to undertake the procedures set out in clauses 47 to 53 of the Planning and Development (Local Planning Schemes Regulations 2015 (the Regulations). | Noted | No change |
| 3 | Department of Indigenous Affairs | There are no sites under the Aboriginal Heritage Act, 1972 (AHA) as currently mapped on the Register of Aboriginal Sites (the Register) within the Lot. Notwithstanding, the applicant is advised to familiarize themselves with the State's Cultural Heritage Due Diligence Guidelines (the Guidelines). | Noted | No change |
| 4 | Water Corporation | Confirmed that the property is provided with water and wastewater services by Water Corporation | Noted | No change |

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| 5 | Western Australian | Lot 41 contains vegetation, which is likely the habitat for the | The site presents clusters of | Modification to |
|---|---------------------|--|------------------------------------|-----------------------|
| | Department of Parks | Wester Ringtail Possum (WRP). | peppermint trees, and two | include an explicit |
| | and Wildlife (DPAW) | | relatively cleared areas. | control requiring the |
| | | WRP is a threatened species, major threats are habitat loss and | | retention of the |
| | | Peppermint Trees as found on Lot 41 are potential habitat for | It is possible to develop the site | existing peppermint |
| | | WRP. | with an access link and still | trees, as at 8 March |
| | | | avoid the removal of any trees. | 2017. |
| | | Any future development should incorporate the retention of the | | |
| | | existing peppermint trees to retain a critical habitat. | The existing framework will not | |
| | | | ensure the retention of the | |
| | | It is also recommended that the proposed Scheme require for the | existing peppermint trees or | |
| | | Lot 41 development; a WRP survey be undertaken; a Wildlife | achieve an on outcome | |
| | | Protection Management Plan prepared to the satisfaction of | sympathetic to the locality. | |
| | | DPAW; and implemented to the satisfaction of DPAW. | | |
| | | | The lot owner has now agreed | |
| | | DPAW identified that Lot 41 had been approved for subdivision | to controls to prioritise the | |
| | | into two lots, which has now lapsed. The arrangement retained | retention of the mature | |
| | | the Peppermint Trees, in the absence of a detailed concept | peppermint trees: diameters | |
| | | DPAW are requesting the WPMP be prepared to its satisfaction. | greater than 500mm. | |
| | | | This will force a design solution | |
| | | | that will appear to be a low | |
| | | | density. The retention of the | |
| | | | trees will retain a visual | |
| | | | familiarity for the neighbours as | |
| | | | well as softening the | |
| | | | appearance of the eventual | |
| | | | development. | |
| 6 | J M Humphreys | Summary - the proposal is inconsistent with the Quindalup | Comments are noted and | Modification to |
| | 180 Geographe Bay | Special Character Area – Local Planning Policy (QSCAP). | generally acknowledged. | incorporate design |
| | Road | | | detail addressing: |
| | | The Quindalup Special Character Area – Local Planning Policy at | The City considers the lot is in | |
| | | its Statement of Intent describes "The principle objective of this | fact large (deeper) than most | • The retention of |

Attachment B Schedule of Submissions

policy is to preserve the unique and special character of the Quindalup strip. The character essentially being a relaxed holiday atmosphere. This is attributed to its low density housing which is contained within a bush and sea side setting"

1. Disputes the relevance of SPP3 in context of the subject land. The SPP3 requirement for orderly planning, affordable housing, concentration on urban development in existing settlements with established infrastructure and services, reducing the spread of urban renewal with its inherent costs and inequities for those living in the outer suburbs applies is not relevant to Quindalup with its small, lightly populated, low density and relaxed holiday atmosphere.

SPP 3 and the greater density it advocates also creates greater parking and traffic problems in the absence of public transport. Parking and traffic flow is already an issue in the summer holiday period with cars unable to park in the parking area opposite 186 Geographe Road spilling out onto both sides of the road and verges from 180 to 186 Geographe Bay Road and using the Property as a parking area.

2. Disputes Recoding the Property for 4 dwellings reflects an orderly process. It opens the door for future developments in the QSCAP to apply for the same privilege thereby changing the character, density and atmosphere of the area without having a formal review of the QSCAP and allowing all its residents the right and ability to comment and have input into any proposed changes.

Given the land is not identified in the LPS it renders its process as useless and the Zoning classification as meaningless if individual applications without a broader

lots.

The City acknowledges that SPP3 is not addressed in its proper context or proportionate to the situation at Dunsborough that would alone warrant supporting higher density at the site, particularly when not identified for such in the recent LPS.

The City agrees the current policy is not an impediment to the development of the site, it is a desirable location and its development is simply a function of price.

The City considers it is possible by design to ensure future development does not affect neighbour amenity such as by on site vehicle movements or by any sense of encroachment into setbacks.

The City also considers the current policy and Scheme arrangement is no assurance that the trees would be protected, but specifying their retention in return for the

the peppermint trees.

- Onsite traffic movement to avoid disturbance to neighbours
- Maintaining open space at 55%.

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> community comment and have input into any proposed changes. (As with a methodical process of the LPS?)

3. Disputes the uniqueness of the lot size; many lots are this size with two dwellings, conceivable they could be demolished for four. The minimum lot size was increased by the City from 2100 m² in the 1996 QSCAP, to 2400m² in 2010. Without any overall review of the QSCAP or logical reason the City is now proposing to reduce the minimum lot size to 2259 m² and increase the density to R20.

Moving outside of the LPS creates the impression that it is ad hoc planning or that the future of the QSCAP has already been pre-determined.

- 4. Disputes the sewer line was installed as a strategic intent for higher density. The sewerage line was installed from Elmore Street by the previous owner and was installed for 2 dwellings intended to be built on the site.
- 5. Disputers the Western Power Green dome signifies development of an integrated grouped dwelling development. The Western Power connection was connected to the original dwelling on the site, which was demolished in 2010, to make way for two houses. They are also used in new subdivisions for single houses.
- 6. Disputes the statement "As the large subject has been vacant for an extended period of time (presumably since creation) it never had opportunity to positively contribute to the built character of Quindalup." A dwelling demolished in 2010 to make way for two dwellings. (The development did not proceed for unforeseen circumstances affecting the owner)

additional dwelling would serve achieve better development of the site and outcome in terms of amenity.

| 11.5 | Accucinn | Schedule of Submissions | |
|------|---|--|---|
| | | 7. Disputes the Wide verge which is common to all properties in the locality development likely to take a battle- axe formation, there is significant opportunity to maintain a single residential appearance from the street. Relatively speaking it will appear discordant with adjoining properties. All the blocks from Elmore Street have wide verges. The front of the development is likely to be dominated by the drive way required to service 4 dwellings on the site and put it at odds with the other dwellings in the area and the QSCAP. | |
| | | 8. Disputes the statement "For the same reasons above, it is also a substantive "blank canvas" opportunity to comply to with the requirements of the 3B Quindalup Special Character Area Provisions and begin to reverse some of the poor building trends that appeared prior to 1996 when the policy came into effect." | |
| | | No examples are given of poor building. Considers the comment is completely unsubstantiated. In addition there is no information provided on the type of dwellings to be built on the site. Considers it likely is that the 10 mature Peppermint trees on the site will be demolished to enable the 4 dwellings to be constructed. This is contrary to the tree preservation requirements set out in the QSCAP and will have a significant effect on the native wildlife. A large battle- axe site with high density coverage will not add to the character or quality of the Quindalup strip. | |
| 7 | J and G Murphy 184 Geographe Bay Road | Responding to points 1-14. There are ten old growth peppermint trees all over 80 years old and four smaller re-growth peppermint trees providing an | Modification to incorporate design detail addressing: |

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Attachment B

11.3

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> important habitat for a colony of ringtail possums and a variety of lizards.

Schedule of Submissions

- Disputes Lot 41 is extraordinary in size. Three Jots immediately east of Lot 41 are a similar size and the owners have kept their developments to two houses. All other houses along the entire length of Geographe Bay Road including many much larger blocks have single residences with the exception of a handful two group residences.
- 2. Disputes the sewer line was installed as a strategic intent for higher density. The sewerage line was installed from Elmore Street by the previous owner and was installed for 2 dwellings intended to be built on the site.
- Disputers the Western Power Green dome signifies development of an integrated grouped dwelling The Western Power connection was development. connected to the original dwelling on the site which was demolished in 2010, to make way for two houses. They are also used in new subdivisions for single houses.
- Disputes "many smaller lots to the east have been approved for two group dwellings at a density equivalent of R20." There are examples of some larger blocks having two group dwellings but generally along the extent of "The Quindalup Strip" all development are single residences - there is nothing in excess of two dwellings.
- Disputes "there is a precedence in the western parts of the Quindalup locality serviced by reticulated sewerage to have densities of R15, R25 and R30, particularly those about Wilson Avenue and Spindrift Cove.

fact large (deeper) than most lots.

The City acknowledges that SPP3 is not addressed in its proper context or proportionate to the situation at Dunsborough that warrants supporting higher density at the site particularly when not identified for such in the recent LPS.

The City however considers the proposal for four lots to be consistent with the objective of maintaining low density, and that the space that surrounds the buildings, and the retention of vegetation, can by design reinforce it is low density.

The City considers it is also possible by design to ensure future development does not affect neighbour amenity by on site vehicle movements or by sense of encroachment into setbacks any more that the current policy provides.

