

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

**CITY OF BUSSELTON**

**MINUTES FOR THE COUNCIL MEETING HELD ON 12 OCTOBER 2016**

**TABLE OF CONTENTS**

<b>ITEM NO.</b>	<b>SUBJECT</b>	<b>PAGE NO.</b>
1.	DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS.....	3
2.	ATTENDANCE .....	3
3.	PRAYER .....	4
4.	PUBLIC QUESTION TIME.....	4
5.	ANNOUNCEMENTS WITHOUT DISCUSSION.....	4
6.	APPLICATION FOR LEAVE OF ABSENCE.....	4
7.	PETITIONS AND PRESENTATIONS .....	4
8.	DISCLOSURE OF INTERESTS .....	4
9.	CONFIRMATION AND RECEIPT OF MINUTES .....	4
	Previous Council Meetings.....	4
	9.1 Minutes of the Council Meeting held 28 September 2016 .....	4
	Committee Meetings.....	5
	9.2 Minutes of the Policy & Legislation Committee Meeting held 29 September 2016 .....	5
	9.3 Minutes of the Airport Advisory Committee Meeting held 30 September 2016.....	5
10.	REPORTS OF COMMITTEE .....	7
	10.1 Policy and Legislation Committee - 29/09/2016 - COMPLAINTS HANDLING POLICY REVIEW .....	7
	10.2 Policy and Legislation Committee - 29/09/2016 - ORGANISATIONAL WIDE RISK MANAGEMENT POLICY .....	14
	10.3 Airport Advisory Committee - 30/09/2016 - BUSSELTON MARGARET RIVER AIRPORT - HELICOPTER OPERATION EOI PROPOSAL .....	18
	10.4 Airport Advisory Committee - 30/09/2016 - BUSSELTON-MARGARET RIVER AIRPORT - BUSSELTON AERO CLUB LANDING FEES PROPOSAL.....	27
11.	PLANNING AND DEVELOPMENT SERVICES REPORT .....	47
	11.1 APPLICATION FOR PLANNING CONSENT FOR A SERVICE STATION (WITH ANCILLARY WHOLESALE FRUIT AND VEGETABLE, INCLUDING SMALL SCALE RETAIL AND DRIVE-THROUGH COFFEE OUTLET) .....	63
	11.2 DRAFT STRUCTURE PLAN– LOT 115, WILDWOOD ROAD, YALLINGUP - CONSIDERATION OF ADOPTION FOR FINAL APPROVAL.....	74
	11.3 PROPOSED CHANGE TO DOG CONTROL DESIGNATIONS - EAGLE BAY.....	47
12.	ENGINEERING AND WORKS SERVICES REPORT.....	52
13.	COMMUNITY AND COMMERCIAL SERVICES REPORT .....	52
14.	FINANCE AND CORPORATE SERVICES REPORT .....	33
	14.1 PROPOSED LEASE BUSSELTON SURF LIFE SAVING CLUB INCORPORATED .....	52

14.2	BUSSELTON PISTOL CLUB LEASE OF A PORTION OF RESERVE 28419 .....	33
<b>15.</b>	<b>CHIEF EXECUTIVE OFFICER'S REPORT .....</b>	<b>44</b>
15.1	AWARD OF TENDER RFT17/16 MILNE STREET SPORTS PAVILION CONSTRUCTION.....	58
15.2	COUNCILLORS' INFORMATION BULLETIN .....	44
<b>16.</b>	<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....</b>	<b>83</b>
<b>17.</b>	<b>CONFIDENTIAL REPORTS .....</b>	<b>83</b>
17.1	Airport Advisory Committee - 30/09/2016 - RFT11/16 - AIRSIDE D & C CONTRACTOR.....	83
<b>18.</b>	<b>QUESTIONS FROM MEMBERS .....</b>	<b>85</b>
<b>19.</b>	<b>PUBLIC QUESTION TIME.....</b>	<b>85</b>
<b>20.</b>	<b>NEXT MEETING DATE .....</b>	<b>85</b>
<b>21.</b>	<b>CLOSURE .....</b>	<b>85</b>

## MINUTES

MINUTES OF A MEETING OF THE A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN MEETING ROOM ONE, COMMUNITY RESOURCE CENTRE, 21 CAMMILLERI STREET, BUSSELTON, ON 12 OCTOBER 2016 AT 5.32PM.

### 1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 5.32pm.

### 2. ATTENDANCE

#### Presiding Member:

Cr Grant Henley Mayor

#### Members:

Cr Coralie Tarbotton  
Cr Ross Paine  
Cr Terry Best  
Cr John McCallum  
Cr Rob Bennett  
Cr Paul Carter  
Cr Robert Reekie  
Cr Gordon Bleechmore

#### Officers:

Mr Mike Archer, Chief Executive Officer  
Mr Oliver Darby, Director, Engineering and Works Services  
Mr Paul Needham, Director, Planning and Development Services  
Mr Matthew Smith, Director, Finance and Corporate Services  
Mr Cliff Frewing, Acting Director, Finance and Corporate Services  
Mr Jeremy O'Neill, Manager, Community and Commercial Services  
Miss Hayley Barge, Administration Officer, Governance  
Ms Leigh Sly, Executive Assistant to the CEO

#### Apologies

Nil

#### Approved Leave of Absence

Nil

#### Media:

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

#### Public:

13

**3. PRAYER**

The prayer was delivered by Pastor Nigel Wittwer of Hope Christian Church.

**4. PUBLIC QUESTION TIME****Response to Previous Questions Taken on Notice****Public Question Time**

Nil

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

The Mayor acknowledged long standing senior staff member, Director, Finance and Corporate Services, Matthew Smith for 21 years of service, who is off on a one year sabbatical.

**Announcements by other Members at the invitation of the Presiding Member**

Nil

**6. APPLICATION FOR LEAVE OF ABSENCE****Council Decision****C1610/090**

Moved Councillor J McCallum, seconded Councillor T Best

That Leave of Absence be granted to Councillor Coralie Tarbotton for the 26 October 2016 Council Meeting.

**CARRIED 9/0****7. PETITIONS AND PRESENTATIONS**

Nil

**8. DISCLOSURE OF INTERESTS**

Nil

**9. CONFIRMATION AND RECEIPT OF MINUTES****Previous Council Meetings****9.1 Minutes of the Council Meeting held 28 September 2016****Council Decision****C1610/091**

Moved Councillor T Best, seconded Councillor G Bleechmore

That the Minutes of the Council Meeting held 28 September 2016 be confirmed as a true and correct record.

**CARRIED 9/0**

**Committee Meetings**9.2 Minutes of the Policy & Legislation Committee Meeting held 29 September 2016**Council Decision****C1610/092** Moved Councillor P Carter, seconded Councillor R Reekie

- 1) That the minutes of the Policy & Legislation Committee meeting held 29 September 2016 be received.
- 2) That the Council notes the outcomes from the Policy & Legislation Committee meeting held 29 September 2016 being:
  - a) The Complaints Handling Policy Review item is presented for Council consideration at item 10.1 of this agenda.
  - b) The Organisational Wide Risk Management Policy item is presented for Council consideration at item 10.2 of this agenda.
  - c) The general discussion item on the Policy Regarding the Use of the Mayor's Vehicle is noted.

**CARRIED 9/0**9.3 Minutes of the Airport Advisory Committee Meeting held 30 September 2016**Council Decision****C1610/093** Moved Councillor G Bleechmore, seconded Councillor C Tarbotton

- 1) That the minutes of the Airport Advisory Committee meeting held 30 September 2016 be received.
- 2) That That the Council notes the outcomes from the Airport Advisory Committee meeting held 30 September 2016 being:
  - a) The Busselton Margaret River Airport - Helicopter Operation EOI Proposal item is presented for Council consideration at item 10.3 of this agenda.
  - b) The Busselton-Margaret River Airport - Busselton Aero Club Landing Fees Proposal item is presented for Council consideration at item 10.4 of this agenda.
  - c) The RFT11/16 - Airside D & C Contractor item is presented for Council consideration at item 17.1 of this agenda.