The City considers that through careful design the peppermint trees can be retained and the

- The retention of the Peppermint trees.
- Onsite traffic movement to avoid disturbance to neighbours
- Maintaining open space at 55%.

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- 6. Advises the subdivision at Wilson Avenue caused a high degree of controversy at the time and was the reason why the "Quindalup Special Character Area Provisions" were adopted to maintain the integrity of the strip.
- 7. Disputes "the policy is almost 20 years old and has not been subject to any form of review" to imply it is no longer relevant. Supports a review by council to reaffirm it is still relevant.
- 8. Disputes the statement that housing at this western end of Geographe Bay Road, Quindalup has not cumulatively achieved what the special character area policy set out to achieve.

The QSCAP sets out to maintain the low density housing, increased setbacks, leafy green nature, and holiday atmosphere with a variety of styles in dwelling construction. This is being achieved.

- 9. Disputes the vacancy of the land reflects a justification for re-coding. It was demolished by the previous owner in 2010.
- 10. Disputes the wide verge and lot width provides an exception for Lot 41. Ten blocks from Elmore to Lot 62 on Geographe Bay Road have the same wide verge as Lot 41. Lot 550 next door has a frontage of 38.2m compared with 28.5m for Lot 41.
- 11. Disputes the statement "For the same reasons above, it is also a substantive "blank canvas" opportunity to comply to

value of the property for its contribution to WRC habitat enhanced as an offset for the additional dwelling. Two additional dwellings is a reasonable offset for the space require to preserve enhance the WRP habitat and the requirement for development to be two storey and adequately set back, which otherwise has a cost.

The City considers the proposal; because of the modest number of additional dwellings will have no noticeable effect on onstreet carparking. Off street parking is a design requirement and parking difficulty is due to the popularity of the locality to the general public.

| 11.5 | Attachine | TIL B Scriedule of Submissions | | |
|------|--|--|--|---|
| | | with the requirements of the 3B Quindalup Special Character Area Provisions and begin to reverse some of the poor building trends that appeared prior to 1996 when the policy came into effect." 12. Disputes the recoding is consistent with SPP3 or the LPS (which does not change the density) – that advocates consolidation in town centres. The Quindalup Strip is 3 - 8 km from Dunsborough's town centre and doesn't need the consolidation (actually 1.6km-5.6km). Additional comments: Parking is already a problem in the street during the summer months. The additional intensity by recoding Lot 41 would exacerbate the problem. 4 houses on Lot 41 and driveways would mean bull dozing the old growth peppermint and the destruction of WRP habitat. They have been active contributors to restoring WRP habitats as members of the Dunsborough Coast and Landcare Group | | |
| 8 | B&E Fullarton 23 Wilson Avenue Quindalup | The recoding to allow 4 dwellings instead of 2 on the lot is substantial. It is not necessary or consistent with the area and lifestyle. During holiday season there is traffic congestion an parking | lots are low density and that through careful design, space around the buildings and the | Modification to incorporate design detail addressing: • The retention of |
| | | problems that increasing the housing density will make worse. | enhanced planting the low density purpose of the existing | the Peppermint trees. |

3. Requests that no development should be able to occur within 6m of the southern boundary (adjoining his property). Enclosure of balconies within 3m as has been allowed elsewhere threatens privacy and harmonious living conditions.

policy can be retained.

The City considers that through careful design the peppermint trees can be retained and the value of the property, for its contribution to WRC habitat can | • Maintaining open be enhanced, as an offset for the additional dwellings.

Two additional dwellings is a reasonable offset for the space require to preserve and enhance the WRP habitat and requirement for development to be two storey and adequately set back, which otherwise has a cost.

The City considers the proposal; because of the modest number of additional dwellings will have no noticeable effect on onstreet carparking. Off street parking is a design requirement and parking difficulty is due to the popularity of the locality to the general public.

- Onsite traffic movement to avoid disturbance to neighbours.
- space at 55%.

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ATTACHMENT C: APPLICATION: AMD21/0022:

SCHEDULE OF MODIFICATIONS TO THE DRAFT

The advertised amendment is modified by adding after the 1. words "development of a maximum of four dwellings may be approved" the following

"subject to the following arrangement:

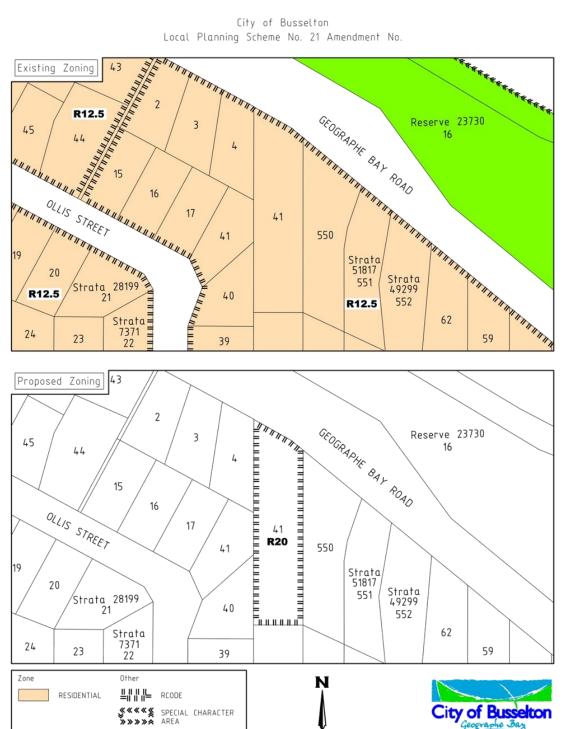
- The internal vehicle access is positioned along the eastern boundary to avoid disturbance to neighbours and avoid harm to the central stand of peppermint trees; and
- ii. All peppermint trees with a trunk diameter of 500mm or more are to be retained; these trees are shown on the feature survey dated 13 January 2015, and marked 'CCAD JOB 1209s1702.ccx'."

This modification will augment the advertised amendment by adding design detail:

- 1. Ensuring the retention of the Peppermint trees and space to maintain a low density appearance.
- 2. Ensuring onsite traffic movement to avoid disturbance to neighbours.

SCHEME AMENDMENT MAP

City of Busselton





12. ENGINEERING AND WORKS SERVICES REPORT

Nil

13. COMMUNITY AND COMMERCIAL SERVICES REPORT

Nil

14. FINANCE AND CORPORATE SERVICES REPORT

Nil

15. CHIEF EXECUTIVE OFFICER'S REPORT

15.1 COUNCILLORS' INFORMATION BULLETIN

SUBJECT INDEX: Councillors' Information

STRATEGIC OBJECTIVE: An organisation that is managed effectively and achieves positive

outcomes for the community.

BUSINESS UNIT: Executive Services
ACTIVITY UNIT: Governance Services
REPORTING OFFICER: Reporting Officers - Various

AUTHORISING OFFICER: Chief Executive Officer - Mike Archer

VOTING REQUIREMENT: Simple Majority

ATTACHMENTS: Attachment A Planning Applications Received 1 February - 15

February U

Attachment B Planning Applications Determined 1 February - 15

February !!

Attachment C Meelup Regional Park Management Committee

Informal Meeting Minutes - 30 January 2017 U

Attachment D Australian Local Government Association -

Correspondence !!

Attachment E Minister for Local Government - Regional Subsidiaries

Regulation 2017

PRÉCIS

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

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

INFORMATION BULLETIN

15.1.1 Planning and Development Statistics

Attachment A is a report detailing all Planning Applications received by the City between 1 February, 2017 and 15 February, 2017. 46 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 1 February, 2017 and 15 February, 2017. A total of 30 applications (including subdivision referrals)

were determined by the City during this period with 29 approved / supported and 1 refused / not supported.

15.1.2 Current Active Tenders

2017 TENDERS

RFT01/17 KERBSIDE RECYCLING SERVICES

The City invited tenders for the collection of material from yellow top recycling bins and related services within the City of Busselton. The tender was advertised on 28 January 2017, with a closing date of 10 March 2017. The value of the contract will exceed the CEO's delegated authority.

RFT02/17 KING STREET BEACH CAR PARK – SEAWALL REFURBISHMENT

The City of Busselton invited tenders for the upgrade of the geotextile sand containers seawall at the King Street Beach Car Park. The tender was advertised on 18 February 2017, with a closing date of 15 March 2017. The value of the contract will not exceed the CEO's delegated authority.

15.1.3 Meelup Regional Park Management Committee

The minutes from the Meelup Regional Park Management Committee informal meeting for 30 January 2017 are available to view at Attachment C.

15.1.4 Australian Local Government Association

Correspondence has been received from ALGA's new President, Mayor David O'Loughlin and is available to view at Attachment D.

15.1.5 Minister for Local Government; Community Services; Seniors and Volunteering; Youth

Correspondence has been received from the Minister for Local Government and is available to view at Attachment E.