**CARRIED 9/0**

**ITEMS BROUGHT FORWARD AND ADOPTION BY EXCEPTION RESOLUTION**

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

**Council Decision / Committee Recommendation and Officer Recommendation**

**C1610/094** Moved Councillor G Bleechmore, seconded Councillor T Best

That the Committee and Officer Recommendations in relation to the following agenda items be carried en bloc:

- 10.1 Policy and Legislation Committee - 29/09/2016 - COMPLAINTS HANDLING POLICY REVIEW
- 10.2 Policy and Legislation Committee - 29/09/2016 - ORGANISATIONAL WIDE RISK MANAGEMENT POLICY
- 10.3 Airport Advisory Committee - 30/09/2016 - BUSSELTON MARGARET RIVER AIRPORT - HELICOPTER OPERATION EOI PROPOSAL
- 10.4 Airport Advisory Committee - 30/09/2016 - BUSSELTON-MARGARET RIVER AIRPORT - BUSSELTON AERO CLUB LANDING FEES PROPOSAL
- 14.2 BUSSELTON PISTOL CLUB LEASE OF A PORTION OF RESERVE 28419
- 15.2 COUNCILLORS' INFORMATION BULLETIN

**CARRIED 9/0**

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## 10. REPORTS OF COMMITTEE

### 10.1 Policy and Legislation Committee - 29/09/2016 - COMPLAINTS HANDLING POLICY REVIEW

<b>SUBJECT INDEX:</b>	Complaints Handling
<b>STRATEGIC OBJECTIVE:</b>	An organisation that is managed effectively and achieves positive outcomes for the community.
<b>BUSINESS UNIT:</b>	Information Services
<b>ACTIVITY UNIT:</b>	Customer Service
<b>REPORTING OFFICER:</b>	Manager, Information Services - Hendrik Boshoff
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Matthew Smith
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Complaints Handling Policy with Tracked Changes⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 29 September 2016, the recommendations from which have been included in this report.**

#### **PRÉCIS**

The Complaints Handling Policy is presented for review and update as part of the ongoing policy review process. The policy has been reviewed and assessed as requiring only minor changes as outlined in this report. While only one minor alteration is recommended, the operation of the policy has been examined in detail to ensure no other changes are required. The opportunity has also been taken to provide information to Council on the work that has been undertaken in developing internal guidelines and procedures to bring the Policy into effect.

#### **BACKGROUND**

At the meeting of 24 April 2012 Council resolved (C1204/104) to adopt a policy (012) to provide a guiding document for Council and the City with regards to complaints management in order to most effectively meet their service provision obligations to the community, its residents and stakeholders.

As part of the implementation officers developed a complaint handling Operational Practise and Procedure (OPP), which set out the business rules for the City. Once approved, the OPP was used to develop a training program for all staff, a complaint register module within the City's information technology systems and a complaints reporting mechanism.

The training program included training to staff in relation to:

- The officer's role in customer service delivery;
- Identifying the circumstances of a true complaint;
- Obligations officers have to uphold the Customer Service Charter; and
- The officer's role in the complaint handling process.

The training has been delivered as part of an organisation wide training program and was adapted for inclusion to the City's new staff induction process, which is currently being delivered to all new employees.

The complaints register information technology system enables the City to track a complaint as it is:

- received;
- distributed to the appropriate officers;
- actioned;
- corresponded to; and
- resolved.

The information retained in this system forms the basis of the biannual report to Council as part of the organisational Key Performance Indicator (KPI) report. Over the past three (3) years the City has experienced a fairly steady number of complaints each year. All complaints have all been tracked and resolved as at the close of the financial year 2015/16.

The policy is to be reviewed as required. As it has been four years since the implementation, this review is now being undertaken.

### **STATUTORY ENVIRONMENT**

The policy itself includes provisions in order to comply with the State Records Act 2000.

### **RELEVANT PLANS AND POLICIES**

This report recommends changes to an existing Council policy, the Complaints Handling Policy (012).

### **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 with regards to complaints management, in order to most effectively meet its service provision obligations to the community, 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 policy review.

### **CONSULTATION**

Whilst there has been no specific consultation with the community in relation to the review of the policy, internal consultation have been undertaken with relevant officers as it relates to the operation of the complaints handling process.

### **OFFICER COMMENT**

Generally, it is believed that the Complaints Handling Policy and in particular the internal procedures developed to give effect to that Policy, are operating effectively.



The Policy currently contains a requirement to develop a procedure for complaint handling as follows:

*'Develop clear and accessible guidelines for dealing with vexatious and / or malicious complainant.'*

Upon review, it is believed that the complaint handling processes and guidelines that have been put in place already allow the opportunity to assess each complaint based on its own circumstances and enable vexatious and/or malicious complaints to be dealt with as part of the investigation process.

For example, in situations where a complainant might make contact with the City via multiple channels or on multiple occasions in relation to the same complaint, the process allows for each to be recorded under the original complaint and dealt with as a singular complaint. Where a complaint might be found to lack substance during any stage of the investigation, there is an opportunity to resolve the complaint and communicate the findings at that time. Similarly, if a complaint is received the subject of which has already been investigated and resolved, in the absence of new information or any change of circumstances surrounding the matter, the process allows for the complaint to be noted as resolved and the resolution communicated to the complainant.

On this basis it is seen as unnecessary and perhaps counterproductive to produce a specific procedure dealing with vexatious or malicious complaints. Ultimately the complaint investigation process will determine whether or not a complaint is substantiated and generally specifically identifying a complaint as vexatious or malicious is unnecessary and would not add to the process or assist to meet the objectives of the Policy. Thus it is proposed that the requirement to develop this procedure be deleted.

## **CONCLUSION**

The Complaints Handling Policy is a mechanism to support the City in meeting its complaints management obligations, with the ultimate aim of improving the City's overall customer service. Given the work that has been done in developing complaint handling guidelines in the form of an Operational Practice and Procedure, it is not considered necessary to develop a further procedure to deal with vexatious and malicious complaints. Other than removing the specific requirement to develop this procedure, no further changes are recommended to the Complaints Handling Policy as part of this review.

## **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.

**Council Decision / Committee Recommendation and Officer Recommendation****C1610/095**

Moved Councillor G Bleechmore, seconded Councillor T Best

That the Council adopts the following updated Complaints Handling Policy:

<b>012</b>	<b>Complaints Handling</b>	<b>V2 Draft</b>
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**STATEMENT**

Council recognizes and acknowledges the importance of providing impartial, equitable and timely complaint resolution to the community, its residents and stakeholders.

**PURPOSE**

The intent of the Policy is to provide the guiding document for Council and the City with regards to complaints management in order to most effectively meet their service provision obligations to the community, its residents and stakeholders.

**SCOPE**

This policy applies to all Employees of the City of Busselton.

**POLICY CONTENT**

The City of Busselton regards the provision of excellent complaint resolution services as a core strategic responsibility. In development of this policy, the Council has considered community feedback and expectations, relevant internal and external processes, organizational risks and officer recommendations. In addition, this policy takes into consideration the existing City of Busselton Code of Conduct and Customer Service Policy, which broadly outlines responsible behavior for all City Officers.

This policy applies directly to the delivery of services as documented in the City of Busselton Customer Service Charter. This policy is to ensure that everyone within the organization understands the duties and responsibilities applicable at all levels.

The City of Busselton Complaint Handling Policy is our commitment to the community to address their complaints in a manner that is:

- Customer focused;
- Responsive and empathetic;
- Objective and fair;
- Confidential;
- Accountable and transparent;
- Outcome focused;
- Free of reprisals; and
- Accessible for review and improvement.

**Complaint Definition**

The City of Busselton recognizes a complaint to be:

*Any expression of dissatisfaction with a level of service, repeated lack of promised service or response, or the conduct and/or behavior of any person employed by the City of Busselton, which is not*

*anonymous, made to the City of Busselton through its Councilor, Chief Executive Officer or any of its employees in writing or verbally, where a response or resolution is explicitly or implicitly expected.*

A complaint is therefore not:

- A request for service;

A request for information is:

- A request for an explanation of a policy or procedure;
- The lodging of an appeal in accordance with a standard procedure or policy;
- A freedom of information enquiry;
- An allegation of a breach of the law by a third party; or
- An expression of dissatisfaction with a decision.

### **Responsibilities:**

Councilors will:

- Ensure guidelines for complaint handling service delivery as stated in this policy and the Customer Service Charter are current and relevant and that these guidelines continue to be customer and outcome focused;
- Review this policy on a periodic basis as required by changing community needs;
- Identify performance indicators for expected complaint resolutions, including expected levels of compliance and reporting requirements;
- Support the CEO and Executives in the provision of excellent complaint resolution services;

CEO and Executives will:

- Endorse and support all standards documented in this policy;
- Promote a positive attitude towards complaint and complainant handling;
- Endorse and support an organizational complaint handling procedure which includes, but is not limited to:
  - Processes to capture complaints;
  - Investigation methods and results;
  - Guidelines for resolution decisions;
  - Training requirements;
- Contribute to the regular periodic review of this policy by:
  - Engaging in regular community consultation to ensure current and future customer needs are adequately addressed;
  - Identifying opportunities for improvements to complaint handling procedures;
  - Support Managers and other staff in the provision of customer-focused complaint resolution;
  - Establish mechanisms to monitor compliance with this policy;
  - Establish processes to deal with failure to meet endorsed standards;
  - Report to Council on performance indicators for Complaint resolution.