OFFICER RECOMMENDATION

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

- 15.1.1 Planning and Development Statistics
- 15.1.2 Current Active Tenders
- 15.1.3 Meelup Regional Park Management Committee
- <u>15.1.4 Australian Local Government Association</u>
- <u>15.1.5 Minister for Local Government; Community Services; Seniors and Volunteering; Youth</u>

Planning Applications Received 1 February - 15 February

| Applications | Received (Deemed Cor | mpiete) keport | | | | | | | |
|---------------|-----------------------------|--------------------------|--------------------|------------------|-----------|---------------------------|----------------------------|-------|--|
| Application | | | Primary Property | Date Application | Estimated | | | Clock | |
| Number | Description | Primary Property Address | Legal Desc | Deemed Complete | Cost | Primary Property Owners | Applicant Name | Days | |
| Development | | | | | | | | | |
| Applications | | | | | | | | | |
| • | | 8/26 Bird | | | | | | | |
| | Holiday Home (Grouped | Crescent~DUNSBOROUGH | | | | | | | |
| DA16/0887 | Dwelling) 6 People | WA 6281 | Lot 8 SSPLN 33488 | 14/02/2017 | 0 | Peter Colin Howe | Peter Colin Howe | 1 | |
| | | | | | | | | | |
| | Poultry Farm (Egg | 235 Gale Road~METRICUP | | | | Clare Marie Underdown & | Robert Stuart Underdown, | | |
| DA16/0946 | Production) | WA 6280 | 88370 | 10/02/2017 | 3000 | Robert Stuart Underdown | Clare Marie Underdown | 1 | |
| | Additions/ Extension to | 24 Spindrift | | | | | | | |
| | Single House (Over | Cove~QUINDALUP WA | | - / / | | Kenneth William Ward & | | | |
| DA16/0968 | Height Parapet Wall) | 6281 | Lot 12 PLAN 28880 | 6/02/2017 | 30000 | Michelle Ellen Ward | Green Construct Pty Ltd | 36 | |
| | Half I and I am I fel and I | 166 Endicott | | | | 0:1-10-1:11-0 | | | |
| D 4 4 C (0072 | Holiday Home (Single | Loop~DUNSBOROUGH | | 42/02/2047 | | Richard Patrick Leavy & | K-1 BI I | l , | |
| DA16/0973 | House) 6 People | WA 6281 | Lot 37 PLAN 19482 | 13/02/2017 | 0 | Patricia Mary Leavy | Karl Deryck Leavy | 1 7 | |
| | | | | | | | | | |
| | Single House (Additions / | | | | | | | | |
| | Alterations) and Ancillary | | | | | | | | |
| D | Dwelling (Landscape | Road~YALLINGUP WA | Lot 12 DIAGRAM | 0 (00 (00 = | 4700000 | Paul Bennett & Todd | | | |
| DA16/0977 | Value Area) | | 85889 | 8/02/2017 | 1700000 | Bennett | DMG Australia | 9 | |
| | 11-1: 11 16: | 31 Campion | | | | K-ith DNh- Q A | Kaish Danas Nasahar Ana | | |
| DA16/1009 | Holiday Home (Single | Way~QUINDALUP WA | Lat 22 DI AN 0047 | 14/02/2017 | | Keith Barry Newby & Ann | Keith Barry Newby, Ann | | |
| DA16/1008 | House) 8 People | 6281 13/18 Prowse | Lot 32 PLAN 9047 | 14/02/2017 | 0 | Lynette Newby | Lynette Newby | 55 | |
| | Holiday Home (Grouped | Way~DUNSBOROUGH | | | | | | | |
| DA16/1010 | Dwelling) 5 People | WA 6281 | Lot 13 STPLN 26382 | 10/02/2017 | 0 | Roberta Westcott Pearce | Jeremy Pearce | ; | |
| DA16/1010 | Single House (Special | 18 Depuch Close~EAGLE | LOT 13 31PLN 20302 | 10/02/2017 | + - | Antonio Mark Cassisi & | Jeremy Pearce | - | |
| DA17/0006 | Character Area) | BAY WA 6281 | Lot 141 PLAN 24546 | 13/02/2017 | 900000 | Claire Rosemary Cassisi | Klopper & Davis Architects | | |
| DA17/0000 | Character Area) | DAT WA 0201 | LOC 141 FLAN 24340 | 13/02/2017 | 300000 | Claire Roselliary Cassisi | Rioppei & Davis Architects | - | |
| | Retrospective - | | | | | | | | |
| | Overheight Outbuilding | | | | | | | | |
| | with a Reduced Rear | 22 Breeden Street~WEST | Lot 109 DIAGRAM | | | | | | |
| DA17/0036 | Setback of 900mm | BUSSELTON WA 6280 | 53681 | 8/02/2017 | 11750 | Darren James Marley | Darren James Marley | 24 | |
| DA17,0030 | Single House (Patio | 169A Marine | 33001 | 0,02/2017 | 11/30 | Janice Rosemary | Durren Junes Walley | | |
| | Addition with Reduced | Terrace~GEOGRAPHE WA | | | | McCaughan & Peter | | | |
| DA17/0040 | Setback) | 6280 | Lot 1 SSPLN 65562 | 7/02/2017 | 5460 | Raymond McCaughan | CPR Outdoor Centre | 8 | |

Attachment A

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| | | 240.14 | | | | Lindsay Russell Smith, | Lindsay Russell Smith, Bree | |
|-----------|--------------------------|----------------------|----------------------|------------|-----------|----------------------------|--|------|
| | | 218 Marine | | | | Bree Amanda Smith, Kevin | , | |
| / | Holiday Home (Single | Terrace~GEOGRAPHE WA | | - / / | | William Ireland, Colleen | William Ireland, Colleen | |
| DA17/0041 | House) 8 people | 6280 | Lot 77 PLAN 8922 | 3/02/2017 | 0 | Violet Ireland | Violet Ireland | 25 |
| | | 10 Marine | | | | | | |
| | Use Not Listed (Small | | Lot 1 DIAGRAM | 7/00/00/7 | | | | |
| DA17/0042 | Bar) | 6280 | 14773 | 7/02/2017 | 35000 | Aramea Pty Ltd | Hamish Coates | 9 |
| | | 10 Geographe | | | | | | |
| | Holiday Home (Single | Close~QUINDALUP WA | | | | | | |
| DA17/0045 | House) 6 people | 6281 | Lot 6 PLAN 12649 | 2/02/2017 | 1 | David Michael Gunter | David Michael Gunter | 8 |
| | | 2 Harvest | | | | | | |
| | Single House (Reduced | Road~BROADWATER WA | | | | | | |
| DA17/0047 | Front Setback) | 6280 | Lot 64 PLAN 12586 | 14/02/2017 | 197769.09 | Marissa Gaye Taylor | Quality Builders Pty Ltd | 21 |
| | Grouped Dwelling (New | 7 Turner | | | | | | |
| | two storey grouped | Street~DUNSBOROUGH | | | | | | |
| DA17/0048 | dwelling) | WA 6281 | Lot 93 PLAN 206061 | 8/02/2017 | 303600 | David Geoffrey Berglund | Plunkett Homes | 1 |
| | | 19 Kittyhawk | | | | | | |
| | Single House (Patio with | Grove~GEOGRAPHE WA | Lot 294 DIAGRAM | | | Philip Ross Cockman & | | |
| DA17/0049 | Reduced Setbacks) | 6280 | 85583 | 10/02/2017 | 6490 | Kim Barbara Cockman | CPR Outdoor Centre | 25 |
| | | 95-103 Queen | | | | | | |
| | | Street~BUSSELTON WA | Lot 15 DIAGRAM | | | Cityshore Pty Ltd & | | |
| DA17/0050 | New Shop Front | 6280 | 76237 | 14/02/2017 | 50000 | Michelle Robyn Copeland | Thetford Nominees Pty Ltd | 12 |
| | Single House (Games | 135 Marrinup | | | | , . | | |
| | Room Addition in | Drive~YALLINGUP WA | | | | Simon William Higgins & | Kenneth Frederick James | |
| DA17/0051 | Landscape Value Area) | 6282 | Lot 25 PLAN 20018 | 13/02/2017 | 73718 | Alicia Higgins | Brook | 11 |
| , | | 102 Lagoon | | | | 00 | | |
| | Outbuilding in Landscape | Drive~YALLINGUP WA | | | | | | |
| DA17/0054 | Value Area | 6282 | Lot 21 PLAN 21893 | 14/02/2017 | 20000 | Shane Robert Smith | Busselton Sheds Plus | 11 |
| , | Single House (Additions | 17 Adelaide | | | | | | |
| | in Special Character | Road~DUNSBOROUGH | | | | | | |
| DA17/0055 | Area) | WA 6281 | Lot 32 PLAN 6155 | 6/02/2017 | 100000 | Rhoad To Wealth Pty Ltd | Rhoad To Wealth Pty Ltd | 16 |
| , | , | | | -,, | | James Herbert Fairbairn | Carolyn Mcintosh Pollitt, | |
| | | 11 Alpha Road~WEST | Lot 97 DIAGRAM | | | Pollitt & Carolyn Mcintosh | James Herbert Fairbairn | |
| DA17/0056 | Grouped Dwellings (Two) | | 13236 | 6/02/2017 | 400000 | Pollitt | Pollitt | 7 |
| | | Chapman Hill | | 0,02,202 | 1.00000 | | | , |
| | Relocated Building | Road~CHAPMAN HILL WA | | | | Grant Andrew Hudson & | Grant Andrew Hudson, Dale | |
| DA17/0057 | Envelope (Outbuilding) | 6280 | Lot 74 PLAN 401187 | 6/02/2017 | 18000 | Dale Marion Hudson | Marion Hudson | 15 |
| 5.11/005/ | zreiope (outbuilding) | 39A Gibney | 2017 71 12/11 702107 | 0/02/201/ | 10000 | Date Marion Hadson | The state of the s | - 13 |
| | Grouped Dwelling | Street~DUNSBOROUGH | | | | | | |
| DA17/0058 | (Special Character Area) | WA 6281 | Lot 2 SSPLN 54629 | 7/02/2017 | 171000 | Meagan Hilliard Bliss | Meagan Hilliard Bliss | 15 |
| DV11/0030 | (Special Character Area) | VV 0201 | LUL 2 33FLIN 34029 | //02/201/ | 1/1000 | ivicagan miliaru biiss | ivicagali filliaru biiss | 15 |