Managers will:

- Optimize and support complaint handling and resolution mechanisms in place to comply with this policy;
- Ensure officers under direct and indirect supervision are aware of and are following guidelines detailed in this policy and related procedures.
- Ensure new employees are made aware of the complaint policy and procedure and their requirements.

- Ensure ongoing training to foster and develop conflict resolution and other customer service related skills;
- Implement endorsed procedures to deal with failure to meet the standards of this policy;
- Report to the CEO and Executives on performance indicators for complaint resolution.

All Employees will:

- Comply with this policy and associated procedures;
- Actively support others in compliance with this policy and associated procedures;
- Undertake training and performance management as required to maintain an appropriate level of skill in conflict resolution and other customer service related skills;
- Report to Managers as required on performance indicators for complaint handling responsibilities.
- Support complainants through the complaints process as required:
- Seek and report on customer feedback, positive and negative, during the course of customer interaction.

**Procedures:**

Procedures developed for complaint handling will:

- Provide for various methods by which complaints can be lodged, taking into account complainants with disabilities, language issues and literacy issues.
- Include links to the Customer Service Charter agreed levels of service provision that incorporate appropriate timeframes and communication requirements.
- Be customer and outcome focused.
- Adhere to the standardized definition of 'complaint' as stated in the Policy.
- Give means to ensure as many true complaints are captured as is reasonably practical, including relevant documentation, investigation outcomes and resolutions.
- Outline a centralized complaint register format.
- Develop clear responsibilities for all officers across all levels within the organisation as set out in the Policy.
- Develop clear and accessible guidelines for appropriate complaint resolution.
- Comply with the State Records Act 2000.
- Provide clear guidelines for staff training requirements including:
  - New staff inductions;
  - Complaint handling training;
  - Conflict Resolution.
  - Periodic refresher courses;
- Provide guidelines to senior officers delegated to review all complaints, investigations and their resolutions on a regular basis with the goal of identifying trends and issues and providing guidance for service delivery.

**Policy Background**

Policy Reference No. – 012 Owner Unit – Corporate Services

Originator – Customer Service Coordinator Policy Approved by – Council

Date Approved – 24 April 2012 Review Frequency – As required

Related documents – Customer Service Policy and Customer Service Charter

**History**

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
		Adjustment made to remove the line item relating to dealing with vexatious and/or malicious complainants. Version 2
C1204/104	24 April, 2012	Date of Implementation Version 1

**CARRIED 9/0**

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10.2 Policy and Legislation Committee - 29/09/2016 - ORGANISATIONAL WIDE RISK MANAGEMENT POLICY

<b>SUBJECT INDEX:</b>	Risk
<b>STRATEGIC OBJECTIVE:</b>	An organisation that is managed effectively and achieves positive outcomes for the community.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Employee Services and Risk
<b>REPORTING OFFICER:</b>	Manager, Corporate Services - Sarah Pierson
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Matthew Smith
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Organisation Wide Risk Management Policy with Track Changes⇒

**This item was considered by the Policy and Legislation Committee at its meeting on 29 September 2016, the recommendations from which have been included in this report.**

### **PRÉCIS**

The Council has an existing Organisation Wide Risk Management Policy. This policy has been reviewed as part of the City's rolling review of Council policies and is now presented for updating.

### **BACKGROUND**

The purpose of the Organisation Wide Risk Management Policy (the Policy) is to demonstrate the City's commitment to the development of a culture of risk based decision making aimed at the effective management of potential opportunities and reduction of potential impacts of risk.

Council adopted version 1 of the Organisation Wide Risk Management Policy on 10 May 2006, with further improvements being adopted in:

- Version 2 on 27 July 2011; and
- Version 3 on 12 August 2015.

### **STATUTORY ENVIRONMENT**

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

### **RELEVANT PLANS AND POLICIES**

This report recommends the update of Policy 234 – Organisational Wide Risk Management.

As per the requirements of the Policy, the City has a Risk Management Framework which was endorsed by the Senior Management Group in December 2011. The framework outlines the City's formal risk management system and processes for the management of risks. Specifically it outlines:

- The definition of risk and risk management
- The City's risk reference tables
- The risk tolerance levels
- The risk management processes and procedures

### **FINANCIAL IMPLICATIONS**

There are no financial implications associated with this matter.

### **Long-term Financial Plan Implications**

Nil

### **STRATEGIC COMMUNITY OBJECTIVES**

This policy will contribute to the achievement of the key goal area of Open and Collaborative Leadership, and the community objectives of:

- “Governance systems that deliver responsible, ethical and accountable decision making”, and
- “An organisation that is managed effectively and achieves positive outcomes for the community.”

### **RISK ASSESSMENT**

The proposed improvements do not present any risks to Council.

### **CONSULTATION**

Nil

### **OFFICER COMMENT**

The review of the Policy has resulted in minor improvements aimed at ensuring a clear policy statement and a clear set of responsibilities at all levels.

The Policy Statement currently reads “The Risk Management Committee has been established to be responsible for developing, maintaining and assisting in the implementation of the City’s Risk Management Framework.” Developing and maintaining the Risk Management Framework is undertaken by Responsible Officers within Corporate Service, with the Framework endorsed by the Senior Management Group and ultimately the CEO. The Risk Management Committee’s role is to assist in the Framework’s development and to generally provide advice and champion the implementation of risk management systems and processes across the organisation. Hence the Policy Statement has been edited to reflect this and now reads “The Risk Management Committee has been established to assist in developing, maintaining and implementing the City’s Risk Management Framework and is responsible for championing risk management processes throughout the organisation.”

The Policy also included a statement - “The Risk Management Committee is to ensure that all of the risk management processes are fully documented and managed through the records management system.” This is recommended for deletion as this may cause ambiguity with the responsibility of Management for the identification and documentation of risks.

### **CONCLUSION**

The changes being proposed, while minor, seek to strengthen the Policy’s intent and provide a clear overview of responsibilities.

### **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 update would be effective immediately.

**Council Decision / Committee Recommendation and Officer Recommendation****C1610/096**

Moved Councillor G Bleechmore, seconded Councillor T Best

That the Council adopts the following updated Organisational Wide Risk Management Policy:

<b>234</b>	<b>Organisation Wide Risk Management</b>	<b>V4</b>
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**PURPOSE**

The purpose of this policy is to demonstrate the City of Busselton's commitment to the development of a culture of risk based decision making directed towards the effective management of potential opportunities and reduction of potential impacts of risk.

**SCOPE**

This policy applies to all Councillors and employees of the City of Busselton and covers all City operations.

**POLICY STATEMENT**

Risk Management is the systematic application of management policies, practices and procedures in order to identify, analyse, evaluate, treat and monitor risk.

The City of Busselton is committed to the effective management of risk and will implement a Risk Management Framework based on the AS/NZS ISO 31000:2009 Standard to achieve this. The Council recognises that adequate resources are needed to effectively manage risks. The Risk Management Committee has been established to assist in developing, maintaining and implementing the City's Risk Management Framework and is responsible for championing risk management processes throughout the organisation.

**Responsibilities**

The Council is responsible for:

- \* Ensuring that a Risk Management Policy has been developed, adopted and communicated throughout the City.
- \* Ensuring that the CEO has implemented the Risk Management Framework using Standard AS/NZS ISO 31000:2009.
- \* Communicating with the community about the City's approach to risk
- \* Establishment of an Audit Committee

The Audit Committee is responsible for:

- \* Assisting the Council to fulfil its corporate governance, stewardship, leadership and control responsibilities in relation to risk management.
- \* Providing guidance and assistance in relation to risk management initiatives and the effective conduct of risk management activities.

CEO and the Senior Management Group are responsible for:

- \* As part of the Risk Management Framework establishing the risk tolerance level of the City.
- \* Conducting risk assessments as part of decision making & future planning.

Risk Management Committee is responsible for:

- \* Communicating the policy and framework to all employees.
- \* Developing and managing the risk management plan for the City.
- \* Development of Risk Management skills through training and education.
- \* Establishing and maintaining an appropriate risk register or risk registers for the City.



Management are responsible for:

- \* Identifying and assessing all the risks in their area of responsibility as part of business planning reporting, project management and daily decision making.
- \* Collating, assessing, treating and reporting to the Risk Management Committee in relation to areas and tasks under their responsibility.

All Employees are to:

- \* Comply with the City's risk management policy and procedures.
- \* Attend relevant risk management training.
- \* Actively participate in the risk management programme.

### **Policy Background**

Policy Reference No. - 234

Owner Unit – Employee Services and Risk

Originator – Risk and OHS Officer

Policy approved by – Council

Date Approved – 12 August, 2015

Review Frequency – As required

### **References**

Australian and New Zealand Standard AS/NZS ISO 31000:2009 - Risk Management Principles and Guidelines.

### **History**

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
C1508/217	12 August, 2015	Version 3
C1107/229	27 July, 2011	Version 2
C0605/146	10 May, 2006	Date of implementation. Version 1

**CARRIED 9/0**

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10.3 Airport Advisory Committee - 30/09/2016 - BUSSELTON MARGARET RIVER AIRPORT - HELICOPTER OPERATION EOI PROPOSAL

<b>SUBJECT INDEX:</b>	Busselton Margaret River Airport
<b>STRATEGIC OBJECTIVE:</b>	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
<b>BUSINESS UNIT:</b>	Commercial Services
<b>ACTIVITY UNIT:</b>	Commercial Services
<b>REPORTING OFFICER:</b>	Manager, Commercial Services - Jennifer May
<b>AUTHORISING OFFICER:</b>	Director, Community and Commercial Services - Naomi Searle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

**This item was considered by the Airport Advisory Committee at its meeting on 30 September 2016, the recommendations from which have been included in this report.**

### **PRÉCIS**

In December 2015 Council considered a proposal to operate commercial helicopter scenic flights at the Busselton-Margaret River Airport (BMRA) and resolved (C1512/367) that it not be supported and that a formal Expression of Interest process be undertaken, outlining clear criteria and operating conditions for commercial tourism rotary wing operations at the BMRA. This report provides an update to the Council resolution.

### **BACKGROUND**

The Busselton-Margaret River Airport (BMRA) is a public aerodrome owned and operated by the City of Busselton. The BMRA supports a range of aviation operations from recreational, light and general aviation, open and closed charter services for both private individuals/companies and Fly In Fly out passengers, fixed and rotary wing emergency services, Royal Flying Doctor Service (RFDS) and the return of Regular Public Transport (RPT) services into the future. There are a number of aviation businesses that also operate from the BMRA including Margaret River Busselton Tourism Association (MRBTA), Geronimo Skydivers, Busselton Air Services, Tigermoth Adventure Flights, Westward Aviation and Mission Air Inc. Other than MRBTA, all businesses operate from their respective hangars and have obtained approval from the Council (C1507/190) to do so.

Currently, commercial rotary wing operations from the BMRA are limited to the Surf Life Saving Western Australia (SLSWA) Rescue helicopter which operates between November to April conducting mainly shark patrols and the Department of Fire and Emergency Services (DFES) firefighting helitacs which are based at the Airport between December to April each year for the firefighting season. Other helicopter operators do operate from the BMRA to support events such as the Busselton Jetty Swim and Ironman WA, however not on a regular basis.

In September 2015, City Officers were approached by Skyline Aviation Group with an initial proposal to operate helicopter scenic flights from the BMRA, this proposal was presented to the Airport Advisory Committee (AAC) in November 2015. The proposal included the operations of a Bell 206 Longranger aircraft that can carry up to six passengers at any one time, under the following operations;

- To operate up to 15 scenic flights per day;
- Operations for Monday to Sunday, 9am- 5pm;
- Access to the General Aviation parking area, located in front of the Aero Club;
- Approval to erect temporary A-frame signage during operational periods;
- Operations to commence from 1 December 2015; and

- Operations to be a trial period for two years (ending on 30 November 2017).

Skyline's former operation, known as Wild Blue Helicopters, previously operated from a site in Cowaramup in the Shire of Augusta-Margaret River before moving operations to Margaret River Silk Road, located in Metricup in 2014. At this time, City of Busselton Planning and Environmental Health Officers consulted Margaret River Silk Road and Wild Blue Helicopters as the required planning approvals for helicopter operations from a private property had not been sought. This consultation resulted in the helicopter operations being withdrawn in 2014.

Skyline's proposal in 2015 provided information on the standard time for each flight, including briefings, flight time and aircraft start/shut down times, which they estimated to be 45 minutes, implying that only one flight could operate per hour. However, their request was to conduct up to 15 flights per day which either suggested that they would not complete the standard flight procedures (listed under Standard Time Frame for a Single Flight), operating more than one flight per hour or operate outside of the proposed hours (9.00am-5.00pm).

The proposal considered the BMRA Noise Management Plan (NMP) and discussed the noise abatement zones and the importance of Fly Neighbourly procedures and provided example flight paths that would be used. Two of the three example flight paths avoided residential areas however one of the flight paths flies directly west of the CBD and over residential areas and would require further clarification on the frequency of use prior to approval.

The proposal commented on flight procedures to reduce the noise profile which includes climbing to a height of 1,000ft as soon as possible after take-off and climbing to a flying height of 1,500ft for the flight duration. Such measures would reduce the noise footprint to some extent however one of the anticipated issues was noise complaints from the community. The proposal discussed strategies such as sharing the noise over the community so that one residential area was not unduly affected, providing a noise complaint process and providing estimated noise emissions (decibels, dBA) from the proposed aircraft. The City offered assistance in performing noise monitoring of the proposed aircraft using the Environmental Health Department's noise monitors however Skyline Aviation declined the offer and actual noise emissions from the proposed aircraft have not been verified.

Skyline's proposal also stated that 'noise dissipates over both vertical and horizontal distances at a rate of approximately 30dB over 30m' and hence the noise reduction can be estimated for the proposed helicopter would be 'by more than 50dBA when directly overhead at any point on the ground', estimated to be at 1000ft. Using the implied assumptions from the proposal, the noise emitted by the Bell 206L at 1,000ft is estimated to be 35.4 dBA.

The City's Environmental Health Department and Airport Officers could find no reference material to support the reduction in noise levels by 50dBA and generally, accredited literature estimates that sound levels can decrease by 6dB per doubling of distance. Hence, if you double the distance from 500ft to 1000ft, the aircraft noise level would decrease by 6dB from 85.4dBA to approximately 79.4dBA.

The proposal also included information on the pilot and ground crew capabilities, insurance coverages and information that the operations would be based from the Busselton Aero Club building for the duration of the trial period.

Prior to and at the November 2015 AAC meeting, City Officers were approached by another helicopter operator requesting to operate under similar operating conditions to the Skyline proposal. Noting that granting approval for Skyline Aviation to operate would not exclude other helicopter operators to be based out of BMRA, and that the noise impact needed to be carefully considered as part of the NMP, it was identified that mechanisms needed to be developed and put in place to manage such operations so that they could be equitably shared amongst operators if the City is

approached for multiple approvals. Critical to this, as part of the environmental approval process for the BMRA Development Project, the BMRA NMP (2015) has been reviewed and is pending consideration from the Office of Environmental Protection Authority (OEPA).

With this information the ACC recommended (AIR1511/004) *‘that the Skyline proposal not be supported and that a formal expression of interest process is undertaken, outlining clear criteria and operating conditions for commercial tourism rotary wing operations at the BMRA, and that regular ongoing rotary wing operations be considered as part of the next Noise Management Plan review.’*

## STATUTORY ENVIRONMENT

The BMRA operates in accordance with the following: Aviation Transport Security Act 2004, Aviation Transport Security Regulations 2005, CASA MOS 139, Council’s Transport Security Plan, Busselton Airport Local Law 2012 and City policies and procedures.

## RELEVANT PLANS AND POLICIES

The BMRA NMP (2015),) and Ministerial Statement 1009 require the City to manage the operations and specifically the noise emissions associated with aircraft noise from the BMRA. Specifically, Chapter 3; Management of Operational Activities and 3.1.3 Standard Hours of Operation define operations as meeting the General Aviation criteria with the following conditions;

Operator/Aircraft Type	Standard Hours of Operation	Conditions
Light Aviation Single engine aircraft under 2000kgs MTOW not exceeding 65dB(A)	UNRESTRICTED	Flight Training approval required (only available for aircraft below 1500kg MTOW and flight training conditions apply.
General Aviation Any light aircraft that does not comply with the Light Aviation definition.	0700-1900 May-November 0600-2100 December -April	Subject to noise not exceeding 85dB(A).