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| | Single House and | 21 Myrtle | | | Т | | | |
|----------------|------------------------|-------------------------|--------------------|---|--------|-------------------------------|-----------------------------|-----|
| | Outbuilding (Reduced | Vale~YOONGARILLUP WA | Lot 831 PLAN | | | | | |
| DA17/0059 | Setback) | 6280 | 134089 | 6/02/2017 | 500000 | Troy Raymond Buswell | Troy Raymond Buswell | 14 |
| DA17/0033 | Setback) | 7 Eagle Bay-Meelup | 134069 | 0/02/2017 | 300000 | Troy Raymond Buswell | Troy Raymond Buswell | 14 |
| | Holiday Home (Single | Road~EAGLE BAY WA | Lot 27 DIAGRAM | | | | | |
| DA17/0060 | House) - 5 People | 6281 | 85874 | 14/02/2017 | 1 | Samantha Iana Maanay | Grant Jonathan Mooney | 14 |
| DA17/0060 | | | 83874 | 14/02/2017 | 1 | Samantha Jane Mooney | Grant Jonathan Mooney | 14 |
| | Floating Jetty (Port | 36 Lanyard | | | | | | |
| D 1 1 7 /00 CO | Geographe Development | Boulevard~GEOGRAPHE | | 0/00/0047 | 44050 | | | ا ا |
| DA17/0063 | Area) | WA 6280 | Lot 77 PLAN 59251 | 8/02/2017 | 11950 | Neville Clive Vellacott | Ian Fahl | 6 |
| | | 771 Yelverton | | | | | | |
| | Animal Establishment | Road~WILYABRUP WA | Lot 1 DIAGRAM | | | | | |
| DA17/0064 | (Indoor Riding Arena) | 6280 | 87103 | 8/02/2017 | 600000 | Susan Margaret Hovell | Osler Holdings Pty Ltd | 10 |
| | | 11 Bonnie | | | | | | |
| | Single House (Reduced | Close~DUNSBOROUGH | Lot 1187 PLAN | | | Laura Fay Bannister & | Laura Fay Bannister, Struan | |
| DA17/0066 | Setback) | WA 6281 | 402977 | 8/02/2017 | 330000 | Struan Wilkin | Wilkin | 5 |
| | | | | | | | | |
| | Outbuilding (Carport | 19 Reynolds Street~WEST | Lot 17 DIAGRAM | | | | | |
| DA17/0067 | with Reduced Setback) | BUSSELTON WA 6280 | 19306 | 8/02/2017 | 16420 | Valma Josephine Collett | CPR Outdoor Centre | 15 |
| | | 18 Harvest | | | | | | |
| | Holiday Home (Single | Road~BROADWATER WA | | | | Mark James Anderson & | Mark James Anderson, | |
| DA17/0068 | House) 10 People | 6280 | Lot 57 PLAN 12586 | 8/02/2017 | 0 | Kerrie Lee Anderson | Kerrie Lee Anderson | 6 |
| | Caravan Park and | | | | | | | |
| | Camping Grounds | 23 Yallingup Beach | | | | | | |
| | (Retrospective | Road~YALLINGUP WA | Lot 5037 PLAN | | | | | |
| DA17/0070 | Alterations) | 6282 | 192410 | 8/02/2017 | 6500 | State of WA | Altus Planning & Appeals | 6 |
| , | Outbuilding and Water | 62 MacLaren | | , | | | 0 11 | |
| | Tank (Landscape Value | Drive~YALLINGUP WA | | | | | | |
| DA17/0071 | Area) | 6282 | Lot 133 PLAN 39416 | 8/02/2017 | 25000 | Richard Anthony Wilson | Busselton Sheds Plus | 4 |
| 5712770072 | 7.1.00/ | 115 Wisteria | 2012001201100120 | 0,02,202, | | Thereare 7 areners y 17 magni | Dasserton stream ries | |
| | Outbuilding (Landscape | Drive~QUINDALUP WA | | | | | | |
| DA17/0072 | Value Area) | 6281 | Lot 30 PLAN 21721 | 9/02/2017 | 14000 | Richard Hendrik Berghuis | Busselton Sheds Plus | 3 |
| DAITTOOTE | Value Area) | 0201 | E00 50 1 EAN 21721 | 3/02/2017 | 14000 | Menara Henarik Berginas | basseron sireas rias | |
| | Single Dwelling | 15 Morwong | Lot 1334 PLAN | | | | | |
| DA17/0074 | (Landscape Value Area) | Street~KEALY WA 6280 | 407112 | 9/02/2017 | 0 | Ross Geoffrey Rutherford | Ross Geoffrey Rutherford | 1 |
| DA1//00/4 | Patio (Landscape Value | 24 Harbeck Drive~KEALY | Lot 1203 PLAN | 3/02/201/ | + - | noss decilley nutilefford | noss Geoffiey Rutherford | 1 |
| DA17/0075 | Area) | WA 6280 | 403613 | 9/02/2017 | 0 | Tulor William Thomas Cour | Tyler William Thomas Gow | 4 |
| DA1//00/5 | Area) | VVA 0280 | 403013 | 9/02/201/ | 1 0 | Tyler William Thomas Gow | Tyler William Thomas Gow | 1 |
| | Single Duelling | 20 Mackaral | Let 1100 DLAN | | | Derran Davidenment- Dt. | Person Development- St. | |
| DA17/0076 | Single Dwelling | 29 Mackerel | Lot 1108 PLAN | 0/02/2017 | | Perron Developments Pty | Perron Developments Pty | |
| DA17/0076 | (Landscape Value Area) | Avenue~KEALY WA 6280 | 401651 | 9/02/2017 | 0 | Ltd & Stawell Pty Ltd | Ltd, Stawell Pty Ltd | 1 |

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| | Single House (Additions and Alterations in | 21 Willanup Rise~DUNSBOROUGH WA | | | | Christopher Fitzgerald & | | |
|-------------|--|------------------------------------|---------------------|------------|---------|--|--------------------------------|---|
| DA17/0077 | Landscape Value Area) | 6281 | Lot 56 PLAN 21159 | 13/02/2017 | 120000 | Joanne Margaret Burns | Naked Architecture | 3 |
| , | | 524 Puzev | 20130121112223 | 20,02,202. | 120000 | - Transparet Darris | Transa / II arrice et ar e | |
| | | Road~WILYABRUP WA | Lot 11 DIAGRAM | | | | | |
| DA17/0079 | Machinery Outbuilding | 6280 | 94772 | 13/02/2017 | 84804.5 | Bryden Bell | Bryden Bell | 3 |
| | | 3763 Caves | | | | Earthbay Nominees Pty | | |
| | Food and Wine Sales | Road~WILYABRUP WA | | | | LtdTrustee The Wilberry | | |
| DA17/0081 | Ancillary to Cellar Door | 6280 | Lot 125 PLAN 21450 | 14/02/2017 | 1 | Property Trust | Sally Davis | 4 |
| | | | | | | | | |
| | Caravan and Camping | | | | | | | |
| / | Grounds (Demountable | | Lot 5303 PLAN | | | Scripture Union of | Scripture Union of Western | _ |
| DA17/0082 | Office Building) | PARK WA 6280 | 220583 | 13/02/2017 | 30000 | Western Australia | Australia | 7 |
| | | E C. III C. I. CALLEGE | | | | Raymond Francis | | |
| DA47/0003 | 0 | 5 Settlers Gate~WEST | Lot 419 PLAN | 12/02/2017 | 10000 | Baldisseri & Fiona Elspeth Baldisseri | Shada Dawa Sauth | _ |
| DA17/0083 | Oversized Outbuilding Single House (Use of | BUSSELTON WA 6280 | 403621 | 13/02/2017 | 18000 | Baldisseri | Sheds Down South | 6 |
| | Reflective Building | 46 Bayfield | | | | | | |
| | | Court~YALLINGUP WA | | | | | | |
| DA17/0086 | Value Area) | 6282 | Lot 17 PLAN 20905 | 13/02/2017 | 309020 | Tracey Elizabeth Morey | Murray River North Pty Ltd | 0 |
| DAIT/0000 | Subdivision - 3 Lots | 0202 | LOC 17 1 LAIV 20303 | 15/02/2017 | 303020 | Tracey Elizabeth Worey | Ividitaly River Noterin by Eta | |
| | (Agriculture/recreation/b | 251 Metricup-Yelverton | | | | | | |
| | ushland protection) 8.35 | ' | Lot 4001 PLAN | | | William Morris Cox & | | |
| WAPC17/0006 | Ha - 36.44 Ha | 6280 | 163246 | 9/02/2017 | 0 | Marion Rosemary Cox | Tim Koroveshi | 9 |
| , | | 12 Bower Road~WEST | Lot 47 DIAGRAM | -,, | | Lindsay Alan Reynolds & | Thompson Surveying | |
| WAPC17/0007 | 2 Lot Subdivision | BUSSELTON WA 6280 | 32619 | 10/02/2017 | 0 | Suzanne Lee Reynolds | Consultants | 8 |
| | | 80 Gale Street~WEST | Lot 14 DIAGRAM | | | | | |
| WAPC17/0008 | 2 Lot Survey Strata | BUSSELTON WA 6280 | 18687 | 10/02/2017 | 0 | Cohan James Allan | Automated Surveys | 8 |
| | | 78 Gale Street~WEST | Lot 13 DIAGRAM | | | | | |
| WAPC17/0009 | 2 Lot Survey Strata | BUSSELTON WA 6280 | 18687 | 10/02/2017 | 0 | CJAC2 Ptv Ltd | Automated Surveys | 8 |