Where an operator breaches the NMP, the City is required to report the non-compliances to the OEPA and at this time the non-compliance is recorded against the City, with the expectation that the City will prevent further occurrences. These regulatory controls require the City to ensure that any future operations based from the BMRA can then be compliant with the terms of the NMP and Statement 1009.

## FINANCIAL IMPLICATIONS

There are no direct expenditure implications to the City for the EOI and ongoing helicopter tourist operations as no additional facilities or upgrade to facilities are required for the operations to occur. Further, there would potentially be an increase in revenue received of approximately \$8000 based on the landing fees if all five daily operations in option one below were utilised or \$2200 if all flights on weekends were utilised over the six month trial period.

It should also be noted that the complaints process detailed in the NMP allows for ‘noise affected’ residents to request for noise monitoring to be completed at the affected residences. The City’s Environmental Health Department can complete the noise monitoring however there are the associated costs with staff time and analysis of the noise monitoring. Further, if the noise levels from an affected residence were found to exceed the acceptable levels in Chapter 6 Noise Amelioration of the NMP then noise amelioration measures could potentially apply at the City’s cost.

### **Long-term Financial Plan Implications**

There are no Long Term Financial Plan implications associated with this report.

### **STRATEGIC COMMUNITY OBJECTIVES**

The BMRA is consistent with following the City of Busselton's strategic Objectives:

Well Planned, Vibrant and Active Places:

2.3 Infrastructure Assets that are well maintained and responsibly managed to provide for future generations.

Connected City:

4.1 Transport options that provide greater links within our district and increase capacity for community participation.

### **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 sought to identify 'downside' risks only rather than 'upside' risks and where the risk, following implementation of controls, has been identified as medium or greater.

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
The City receives noise complaints from community members relating to the helicopter operation.	The NMP has a complaints process in place describing the timeframes and mitigating processes	Moderate	Likely	High
The helicopter operations breach the requirements of the NMP and Statement 1009.	Noise monitoring to be completed and assessment of actual noise emissions from proposed aircraft. Approval conditions will regulate the hours of operations.	Minor	Possible	Medium
The helicopter operations result in noise monitoring and noise amelioration in accordance with the NMP.	Noise monitoring to be completed and assessment of actual noise emissions from proposed aircraft.	Minor	Possible	Medium

### **CONSULTATION**

Consultation has occurred with Skyline Aviation Group regarding their proposal, Scenic Helicopter Tours and the City's Environmental Health Department on the assessment of the noise levels regarding helicopter operations.

**OFFICER COMMENT**

Officers support the concept of increasing tourism opportunities and activities at the BMRA which not only benefits the City with revenue raised from landing fees but also has the potential to increase tourism in the region. However, Officers have concerns with regard to the level of noise that may be generated from the helicopter operations and any potential non-compliances and community complaints that may result.

Aircraft noise emission levels of popular tourist helicopters used at other airports in tourist destinations using the EPNdB (Effective Perceived Noise) levels are as follows;

Aircraft	Over Flight (500ft)		Take Off		Approach	
	Level	Limit	Level	Limit	Level	Limit
<b>Bell 206L-4</b>	85.4	92.1	88.3	93.1	90.8	94.1
<b>Robinson R66</b>	84.5	85.9	87.8	87.9	87.8	90.9
<b>AS350B3</b>	87.6	92.5	89.8	93.5	91.4	94.5
<b>Robinson R44</b>	80.9	NA	NA	NA	NA	NA

If the noise emissions from helicopters were in the range of 80-85dBs for each movement then it is extremely likely that noise complaints would be received by the City. The responsibility of managing these complaints, and noise affected residents once the operations have been approved would also be the responsibility of the City, including potential costs associated with noise monitoring and amelioration.

Given the opportunities that such services would have on the regional tourism industry, Officers have considered a number of options that could be considered to balance the potential impact of operations and the economic benefits derived from these services.

In order to equitably assess potential future helicopter services operating from the BMRA it is proposed that a formal Expression of Interest (EoI) is undertaken. The EoI process will allow the City to determine the conditions of operation for helicopter tourism flights so that they do not overly expose the surrounding residents to excessive noise created by these activities. Whilst the Skyline proposal was for operations to commence over the 2015/16 summer period, there may be a desire for such proposals to be presented to the City for the upcoming summer season. As part of the BMRA Development Project, the City is required to undertake an environmental approval process, which includes a review of the NMP. Following the environmental referral process construction activities will commence which will have an impact on such services. On this basis it is recommended that the EoI be delayed to enable services to commence over the 2017/18 summer season, on the basis that airside construction activities have been completed, or will not adversely impact the operations.

The conditions of the EoI will include the following:

- A need for a permit in accordance with the City's Airport local law to operate at BMRA
- Conditions of the Fly Neighbourly Agreement and NMP to be adhered to by the operator
- Permitted uses of leased areas (Busselton Aero club or hangers) for commercial activities.
- Number of flight operations per day
- Days of operation
- Hours of operation
- No fly days (public holidays)
- Allowed flight paths and exclusion zones

- Duration of flight operations (minimum) to minimise operations over residential areas
- Number of tourism helicopter operators at BMRA
- Aircraft types (Jet, piston engine)
- Provision of actual noise readings from the aircraft to be used
- Available fuel types and storage of private fuel stores
- Timing of approval (before or after development completion)

Officers recommend that noise monitoring is completed prior to any trial period using the proposed aircraft overflying at 500ft, 1000ft and 1500ft to verify the actual noise emissions that would be generated from such operations. Subject to the noise monitoring meeting the requirements of the NMP, approval could then be given for the commencement of operations based on the following conditions outlined in the below options:

### **Option 1 (Recommended)**

That a trial operation period of six months to be conducted subject to the following conditions;

- Operations to be undertaken in accordance with the BMRA Noise Management Plan (NMP)
- One operator
- Up to five scenic flights per day
- Scenic Flight Operations Monday –Sunday, between 10.00am – 4.00pm
- No scenic flights allowed on Good Friday, Christmas Day and Anzac Day
- Flight paths and utilisation of flight paths to be provided to the City of Busselton
- Monthly reports to be provided to the City of Busselton on all scenic flights conducted including times of operation and duration of flights
- Operations commencement date from Council approval.
- Signed Fly Neighbourly Agreement in accordance with the NMP.

This option takes a conservative approach to approving the helicopter operations in that the number of flights per day is kept to one per hour over a time span of six hours. The maximum number of scenic flights per week would be 35 flights. This approach allows the community to adjust to the presence of the flights without a significant impact on their amenity. The direction of approach and departure flight paths could be shared across the five flights per day ensuring that no residential area is unduly impacted.

### **Option 2**

That a trial operation period of six months be conducted subject to the following conditions;

- Operations to be undertaken in accordance with the BMRA Noise Management Plan (NMP)
- One operator
- Scenic Flight Operations, up to 6 scenic flights per day, Monday –Friday, 10.00am – 4.00pm
- Scenic Flight Operations, up to 7 scenic flights per day, Saturday - Sunday, 10.00am – 5.00pm
- No scenic flights allowed on Good Friday, Christmas Day and Anzac Day
- Flight paths and utilisation of flight paths to be provided to the City of Busselton
- Monthly reports to be provided to the City of Busselton on all scenic flights conducted including times of operation and duration of flights
- Operations commencement date from Council approval.
- Signed Fly Neighbourly Agreement in accordance with the NMP.

This option allows for one scenic flight per hour during week days and allows for additional flights to be conducted on the weekend when there may be more demand. This approach still allows the community to adjust to the presence of the flights without a significant impact on their amenity

however some residential areas may be subject to more flights during a single day due to the additional number of flights that can operate.

### Option 3

That a trial operation period of six months be conducted subject to the following conditions;

- Operations to be undertaken in accordance with the BMRA Noise Management Plan (NMP)
- Two operators
- Scenic Flight Operations, up to 5 scenic flights per day, Monday –Friday, 10.00am – 4.00pm
- Scenic Flight Operations, up to 5 scenic flights per day, Saturday - Sunday, 10.00am – 5.00pm
- No scenic flights allowed on Good Friday, Christmas Day and Anzac Day
- Flight paths and utilisation of flight paths to be provided to the City of Busselton
- Monthly reports to be provided to the City of Busselton on all scenic flights conducted including times of operation and duration of flights
- Operations commencement date from Council approval.
- Signed Fly Neighbourly Agreement in accordance with the NMP.