Attachment B

| Applications D | etermined Report | | | | | | | | | |
|----------------|----------------------------|---------------------|--------------------|-------------------|-------------------|----------|-------|-----------|---------------------------|-------------------------|
| Application | | Primary Property | Primary Property | Applic Determined | Application | | Clock | Estimated | Primary Property | |
| Number | Description | Address | Legal Desc | Date | Determined Result | Decision | Days | Cost | Owners | Applicant Name |
| Development | | | | | | _ | | | | |
| Applications | | | | | | | | | | |
| 77 | Single House (Alfresco | | | | | | | | | |
| | Addition to a Single House | 9 Beach | | | | | | | | |
| | in a Special Character | Road~DUNSBOROUG | | | | | | | | |
| DA16/0904 | Area) | H WA 6281 | Lot 3 PLAN 9656 | 10/02/2017 | Approved | Approved | 83 | 50000 | Keith Rodney Butson | Keith Rodney Butson |
| | Relocated Building | | | | | | | | | · |
| | Envelope (Single House | Okapa | | | | | | | | |
| | and Outbuilding in a | Rise~DUNSBOROUG | | | | | | | Kylie Gorbach & Harald | |
| DA16/0909 | Landscape Value Area) | H WA 6281 | Lot 423 PLAN 49084 | 13/02/2017 | Approved | Approved | 21 | 950000 | Gorbach | Fraser John Mcalpine |
| | Single House (Two storey | 16B Gifford | | | | | | | | |
| | dwelling in Special | Road~DUNSBOROUG | | | | | | | Grant William Millar & | AK Homes Construction |
| DA16/0940 | Character Area) | H WA 6281 | Lot 2 SSPLN 53332 | 3/02/2017 | Approved | Approved | 63 | 398555 | Rosaria Millar | Pty Ltd |
| | Relative Ancillary | 28 Carnarvon Castle | | | | | | | Raymond Harmer | |
| | Accommodation | Drive~EAGLE BAY | | | | | | | Passmore & Christine | |
| DA16/0955 | (Landscape Value Area) | WA 6281 | Lot 334 PLAN 55023 | 7/02/2017 | Approved | Approved | 66 | 25000 | Passmore | Space Light Order |
| | Additions/ Extension to | 24 Spindrift | | | | | | | | |
| | Single House (Over Height | Cove~QUINDALUP | | | | | | | Kenneth William Ward & | |
| DA16/0968 | Parapet Wall) | WA 6281 | Lot 12 PLAN 28880 | 14/02/2017 | Approved | Approved | 36 | 30000 | Michelle Ellen Ward | Green Construct Pty Ltd |
| | Single House (Patio | 26 Seattle | | | | | | | | |
| | Addition with Reduced | Court~QUINDALUP | | | | | | | | |
| DA16/0971 | Setbacks) | WA 6281 | Lot 228 PLAN 20533 | 10/02/2017 | Approved | Approved | 65 | 12480 | Glenn Charles Haines | CPR Outdoor Centre |
| | | | | | | | | | | |
| | Single House (Modified | | | | | | | | | |
| | Building Envelope to | | | | | | | | | |
| | Accommodate Single | | | | | | | | | |
| | House, Ancillary | | | | | | | | | |
| | Accommodation and Over | | | | | | | | | |
| | Height Outbuilding in | Drive~QUINDALUP | | | | | | | | |
| DA16/0972 | Landscape Value Area) | WA 6281 | Lot 103 PLAN 66320 | 7/02/2017 | Approved | Approved | 4 | 420000 | Quicksea Pty Ltd | Noelene Anne Taylor |
| | | 166 Endicott | | | | | | | | |
| | Holiday Home (Single | Loop~DUNSBOROUG | | | | | | | Richard Patrick Leavy & | |
| DA16/0973 | House) 6 People | H WA 6281 | Lot 37 PLAN 19482 | 14/02/2017 | Approved | Approved | 2 | 0 | Patricia Mary Leavy | Karl Deryck Leavy |
| | | 25 Melaleuca | | | | | | | | |
| | Outbuilding (Free | Drive~WEST | | | | | | | | |
| | Standing Carport With | BUSSELTON WA | | | | | | | Mary Everuss & Michael | |
| DA16/0975 | Reduced Front Setback) | 6280 | Lot 96 PLAN 18539 | 2/02/2017 | Approved | Approved | 17 | 13000 | Patrick Everuss | Joshua Rupert Foley |
| | | l | | | | | | | | |
| | | 10 Halcyon | | | | | | | Robert Lewis Campbell- | |
| | Single House (New two | Way~DUNSBOROUG | | 40/00/004= | l | l | | 25000- | Wilson & Priscilla Marion | , |
| DA16/0978 | storey dwelling) | H WA 6281 | Lot 61 PLAN 14244 | 10/02/2017 | Approved | Approved | 16 | 350000 | Campbell-Wilson | Jenkins |

| | Single House (Increased | 7 Somerset | | | | | | | | |
|-------------|-------------------------------------|------------------------------|-----------------------|---|------------|-------------|----|-----------|------------------------------|--------------------------------|
| | Site Coverage and | Road~DUNSBOROUG | Lot 1219 PLAN | | | | | | | |
| DA16/0986 | Reduced Setbacks) | H WA 6281 | 406062 | 7/02/2017 | Approved | Approved | 50 | 218347 | Harlee Sean Thompson | Plunkett Homes |
| , , , , , , | Single House (Port | 40 Lanyard | | , | | | | | | |
| | Geographe Development | Boulevard~GEOGRAP | | | | | | | John Edward Riggs & | |
| DA16/0988 | Area) | HE WA 6280 | Lot 79 PLAN 59251 | 10/02/2017 | Approved | Approved | 58 | 742050 | Marilyn Joy Riggs | Pro Living Pty Ltd |
| | | 47 Schooner | | ,, | , | 1,1 | | | Gerrard Van Der Merwe | Gerrard Van Der Merwe, |
| | | Crescent~DUNSBOR | | | | | | | & Imke Janna Van Der | Imke Janna Van Der |
| DA16/0990 | Single House (Site Levels) | OUGH WA 6281 | Lot 304 PLAN 37184 | 14/02/2017 | Approved | Approved | 55 | 450000 | Merwe | Merwe |
| | | 226 Naturaliste | | - ,,, | , | 1,1,1 | | | | |
| | Recreation Facility | Terrace~DUNSBORO | Lot 8 DIAGRAM | | | | | | | |
| DA16/0997 | (Expanding Gym Area) | UGH WA 6281 | 38482 | 13/02/2017 | Approved | Approved | 31 | 10000 | Laura Leaver | Callum David Foster |
| 27.120,0007 | Single House and | Dress | | 20,02,202 | 7.100.0100 | 7.101.01.01 | | | | |
| | Swimming Pool | Circle~YALLINGUP | | | | | | | Martin Meinrad Frei & | Martin Meinrad Frei, |
| DA16/1016 | (Landscape Value Area) | WA 6282 | Lot 14 PLAN 41565 | 10/02/2017 | Approved | Approved | 28 | 475000 | Christine Frei | Christine Frei |
| 5/110/1010 | Advertising Signage | Napoleon | 20124124141303 | 10/02/2017 | пррготеа | пррготеа | | 473000 | CHIIICH TICE | Cirio Circi |
| | (Vasse National Lifestyle | Promenade~KEALY | Lot 9546 PLAN | | | | | | Perron Developments | |
| DA17/0001 | Village) | WA 6280 | 408151 | 10/02/2017 | Approved | Approved | 0 | 5000 | Pty Ltd & Stawell Pty Ltd | National Lifestyle Villages |
| D/11/70001 | Single House (Port | 50 Spinnaker | 100151 | 10/02/2017 | Аррготеа | пррготеа | | 5000 | r ty Eta & Stawen r ty Eta | Trational Enestyle Timages |
| | Geographe Development | Boulevard~GEOGRAP | | | | | | | Jean Margaret | |
| DA17/0004 | Area) | HE WA 6280 | Lot 712 PLAN 23692 | 6/02/2017 | Approved | Approved | 27 | 520000 | Stevenson | Simon Hancock |
| DA17/0004 | Area) | 8 Iona | LOC / 12 LAIV 23032 | 0/02/2017 | Арргочец | Approved | | 320000 | Stevenson | Simon Hancock |
| | Oversized Outbuilding | Place~QUINDALUP | | | | | | | Wesley Ian Charles Nash | |
| DA17/0009 | (Landscape Value Area) | WA 6281 | Lot 224 PLAN 68461 | 9/02/2017 | Approved | Approved | 0 | 37000 | & Lee Frances Nash | Busselton Sheds Plus |
| DA17/0003 | (Landscape Value Area) | 65 Tall Tree | LOT 224 FLAN 08401 | 3/02/2017 | Арргочец | Approved | | 37000 | & Lee Frances (vasi) | busselton sileus rius |
| | Single House (Landscape | Crescent~REINSCOU | Lot 114 DIAGRAM | | | | | | Angela Krystal Slee & | |
| DA17/0010 | , , | RT WA 6280 | 98088 | 3/02/2017 | Ammuoud | Ammunuad | 22 | 201200 10 | Justin Scott Peter Slee | Tangant Naminasa Dtv. Ltd. |
| DA17/0010 | Value Area) Outbuilding (Cumulative | N1 WA 6260 | 30000 | 3/02/2017 | Approved | Approved | 22 | 201200.10 | Justin Scott Peter Siee | Tangent Nominees Pty Ltd |
| | over size outbuilding | 15 Tall Tree | | | | | | | Jacoph Laurence William | Joseph Lawrence William |
| | | Crescent~REINSCOU | | | | | | | Anderson & Tara Jay | l ' |
| DA17/0018 | within Landscape Value | RT WA 6280 | Lat 101 DLAN 22460 | 2/02/2017 | Anneoused | Anneoused | 22 | 19500 | Anderson & Tara Jay | Anderson, Tara Jay Anderson |
| DA17/0018 | Area) | | Lot 101 PLAN 23469 | 2/02/2017 | Approved | Approved | 22 | 19500 | Anderson | Anderson |
| | Comment Describing | 3/8 Nicholas Court~DUNSBOROU | | | | | | | View Filipph and I account 0 | |
| DA17/0020 | Grouped Dwelling | | 1 -+ 2 CCDI NI F2020 | 6/02/2017 | A | A | 10 | 250000 | Kim Elizabeth Lauren & | Valorados Hassas |
| DA17/0028 | (Additions) | GH WA 6281 | Lot 3 SSPLN 52039 | 6/02/2017 | Approved | Approved | 10 | 250000 | Mark Arnold Lauren | Valmadre Homes |
| | 0 11 11 11 11 11 7 7 1 | 131 Yungarra | | | | | | | | |
| | Outbuilding (Water Tank | Drive~QUEDJINUP | | 0/00/00/ | | | | | Donald Terrance Jenkins | Donald Terrance Jenkins, |
| DA17/0029 | in Landscape Value Area) | WA 6281 | Lot 27 PLAN 15570 | 2/02/2017 | Approved | Approved | 15 | 7500 | & Patricia Anne Jenkins | Patricia Anne Jenkins |
| | Single House (Garage | 34 Koorabin | | | | | | | | |
| | Addition in Landscape | Drive~YALLINGUP | | 0/00/00/= | | | | | Stephen Butler & Joanna | WA Country Builders Pty |
| DA17/0032 | Value Area) | WA 6282 | Lot 1001 PLAN 24545 | 3/02/2017 | Approved | Approved | 11 | 50000 | Christine Butler | Ltd - Busselton |
| | | 10 Geographe | | | | | | | | |
| | Holiday Home (Single | Close~QUINDALUP | | | | | | | | |
| DA17/0045 | House) 6 people | WA 6281 | Lot 6 PLAN 12649 | 3/02/2017 | Approved | Approved | 8 | 1 | David Michael Gunter | David Michael Gunter |
| | | 125 Endicott | | | | | | | | |
| | Bed & Breakfast (4 Guest | Loop~DUNSBOROUG | | | | | | | | |
| DA17/0046 | Rooms) | H WA 6281 | Lot 9 PLAN 19482 | 13/02/2017 | Approved | Approved | 8 | 1 | Sally Mulhern | Sally Mulhern |

Attachment B

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| | | 15 Morwong | | | | | | | | |
|-------------|-------------------------|-----------------|--------------------|-----------|------------|----------|----|---|---------------------------|--------------------------|
| | Single Dwelling | Street~KEALY WA | Lot 1334 PLAN | | | | | | Ross Geoffrey | |
| DA17/0074 | (Landscape Value Area) | 6280 | 407112 | 9/02/2017 | Approved | Approved | 1 | 0 | Rutherford | Ross Geoffrey Rutherford |
| | | 24 Harbeck | | | | | | | | |
| | Patio (Landscape Value | Drive~KEALY WA | Lot 1203 PLAN | | | | | | Tyler William Thomas | |
| DA17/0075 | Area) | 6280 | 403613 | 9/02/2017 | Approved | Approved | 1 | 0 | Gow | Tyler William Thomas Gow |
| | | 29 Mackerel | | | | | | | | |
| | Single Dwelling | Avenue~KEALY WA | Lot 1108 PLAN | | | | | | Perron Developments | Perron Developments Pty |
| DA17/0076 | (Landscape Value Area) | 6280 | 401651 | 9/02/2017 | Approved | Approved | 1 | 0 | Pty Ltd & Stawell Pty Ltd | Ltd, Stawell Pty Ltd |
| | Three (3) Survey Strata | 6 Thomas | | | | | | | | |
| | Lots (280sqm, 304sqm & | Street~WEST | | | | | | | | |
| | 347sqm & Common | BUSSELTON WA | | | | | | | Paul Francis Byrne & Lisa | |
| WAPC15/0061 | Property) | 6280 | Lot 3 DIAGRAM 8160 | 7/02/2017 | Approve | Approved | 42 | 0 | Mary Byrne | RG Lester & Associates |
| | | 85 Woodlands | | | | | | | | |
| | | Road~WILYABRUP | Lot 2 DIAGRAM | | | WaitWAP | | | | |
| WAPC17/0004 | 3 Lot Subdivision | WA 6280 | 30212 | 6/02/2017 | NotSupport | С | 7 | 0 | Willy Nilly (WA) Pty Ltd | Allerding & Associates |
| | | | | | | | | | | |





Meelup Regional Park Management Committee

CO Locked Bag 1 · Busselton · Western Australia · 6280 Email: Kay.Lehman@busselton.wa.gov.au

Web: ww.meeluppark.com

Informal Meeting- Notes

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DATE: Monday 30 January 2017, 10am
VENUE: Eagle Bay Hall, Fern Road, Eagle Bay

1. ATTENDANCE AND APOLOGIES

Attendance:

Members: Dr Bob Jarvis (Presiding Member), Mr Peter Randerson (Deputy Presiding Member), Councilor Terry Best, Mrs Shirley Fisher, Mr Tony Smurthwaite, and Mr Albert Haak and Mr Damien Jones.

Officers: Mr Greg Simpson (Manager Environmental Services) and Ms Kay Lehman (Meelup Environment Officer- EO).

Apologies: Councilor John McCallum, Ms Lisa Archer, Ms Arlene Maidment and Mr Bob Ginbey.

2. FINANCIAL SUMMARY - Attachment A

Proposed Direction:

1. That the Committee notes the January 2017 Financial Summary (Attachment A).

3. MEELUP VOLUNTEER UPDATE

After a short break over the Xmas/New Year period volunteer activities resumed on the $10^{\rm th}$ January 2017.

 The first 2 weeks involved vegetation pruning/clearing and widening of the Car Rally Trail from Sheen Road down to the Meelup carpark. This is in preparation for the placing of limestone and use of the trail as part of the Rapid Ascent X Adventure.

Meelup Regional Park Management Committee Informal Meeting Minutes - 30 January 2017

The 24th of Jan was spent watering some of the plantings within Zone 6, and removal of covers
from the dead plants. Shirley and Graham Fisher cleared a small area along the upper track off
Gifford road which was infested with Great Mullein (Aaorn's rod) a tall weed making seed but
not yet released.

Proposed Direction:

1. Information for the Committee to note.

4. ACTION SUMMARY PROGRESS UPDATE

The Action Summary table was discussed. The action summary is appended as Attachment B.

5. REPORTS

5.1 Proposed Disabled Access to Eagle Bay Beach

Don Best, President of the Residents of Eagle Bay Association (REBA) and Eagle Bay Community Hall Association (EBCHA) and Kylie Brierty, a member of EBCHA and the association's access ramp subcommittee, presented a proposal to construct a disabled access path, ramp and stairway connection from the Eagle Bay Community Hall to the beach. The presentation to Meelup Regional Park Management Committee members was held onsite 30 January 2017.

The following is a summary of the information presented to members by Mr Best and Ms Brierty.

Background and Hall Construction

In 2012, the Eagle Bay Community Hall Association (EBCHA) was established to focus on development of a community hall on Lot 48 in Eagle Bay. After a fairly extensive local community consultation period a conceptual plan for a community hall was finalised. This final concept envisaged a hall, in front of which was a small public/picnic area from which an access ramp would be provided to enable disabled access to the beach. Incorporated with the access ramp would be a stairway and a viewing platform. The purpose of the stairway being to provide beach goers access to the beach other than using the informal beach boat ramp, which can be a safety issue when boats are being launched or retrieved. The viewing platform would enable people not mobile enough to walk on the beach to get a great view of the Eagle Bay and the Meelup park area.

EBCHA fund raised and with support from the City and a Lottery west grant, construction of the hall was completed in December 2014. The hall is now functioning well and is being well utilised and the associated upgraded car parking arrangements are a great improvement.

Progressing the Disabled beach Access ramp (Second Stage)

In early 2016 a concept design and plan for the beach access works was developed by EBCHA to enable contractors to provide quotations for undertaking the works. The lowest of the tender prices is around \$82,000. (Next price was \$114,000).