Following the trial period for the options above, the City will consider the following criteria prior to a report being presented to the Airport Advisory Committee for consideration before any further terms are approved;

- The number and nature of complaints received relating to the Helicopter operations received by the City of Busselton or any other government agency;
- Any resulting non-compliances with the NMP and applicable Ministerial Statements from the helicopter operations;

Any breaches with the terms and conditions of the initial approval for the EoI approval.

### CONCLUSION

Helicopter tourist flights have the potential to offer a great tourism experience to tourists and visitors to the region. However, helicopter operations also have the potential to cause noise complaints and adversely impact the community. Further there is the potential for noise complaints and non-compliances to jeopardise the future operations of the Airport which need to be assessed and due consideration given.

Hence Officers recommend that prior to any approval to operate at the BMRA, that noise monitoring be performed using the proposed aircraft overflying at 500ft, 1000ft and 1,500ft to record and verify the actual noise emissions that would be generated from the scenic flight operations in conjunction with **Option 1** conditions as listed below;

- Up to five scenic flights per day
- Scenic Flight Operations Monday –Sunday, between 10.00am – 4.00pm
- No scenic flights allowed on Good Friday, Christmas Day and Anzac Day
- Flight paths and utilisation of flight paths to be provided to the City of Busselton
- Monthly reports to be provided to the City of Busselton on all scenic flights conducted including times of operation and duration of flights
- Operations commencement date from Council approval
- Trial period for six months only

Further it is recommended that a report be presented back to the Airport Advisory Committee post the trial and prior to any further approvals to operate including the following;



- The number and nature of complaints received relating to the Helicopter operations received by the City of Busselton or any other government agency;
- Any resulting non-compliances from the helicopter operations with the NMP and Statement 1009
- Any breaches with the terms and conditions of the initial approval for the proposal.

## **OPTIONS**

The Airport Advisory Committee chooses;

1. Not to accept the Officers recommendation.
2. To recommend Option 2 to the Council.
3. To recommend Option 3 to the Council.
4. Not go out to EOI.

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The Eoi process completion date will depend on the completion of the airside construction activities as part of the BMRA Development Project. Operators that have previously expressed interest in such operations will be notified following the Council decision.

## **OFFICER RECOMMENDATION**

That the Airport Advisory Committee;

1. Approves the advertising of an Expression of Interest for the commencement of helicopter flight operations from the Busselton-Margaret River Airport (BMRA) at the completion of the airside construction activities, or until such time that construction activities do not impede additional aviation activities, subject to the following conditions:
  - Operations to be undertaken in accordance with the BMRA Noise Management Plan (NMP)
  - One operator
  - Up to five flights per day
  - Flight operations Monday –Sunday, between 10.00am – 4.00pm
  - No flights allowed on Good Friday, Christmas Day and Anzac Day
  - Flight paths and utilisation of flight paths to be provided to the City of Busselton
  - Monthly reports to be provided to the City of Busselton on all flights conducted including times of operation and duration of flights
  - Operations commencement date from issue of approval
  - Signed Fly Neighbourly Agreement in accordance with the BMRA NMP
2. Noise monitoring be undertaken, at the proponent's cost, prior to any trial period using the proposed aircraft overflying at 500ft, 1000ft and 1500ft to record and verify the actual noise emissions generated meet the conditions of the applicable BMRA NMP.

Note: The Committee provided an Alternative Recommendation that would provide flexibility to the number of flights per day.

**Council Decision and Committee Recommendation****C1610/097** Moved Councillor G Bleechmore, seconded Councillor T Best

That the Airport Advisory Committee;

1. Approves the advertising of an Expression of Interest for the commencement of helicopter flight operations from the Busselton-Margaret River Airport (BMRA) at the completion of the airside construction activities, or until such time that construction activities do not impede additional aviation activities, subject to the following conditions:
  - Operations to be undertaken in accordance with the BMRA Noise Management Plan (NMP)
  - One operator
  - Up to five flights per day preferred
  - Flight operations Monday –Sunday, between 10.00am – 4.00pm
  - No flights allowed on Good Friday, Christmas Day and Anzac Day
  - Flight paths and utilisation of flight paths to be provided to the City of Busselton
  - Monthly reports to be provided to the City of Busselton on all flights conducted including times of operation and duration of flights
  - Operations commencement date from issue of approval
  - Signed Fly Neighbourly Agreement in accordance with the BMRA NMP
2. Noise monitoring be undertaken, at the proponent's cost, prior to any trial period using the proposed aircraft overflying at 500ft, 1000ft and 1500ft to record and verify the actual noise emissions generated meet the conditions of the applicable BMRA NMP.

**CARRIED 9/0**  
**EN BLOC**

10.4 Airport Advisory Committee - 30/09/2016 - BUSSELTON-MARGARET RIVER AIRPORT -  
BUSSELTON AERO CLUB LANDING FEES PROPOSAL

<b>SUBJECT INDEX:</b>	Busselton-Margaret River Airport
<b>STRATEGIC OBJECTIVE:</b>	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
<b>BUSINESS UNIT:</b>	Commercial Services
<b>ACTIVITY UNIT:</b>	Commercial Services
<b>REPORTING OFFICER:</b>	Manager, Commercial Services - Jennifer May
<b>AUTHORISING OFFICER:</b>	Director, Community and Commercial Services - Naomi Searle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Proposal from Busselton Aero Club⇒

**This item was considered by the Airport Advisory Committee at its meeting on 30 September 2016, the recommendations from which have been included in this report.**

### **PRÉCIS**

This report presents a proposal from Busselton Aero Club (BAC) to remove aircraft landing fees for privately operated aircraft with a maximum take-off weight (MTOW) of less than 2000kg. The proposal includes an increase to the Avgas fuel levy from 0.03c per litre to 0.05c per litre to compensate the City for the loss of revenue due to the removal of landing fees in the above weight category.

### **BACKGROUND**

On 10 August 2016 a meeting was held with Council representatives, City staff and representatives from the Busselton Aero Club (BAC) to discuss a range of matters in regards to airport operations and the development project, including the removal of landing fees for privately operated aircraft with a maximum take-off weight (MTOW) of less than 2000kg. Following the meeting the BAC provided a written proposal to be considered by Council for the removal of these fees (attachment A) based on the premise that the introduction of landing fees for aircraft under MTOW 2000kgs by the City in 2012 has discouraged private pilots from visiting the BMRA and hence impacted avgas sales at the BMRA. The BAC anticipate that by removing landing fees for this aircraft weight category, they will see the return of visiting light aircraft and avgas sales experienced in 2012 of approximately 100,000L.

This report outlines the BAC proposal for the removal of landing fees for all privately operated aircraft under the 2000kg MTOW category with an increase in the avgas fuel levy from 0.03 cent per litre to 0.05 cents per litre to recover costs to a reasonable level. The BAC currently operates the avgas fuel facility under a Licence and Fuel Levy Agreement with the City, which requires the BAC to pay the City 0.03 cents per litre of avgas sold.

In the 2015/16 financial year the City receipted a total of \$2,189 from avgas sales based on a levy of 0.03c/l. In relation to the BAC proposal, on the basis of current fuel sale figures the return to the City at 0.05c/l would be \$3,650pa. However, compared to the projected fuel sales of 100,000 litres pa which the BAC believe is achievable again in time, the City could potentially receive approximately \$5,000 per annum at a proposed rate of \$0.05/l.

Based on the 2015/16 adopted airport landing fees and charges, the City received \$6,597 in revenue from individually charged landing fees, with an additional \$1,096.38 from the annual landing fee charged for private operators and \$2,181.81 from commercial operators for aircraft in the less than 2000kg MTOW category.