Attachment C

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At the November 2016 AGM of EBCHA there was strong support for the second stage of works, which is improving landscaping in the public access /picnic area in front of the hall and constructing an access ramp and stairway to the beach for the disabled. The Association have formed a subcommittee to help drive this second stage of works forward.

As part of the land on which the proposed access ramp and stairway to the beach is to be constructed is part of Meelup Regional Park, a motion was passed at the associations AGM to meet with City staff and the Meelup Regional Park Management Committee, to seek support for the proposal and to discuss joint funding opportunities for progressing the proposed works.

Proposed Direction:

- 1. Information for the Committee to note.
- The Committee supported the proposal to develop an access ramp and stairway to the beach for the disabled at Eagle Bay including shower facilities and REBA submitting an application to LotteryWest for a grant to fund construction of the project.

5.2 Meelup Recreation Reserves Budget

A review of proposed Recreation Reserves projects to June 2017 is included with this Agenda for the Committee to note and discuss. Refer to **Attachment D.**

Proposed Direction:

1. Information for the Committee to note.

5.3 Litter Control Contractor

The litter contractor Ms Jenny Clark commenced work on 18th December 2016 and is contracted to work 8 hours a week between December 2016 -June 2017. The contractor reports fortnightly on the types and amounts of litter collected, noting where there are particular large amounts of litter, camp fires, camping and dogs.

A total of 51 bags of rubbish were collected from 19th-27 December 2016, with 11 bags of rubbish collected in the last fortnight at coastal node areas. Ms Clark was commissioned to work additional hours post Boxing Day and for the upcoming Australia Day to collect litter on 27th January.

Proposed Direction:

1. Information for the Committee to note.

5.4 Boxing Day Report

A summary report for Boxing Day 2017 is included as **Attachment E**. Similar arrangements will be implemented in Meelup Regional Park for Australia Day 2017.

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Proposed Direction:

- 1. Information for the Committee to note.
- 2. Investigate the instalment of temporary toilets at the Gannet Rock carpark.

5.5 Curtis Bay

In the last fortnight, there have been beach parties, overnight camping and campfires on the beach at Curtis Bay. Firewood collected in the area has resulted in damage to vegetation near the beach and discarded food scraps and litter may be attracting scavengers following a report from a member of the public that a fox and cat has been observed in this area. There have also been signs of camp fires at Castle Bay and Gannet Rock.

Proposed Direction:

- 1. That enforcement signage on overnight camping and campfires be installed at Curtis Bay.
- 2. Arrange for the pest control operator to bait in the area adjacent to Curtis Bay.

5.6 Signage at Point Piquet Whale Platform

An interpretative sign with information on whales in the region is proposed for the Point Piquet whale platform area. Further consultation with Dunsborough Coast and Landcare Group and with Chris Burton from Western Whale Research will be undertaken to finalise the whale interpretive information to be included on the signage.

Proposed Direction:

- 1. Information for the Committee to note.
- Interpretative signage to be developed in accordance with Meelup Regional Park Sign System guidelines following consultation with Dunsborough Coast and Landcare Group and with the Western Whale Research group.

5.7 Equipment Storage Shed

A number of possible locations for the shed within the Dunsborough area are being reviewed to determine their suitability for construction of a storage shed and further information on the review was presented to the committee.

Proposed Direction:

1. Information for the Committee to note.

5.8 Park Maintenance update

The following park maintenance has been undertaken or commissioned over the last month:

- Bollards installed and rocks placed at the Riedle Park gate entry to improve Park access security;
- Castle Bay rock wall repaired;

8 March 2017

Meelup Regional Park Management Committee Informal Meeting Minutes - 30 January 2017

- Log placed at Gannet Rock to prevent vehicle access near picnic table;
- Watering of advanced planted Peppermint at Meelup Beach and coastal zone plantings accessible from carparks planted in winter 2016; and

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• Installation of the Salmon Fishing sign at Baudin Memorial.

Proposed Direction:

1. Information for the Committee to note.

5.9 Future Research Project Meeting

The Future Research Project subcommittee is due to meet on Wednesday $\mathbf{1}^{\text{st}}$ February at 1pm at Committee member Shirley Fishers house.

Proposed Direction:

1. Information for the Committee to note.

6.0 Meeting Closure

The meeting was closed at 12:30pm.

7.0 NEXT MEETING- 27 February 2017 at 10am - Dunsborough District Country Club.

ATTACHMENT B - ACTION TABLE (post January 2017 Meeting)

| | ATTACHINENT B - ACTION TABLE (post January 2 | | | |
|---|---|----------------------------------|---|-----------|
| Subject | Action | Date of Committee Decision | Progress | Completed |
| , | | | | |
| Wildflower Brochures | Shirley Fisher requested that more wildflower brochures are required to be printed- possibly up to 5,000 | 30/01/2017 | | |
| Signage at Point Piquet Whale Platform | Interpretative signage to be developed in accordance with Meelup Regional Park Sign System guidelines following consultation with Dunsborough Coast and Landcare Group and with the Western Whale Research group. | 30/01/2017 | Noted by the City. | Done |
| | That enforcement signage on overnight camping and campfires be installed at Curtis Bay. Arrange for the pest control operator to bait in the area adjacent to Curtis Bay. | | | |
| Curtis Bay | | 30/01/2017 | The pest control contractor has been norified of the sightings and to include in the program. | |
| Boxing Day Report | Investigate the instalment of temporary toilets at the Gannet Rock carpark. | 30/01/2017 | | |
| Proposed Disabled Access to Eagle Bay Beach | The Committee supported the proposal to develop an access ramp and stairway to the beach for the disabled at Eagle Bay including shower facilities and REBA submitting an application to LotteryWest for a grant to fund construction of the project. | 30/01/2017 | The City to notify REBA of the Committee's decision. | |
| Equipment Storage Shed | City staff to check other possible sites for the shed. | | Further options are to be investigated by the City. | |
| Meelup Mallee Project | EO to get information on the Meelup Mallee to the fire control officers in the area including Eagle Bay, Dunsborough, Chief Bushfire Control Officer Allan Guthrie and the City Community Emergency Services Officer. | | The EO has received information from DPaW on the required information on the Meelup mallee and has sent to the required Fire and Emergency personnel for their information. | DONE |
| Litter control contractor | Committee members to meet with Ms Jenny Clark and the EO on 20th December at Castle Bay carpark. | | The contractor, Ms Jenny Clark meet with the EO, Presiding Member Bob Jarvis and Deputy Prsiding member, Peter Randerson. | DONE |
| Entry of Vechicle into the Park | EO to arrange fencing of approximately 8 metre section along the western boundary firebreak where the vehicle may have entered the Park. | | Quotes have been received to either fence or use bollards. Liasion is required with the adjoining property owner. | DONE |
| Dieback Management Report | EO to arrange a limestone pad at the fire hydrant on Sheen Road. EO to obtain costings for a gate and limestone sheeting of the wildlife corridor. EO to arrange to undertake dieback boundary checks in 2017. | 28/11/2016 | Dieback Treatment Services engaged to undertake dieback boundary check in the week starting 30 January- team of four-2 mapping, 2 doing treatment. Quotes received for fencing/bollards and limestone works. | DONE |
| Point Piquet Proposed Toilet Block | EO to follow-up options option to paint the outside or incorporate a screen around the proposed facility. | 28/11/2016 | There has been another meetings with the Presiding member and City staff on the proposed toilet facilities. As a result of the meeting the carpark and ablution facility design is to be revised. Waiting on feedback from the City Engineering staff. | |
| Upcoming Event in the Meelup Regional Park | 28/11/16- 1.Discuss the option of using the Meelup Brook trail, Sheen Road and then using the Meelup Eagle Bay Road for runners either back to Meelup Beach or to Castle Bay with the event organiser. 2. EO to arrange a contractor to cement the loose granite rocks in low retaining walls in the carpark. 3. EO to check with City event staff if paper cups can be used at the water fountain-instead of plastic cups in future. | 31/11/16 | Rapid Ascent X Adventure organiser wants to use the trail network (which are in the spirit and type of race) and want to avoid the use of traffic management. The EO and Presiding member hves met with the X Adventure event organisers and have finalising the bike trail section of the event. The maintenance works at Castle Bay have been completed. Event staff have contacted Royal Life Saving who run the Leavers Meelup Beach day event regarding the use of paper cups as an alternative to plastic. This issue will be followed up by the event staff in late February at the first leavers meeting. | |