The table below provides a summary of information relating to landing fees and fuel levies received by the City since 2011/12;

<b>Year</b>	<b>Fuel Levy Invoiced @0.03c incl GST</b>	<b>Fuel sales in litres</b>	<b>Landing Fees &lt;2000kg MTOW (not including annual fee holders) Ex. GST</b>	<b>Avgas Facility Maintenance costs ex. GST</b>
<b>2011/12</b>	\$2,475	82,499	Not available	\$1,850
<b>2012/13</b>	\$2,820	93,989	Not available	\$1,850
<b>2013/14</b>	\$2,430	81,015	\$4,508	\$13,860
<b>2014/15</b>	\$2,669	88,962	\$5,351	\$1,650
<b>2015/16</b>	\$2,189	72,983	\$6,597	\$1,650
<b>Total</b>	<b>\$12,583</b>	<b>N/A</b>	<b>\$16,456</b>	<b>\$20,860</b>
<b>Yearly Av.</b>	<b>\$2,516</b>		<b>\$5,485</b>	<b>\$4,172</b>

The table above also shows the maintenance costs associated with the avgas facility. Note that in 2013/14 the maintenance costs increased significantly due to the 10-year cleaning cycle of the facility. Based on the above table, it is clear that the avgas facility as it stands, is a cost to the City with the City being responsible for maintenance costs which is not fully recovered through the levied avgas revenue and landing fees.

#### **STATUTORY ENVIRONMENT**

The Busselton-Margaret River Airport (BMRA) operates in accordance with the following: Aviation Transport Security Act 2004, Aviation Transport Security Regulations 2005, CASA MOS 139, Council's Transport Security Plan, Busselton Airport Local Law 2012 and City policies and procedures.

The Avgas facility is subject to the Dangerous Goods Safety Act (2004) under which the City of Busselton is the registered owner and operator of the Avgas Facility.

#### **RELEVANT PLANS AND POLICIES**

The BAC operates the Avgas fuel facility under a Licence and Fuel Levy Agreement with the City which is renewed on an annual basis. Should the Officers recommendation be endorsed, a new agreement will need to be drafted and signed by the City and the Busselton Aero Club.

#### **FINANCIAL IMPLICATIONS**

Should the Officers recommendation be endorsed then there are no financial costs associated with this report, further the Officer's recommendation includes that the maintenance of the avgas facility is transferred to the BAC which would result in a saving to the City of approximately \$1,700 - \$2,000 per annum.

### **Long-term Financial Plan Implications**

There are no long term financial plan implications associated with this report, if the Council continues to maintain the current licence agreement.

### **STRATEGIC COMMUNITY OBJECTIVES**

The BMRA is consistent with following the City of Busselton's strategic Objectives:

Well Planned, Vibrant and Active Places:

- Infrastructure Assets that are well maintained and responsibly managed to provide for future generations;
- Connected City of Busselton Transport options that provide greater links within our district and increase capacity for community participation.

### **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 sought to identify 'downside' risks only rather than 'upside' risks and where the risk, following implementation of controls, has been identified as medium or greater. No such risks were identified.

### **CONSULTATION**

Consultation has occurred with Busselton Aero Club regarding their proposal.

### **OFFICER COMMENT**

Officers support the current concept of a user pays system regarding activities at the BMRA which has been for the past three years the adopted policy of the Council. The user pays system not only benefits the City with revenue raised from landing fees but enables the facility to be maintained to a high standard for airport users. The user pays system is a common practice at a majority of airports, which was confirmed through the regional airports study tour recently undertaken by City officers. The BAC currently operates the avgas facility through a Licence and Fuel Levy Agreement with the City which sees 0.03c/l of avgas sold returned to the City.

The City is also responsible for the maintenance and capital works program of the BMRA. Whilst the BAC operates a commercial flight training business, as tenants of the BMRA the BAC is not responsible for the BMRA maintenance or capital works program. For a number of years the BMRA operated at a loss, and only over the past few years has it returned an operating profit, of which surplus funds are transferred to a reserve for future maintenance and capital works programs. Operating as a commercial business unit, it is important that BMRA fees and charges are set as near as possible to the associated costs. This is a common practice within the City with fees and charges set for a number of infrastructure users, including community groups, such as the recently constructed marine berthing platforms, sporting ovals, leisure centres, etc.

The City has also worked hard to implement a Noise Management Plan to enable the BMRA to operate more consistent with other airports, whilst balancing the amenity of the community. This has seen the successful management of flight training providers operating from the BMRA. The waiving of fees for private aircraft in the less than 2000kg MTOW category may in fact adversely impact this.

Officers do however recognise tourism as a key contributor to the South West regional economy, which is the basis of the BAC proposal to remove landing fees for visiting pilots in the 2000kg MTOW category. The BAC proposal is based on the premise that the removal of fees will have the potential to increase visiting aircraft numbers and resultant fuel sales revenue. However this proposal would actually result in the City subsidising such tourists as the revenue from the avgas levy would still not meet the associated maintenance costs, which would ultimately fall onto the City's ratepayers.

It is on the above bases that Officers recommend that the BAC proposal not be supported and that a user pays system remains for the BMRA. There is however a number of options presented below that the Airport Advisory Committee may consider. Through the assessment of these options Officers were mindful of a number of considerations:

- Should the removal of fees be favourably considered, rather than removing the fee completely, the proposal would benefit from a trial period, such as 12 months, when on completion a full assessment can be made on the impact of removing the fees
- Annual landing fees have already been paid by a number of locally based aircraft operators. Should the fee be removed within the 2015/16 financial year the City would be required to refund a proportion of fees which would have an impact on the BMRA administration. Likewise the upcoming airside infrastructure works program will have an impact on aircraft operations, however the extent in terms of timeframe and operations is unknown at this point in time. Therefore should the removal of fees be favourably considered, the commencement of any potential trial period should commence from either the 1 July 2017, as part of the 2016/17 fees and charges schedule or after the completion of works
- The City is currently progressing negotiations with a jet fuel supplier for the installation of a Jet (A1) Fuel facility as part of the BMRA Development Project. Any future agreement may also include options for ownership of the avgas facility and refuelling arrangements which could replace the existing avgas arrangement with alternative options.
- Should the removal of fees be favourably considered, it should only be considered for privately owned/registered aircraft and not to commercially owned/operated aircraft
- Should the removal of fees be favourably considered, it should be noted that there may be a backlash from current BMRA commercial aircraft operators as they would essentially continue to pay landing fees and additional fuel costs.

Based on the above consideration, the following options are presented for the Committee's consideration:

#### **Option 1 (recommended)**

That the City maintains a user pays approach for the BMRA and that landing fees for privately owned/registered aircraft in the less than 2000kg MTOW are not removed. Further that;

- the City maintains the 0.03c per litre fuel levy from the BAC under the current Fuel Licence Agreement

This option maintains the user pays approach that is consistent across the City's infrastructure.

#### **Option 2**

That landing fees for privately owned/registered aircraft in the less than 2000kg MTOW be removed for a trial period of 12 months based on the following conditions:

- the removal of fees commences immediately adoption by Council (October 2016)
- the City retains the costs of maintaining the avgas facility
- the City amends the Fuel Levy Agreement between with BAC reflecting an increase from 0.03c per litre to 0.05c per litre commencing 1 July 2017.

This option is based on the BAC's proposal to remove fees for privately operated aircraft only. This would incur ongoing Avdata (landing fee collection agency) fees for separating private and commercial aircraft for billing purposes and the City would need to reimburse a number of locally based (City of Busselton residents and hangar lessees) aircraft owners that have paid the annual landing fee charges. It is to be noted that this option would not result in the City recovering the full maintenance cost associated with the avgas facility, based on the average annual maintenance costs as outlined in the background section of this report.

### **Option 3**

That landing fees for privately owned/registered aircraft in the less than 2000kg MTOW be removed for a trial period of 12 months based on the following conditions:

- that the removal of fees be undertaken as part of the 2017/18 Fees and Charges Schedule, to commence 1 July 2017
- the City retains the costs of maintaining the avgas facility
- the City amends the Licence and Fuel Levy Agreement between with BAC reflecting an increase from 0.03c per litre to 0.05c per litre commencing 1 July 2017.

As per option 2, this is based on the BAC's proposal to remove fees for privately operated aircraft only and would incur ongoing Avdata (landing fee collection agency) fees for separating private and commercial aircraft for billing purposes. However should the removal of fees commence 1 July 2017, the City would not need to reimburse a number of locally based (City of Busselton residents and hangar lessees) aircraft owners that have paid the 2016/17 annual landing fee charges. This option does not result in the City recovering the full maintenance cost associated with the avgas facility, based on the average annual maintenance costs as outlined in the background section of this report.

### **Option 4**

That landing fees for privately owned/registered aircraft in the less than 2000kg MTOW be removed for a trial period of 12 months based on the following conditions:

- that the removal of fees be undertaken as part of the 2017/18 Fees and Charges Schedule, to commence 1 July 2017
- BAC assumes the maintenance of all avgas fuel equipment required for fuel sales and storage, to be reflected in the Licence and Fuel Levy Agreement with BAC
- the City amends the Fuel Levy Agreement between with BAC reflecting an increase from 0.03c per litre to 0.05c per litre commencing 1 July 2017.