Meelup Regional Park Management Committee Informal Meeting Minutes - 30 January 2017

| Dieback Inspections Proposed Projects- Castle Rock Improvements | 28/11/16-EO to contact the Water Corporation to see if they would contribute to the cost of the limestone sheeting of the access tracks to the tank facility. 28/11/16-EO to progress this project with the Manager, Environmental Services to scope the project and arrange a contractor to undertake the work. Works to include piping gas under the road, fill in the drain and installation of table setting. | 31/11/16 27/09/2016 | EO to contact Water Corporation staff to arrange a site inspection of access tracks to the water tank to discuss dieback best practice with Meelup Committee members-Bob Jarvis and Peter Randerson. Waiting on response from Water Corporation staff. Engineering advised to send scope of works to plumbing contractor as this work is not done in-house. 28/11/16- Presiding member has discussed with a plumber re horizontal drilling. The plumber have suggested cutting the road instead of horizontal drilling. This project is scheduled to be implemented this financial year. 30/1/17- The Castle Bay improvements were supported by the Committee. | |
|---|--|------------------------|---|-------------------------------------|
| Eagle Bay-Rocky Point Trail Upgrade | EO to investigate Eagle Bay to Rocky Point trail and Meelup Regional Park boundary alignments to identify the section of trail that is currently traversing through private property. | | Have received GIS mapping details of areas of private land to start to progress this project. 28/11/16- Two trail signs are required along this section as well as limestone sheeting of an approximate 30 metre section of trail which is eroding. Trail signs installed with help from Green Army. There are a few more signs to be installed. Limestone sheeting will be included in the scope of works for trail maintenance. Require feedback from the Committee on the priority of this project to re-align the trails within the Park. 30/1/17- EO to investigate old reports. | |
| Governance and Management Arrangements | Governance Services to go over the Meelup governance and management arrangements for when the new Committee member is appointed in a few months. | | Scheduled for February 27th 2017 Committee meeting with the Director of Finance and Corporate Services. | |
| Meelup Beach- Trees | EO to prepare a scope of works for a tree condition audit, landscape and vegetation plan for Meelup Beach and investigate the available of grant funding to undertake the project. 23 August 2016-EO to check the Meelup Master Plan for landscape design works-DONE 27 Sept 2016-Find the information on the Meelup files with the audit of trees previously undertaken. Shirley Fisher has a copy of the files and will give to EO-DONE 27 Sept 2016-To form a subcommittee for the project consisting of Shirley Fisher, Bob Jarvis, Peter Randerson and Tony Smurthwalte. EO to arrange an aerial photo of the site for the meeting. For the subcommittee to meet at Meelup beach on 17th October at 3pm Meeting held-DONE | | This project has been included in the 2016/17 Work Plan. Meeting held with subcommittee members on 17th October 2016. Seedlings have been ordered for next year plantings. Quotes have been received and the Tree audit work and treatment plan has been awarded to Total Horticulture Services. Waiting on the report. | DONE |
| Sign audit | That a sign audit be undertaken to identify the types and location of signage throughout the Park. | | The coastal signage audit in progress- see details in the September 2016 Agenda. Ongoing consultation with the Committee. EO has given Bob Jarvis the 30 corflute dog signs for the volunteers to distribute along trails and beaches in the Park. | |
| Website update | EO to check with City IT staff if they can update the Meelup website and update information on the website on a regular basis. | | EO has received some training from City IT staff on updating the website. Updating of the webiste has commenced. | |
| | Ongoing Items | • | | • |
| Training Needs for the Meelup Regional Park Committee members | Environmental training opportunities, workshop, events. EO to arrange speakers on relevant topics e.g. experts from DPaW. | | Training/ Community Engagement opportunities: 1. In Safe Hands Tookkit (Conservation Volunteers) Margaret River 14th February 2017. 2. Dieback GreenCard training for 15 community members-scheduled for 3 April 2017. RSVP to Kay 3. Annual Hooded Plover Survey-3 and 4 February 2017. Register your interest with EO. | Ongoing training as available |



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AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION

19 January 2017

Mr Mike Archer Chief Executive Officer City of Busselton Locked Bag 1 BUSSELTON, WA 6280

CIB

Dear Mr Archer,

I'm writing to introduce myself as the new President of the Australian Local Government Association (ALGA), having been elected to the role at ALGA's Annual General Meeting in November last year.

I've been involved in Local Government for the past 13 years and I am currently the elected Mayor of the City of Prospect in Adelaide. I've served on the ALGA Board for three and a half years and am committed to advancing the cause of Local Government in this country, and to fighting for the funding we need to provide the services and infrastructure our communities deserve. I welcome the opportunity to meet with you to discuss the priorities for the Local Government sector and opportunities for greater collaboration between Local and Federal Government.

The year ahead looks to be filled with a range of opportunities for Local Government and Australia. I'll be working closely with key Federal Parliamentarians to help achieve smarter, more productive and more resilient communities throughout Australia. I'm particularly interested in how we can work on improving the way our cities grow, developing vibrant regions, and increasing investment in productive infrastructure that is critical to the future of our country.

ALGA will be making a detailed submission in the lead up to the 2017/2018 Federal Budget. This submission will focus on ensuring the security of services and infrastructure for local communities including:

- improving access to municipal services and implementing a Jobs Creation Community Infrastructure Program;
- accelerating transport reforms to enable greater and safer freight movements through higher productivity vehicles; and
- continuing to maintain basic access through improved local roads and infrastructure.

Specifically, ALGA is seeking the following:

an immediate end to the Financial Assistance Grants (FAGs) indexation freeze. Over the
three years of the freeze, the base level of FAGs has been reduced by more than \$300
million per annum;

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- an increase of the quantum of FAGs to at least 1 per cent of Commonwealth taxation, which
 would better provide councils with the financial resources required to help meet the local
 services and infrastructure needed by communities;
- implementing a Local Freight Productivity Investment Plan to increase productivity through a targeted investment of \$200 million per year for five years, specifically targeting productivity outcomes through improved access and connectivity;
- permanent doubling of Roads to Recovery (to at least \$700 million per annum) to address
 the \$1.2 billion annual funding shortfall which is needed to maintain Australia's local roads
 and to support national productivity improvements; and
- establishing a Community Infrastructure Funding Program of \$300 million per annum over four years to help restore the estimated 11 per cent of roads and community infrastructure that are in poor or very poor condition.

ALGA relies on a close relationship with State and Territory Local Government Associations as well as the support and engagement of the sector through our conferences, newsletter and research. Four save-the-date cards are enclosed to advise your council of ALGA's events throughout the year. Please distribute these cards to the relevant people in your council. Local Government's major event, the National General Assembly, will be held in Canberra from 18 – 21 June and I strongly encourage you to mark this in your calendar to ensure your voice and the voice of your community is heard at this important event.

I would also like to take this opportunity to encourage you to maintain a strong and collaborative relationship with your State or Territory Local Government Association. The President and Vice President of your Association sit on the ALGA Board and shape the national policy priorities we pursue. It is through your Association that you can ensure the needs and views of your community are captured at the state level and pursued at the national level.

I look forward to working closely with you.

Yours sincerely

Mayor David O'Loughlin

City of Prospect

President, Australian Local Government Association



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CIB

Minister for Local Government; Community Services; Seniors and Volunteering; Youth

Our Ref: 57-01026

TO ALL LOCAL GOVERNMENTS

MINISTERIAL CIRCULAR NO 01-2017

LOCAL GOVERNMENT (REGIONAL SUBSIDIARIES) REGULATIONS 2017

I am pleased to announce the introduction of the regional subsidiary model in Western Australia. This is a mechanism that local governments have sought for many years and the necessary changes have now been enacted.

In 2016, the *Local Government Act 1995* was amended to permit two or more local governments to form a corporate entity known as a 'regional subsidiary' for the purposes of carrying out joint activities in their districts.

Regional subsidiaries are a semi-independent collaborative mechanism with flexible financial reporting and reduced regulatory compliance. Each subsidiary will be governed by a charter as agreed by the participants. The model is a compromise between the strictly regulated Regional Local Government model and the variable nature of a Voluntary Regional Organisation of Councils.

The new mechanism can be used as a collaborative means of providing existing local government services such as waste collection, public facilities or maintenance of council land.

The model also provides new opportunities for collaboration between local governments, for example:

- ✓ regional aged care and support;
- ✓ local child care services;
- ✓ supply procurement;
- ✓ building management;
- ✓ shared office services (e.g. accounting, payroll or IT support); and
- ✓ advocacy groups for local tourism.

The new sections of the Act were activated by the Governor's proclamation on 20 January 2017. The proclamation is accompanied by the publication of the Local Government (Regional Subsidiaries) Regulations 2017.

Minister for Local Government - Regional Subsidiaries Regulation 2017

-2-

The Regulations prescribe several matters that are necessary for the successful operation of regional subsidiaries. This includes:

- (a) the level of public consultation that must occur when forming a subsidiary;
- (b) a list of issues that a regional subsidiary's charter must address; and
- (c) several statutory rights provided to local governments to ensure the subsidiary remains within their control.

The Regulations also restrict a regional subsidiary from pursuing speculative investments, commercial enterprises or taking out financial loans except from a participant local government. This will ensure that these entities remain low risk and non-commercial as Parliament intended.

A detailed list of the Regulations are attached for your consideration, along with a comparison table of how a regional subsidiary compares to the existing Regional Local Government model.

The Regulations are the result of consultation with the local government sector and other stakeholders. I take this opportunity to thank all the local governments and peak organisations who assisted in this process.

Guidelines and supporting information are being prepared to assist local governments who may wish to take advantage of the new model. These documents will be released once my Department of Local Government and Communities has consulted further with stakeholders on appropriate content.

If you have questions regarding the Regulations, please contact Mr Steven Elliott, Senior Legislation Officer at my Department, on 6552 1642 or alternatively by email to steven.elliott@dlgc.wa.gov.au.

HON PAUL MILES MLA

MINISTER FOR LOCAL GOVERNMENT; COMMUNITY SERVICES;

SENIORS AND VOLUNTEERING; YOUTH

atts

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

17. CONFIDENTIAL REPORTS

Nil

18. **QUESTIONS FROM MEMBERS**

19. PUBLIC QUESTION TIME

20. <u>NEXT MEETING DATE</u>

Wednesday, 22 March 2017

21. <u>CLOSURE</u>