As above, this option is based on the Aero Club's proposal to remove fees for privately operated aircraft only and would incur ongoing Avdata (landing fee collection agency) fees for separating private and commercial aircraft for billing purposes. The removal of fees as of 1 July 2017 would enable a smoother administrative process in the current collection of fees. This option also transfers the maintenance costs associated with the avgas facility onto the BAC.

### **Option 5**

That landing fees for privately owned/registered aircraft in the less than 2000kg MTOW be removed for a trial period of 12 months based on the following conditions:

- landing fees are removed for privately owned/registered aircraft less than 2000kg MTOW category on completion of the BMRA Development Project airside infrastructure works program
- the BAC assume the maintenance of all avgas fuel equipment required for fuel sales and storage, to be reflected in the Licence and Fuel Levy Agreement with BAC
- the City maintains the 0.03c per litre fuel levy from the BAC under the current Fuel Licence Agreement.

As above, this option is based on the Aero Club's proposal to remove fees for privately operated aircraft only and would incur ongoing Avdata (landing fee collection agency) fees for separating private and commercial aircraft for billing purposes. However, the trial period would commence on completion of the Development Project allowing for a more reflective trial assessment.

## **CONCLUSION**

City Officers recommend that a user pays approach to landing fees at the BMRA is maintained, consistent with other infrastructure and community groups across the City. Hence Officers recommend that landing fees are not removed for privately owned aircraft less than 2000kg MTOW category as proposed by the BAC.

## **OPTIONS**

The Airport Advisory Committee chooses;

1. Not to accept the Officers recommendation.
2. To recommend any of the alternative options 2 – 5 detailed in this report.

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Following Council endorsement of the Officers recommendation, Officers would notify the BAC that landing fees for aircraft less than 2000kgs would not be removed and be charged in accordance with the Adopted Fees and Charges.

### **Council Decision / Committee Recommendation and Officer Recommendation**

**C1610/098** Moved Councillor G Bleachmore, seconded Councillor T Best

That the Airport Advisory Committee;

1. Endorses maintaining the user pays approach for the Busselton-Margaret River Airport (BMRA) and that landing fees for privately owned/registered aircraft in the less than 2000kgs MTOW category are not removed. Further that;
  - a) The City maintains the 0.03c per litre fuel levy from the Busselton Aero Club (BAC) under the current Licence and Fuel Agreement.

**CARRIED 9/0**

**EN BLOC**



## **14. FINANCE AND CORPORATE SERVICES REPORT**

### **14.2 BUSSELTON PISTOL CLUB LEASE OF A PORTION OF RESERVE 28419**

<b>SUBJECT INDEX:</b>	Agreements and Contracts
<b>STRATEGIC OBJECTIVE:</b>	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Property and Corporate Compliance
<b>REPORTING OFFICER:</b>	Property Coordinator - Ann Strang
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Matthew Smith
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Busselton Pistol Club Proposed Lease Area <a href="#">⇒</a>

#### **PRÉCIS**

The Busselton Pistol Club Incorporated (BPC) leases from the City, Lot 4455, Queen Elizabeth Avenue, Ambergate, Reserve 28419 (the "Reserve"). Their lease expired in 2009 however they remain in occupation on a month by month basis.

The purpose of this report is to provide Council with an update on matters in relation to the use of the Reserve, including the BPC's tenure and lead contamination and site clean-up issues. The report also addresses a proposal from the BPC to develop a new indoor shooting facility.

This report recommends that the Council enter into a new lease with the BPC which is reflective of the BPC's new development proposal, but it is recommended that this be subject to a number of conditions, including the continued clean-up of the Reserve.

#### **BACKGROUND**

The Busselton Pistol Club (BPC) was formed in 1961 and has occupied the Reserve since 1975. In 1989, they entered into a 20 year lease which expired on the 23 February 2009. They have remained in occupation on a monthly basis under a holding over provision of this agreement.

The club's occupation under a lease and their operations has been the subject of several Council reports over the past 15 years. The Reserve contained a 25m and 50m outdoor shooting range, an indoor shooting range and the Ambergate Hall (the "Hall"). The club operated both indoor and outdoor shooting until 2004, when the outdoor shooting range was closed following a report from Police firearms experts concluding that the outdoor range did not meet regulatory requirements. Since then, the BPC have continued to conduct indoor shooting.

In 2007, the Reserve was assessed as a potentially contaminated site under the Contaminated Sites Act 2003 due to the likelihood of lead contamination in the soil as a result of the use of the land for shooting by the BPC. The Reserve has since been classified as possibly contaminated with further investigations required.

In 2007, the Council resolved not to grant the BPC a new lease of the Reserve, but for the City to assist the club in the possibility of relocating to a site suitable for both indoor and outdoor shooting. Over the next few years investigations were conducted on the feasibility of the club merging with the Busselton Clay Target Club, as well as a possible regional ballistics facility in Capel. Neither proposal was deemed feasible.

At this time a number of concerns were also raised regarding the maintenance and safety of the Hall. In April 2009, a structural integrity report carried out by an independent consultant was undertaken

of the Hall. This report was then presented to Council. In June 2009, the Council resolved (C0906/241) that the Hall was to be immediately closed to the general public. The Hall has been closed since.

At the same time the Council resolved to allow the BPC to remain in occupation on a monthly basis under the holding over provisions of the lease on the condition that the club would have access to the indoor shooting range and toilets only, and that this situation be reviewed at such time as a suitable alternative site is found, but no later than 30 June 2010.

The City and the club continued to investigate the potential use of other parcels of land within the district, but due to the regulatory requirements associated with constructing a compliant outdoor range, no suitable site was found.

In July 2010, a report was put to Council to consider a request from the BPC to remain in occupation of a portion of their current leased area. The report also made recommendations on the future use and the rehabilitation of the Reserve. The Council resolved (C1007/248) to enter into a 12 month lease with the club. It was also resolved that the club make a financial contribution towards the cost of rehabilitation of the Reserve and for the City to undertake community consultation to establish the preferred use of the Reserve.

This was followed by extensive community consultation in relation to the future use of the Reserve including a survey of local residents and a community forum which was conducted in February 2011. The forum also involved Councillors and City staff. At this forum there was a joint presentation from the BPC and the Ambergate Volunteer Fire Brigade putting forward a proposal for a combined BPC and fire brigade building.

In April 2011, a report was presented to inform the Council of the outcome of the community consultation conducted and to provide recommendations as to the next steps required to determine the future use of the Reserve. The Council resolved (C1104/141) and (C1104/142) the following:

*“That the Council:*

- 1. authorise the CEO to carry out the necessary site investigations as soon as possible with the objective of finding an early resolution to the contamination issue. The cost of engaging the consultant is to be funded from the strategic projects reserve fund.*
- 2. accept the Busselton Pistol Club's offer of \$500.00 towards the proposed site investigation report.*
- 3. subject to receipt of approval from DEC, the Busselton Pistol Club to be requested to remove any known lead contamination from the site.*
- 4. support the Busselton Pistol Club Inc proposal to construct a pistol club building on a portion of Reserve 28419 on the clear understanding that the facility is to be used for firing only air pistols and subject to the resolution of the contamination issue referred to in item 1 above.*
- 5. support the proposal from the Ambergate Volunteer Fire Brigade to construct a bush fire brigade shed and training room on a portion of land on Reserve 28419 subject to the resolution of the contamination issue referred to in item 1 above.*
- 6. authorise the CEO to prepare a master plan for the future use of Reserve 28419 showing the location of the proposed pistol club building and the bush fire brigade shed and training room only.*

7. *subject to the consent of the Minister for Lands, allow the Club to remain in occupation of the portion of Reserve 28419 that occupies the current indoor firing range on a monthly basis under the holding over provisions of the lease dated 24 February 1989, on the condition that the Club shall have access to the indoor shooting range and toilets only. The holding over to cease when the proposed pistol club building is completed.*
8. *agree to enter into a 21 year lease (standard lease) with the Busselton Pistol Club for portion of Reserve 28419 to accommodate the proposed pistol club building subject to the resolution of the contamination issue referred to in item 1 above."*

Following the Council making this resolution, there were a number of discussions between City officers, the BPC and the Volunteer Bushfire Brigade. However, ultimately the joint proposal which was presented to community members and Councillors at the community forum in February 2011 did not proceed and thus there was no master plan prepared to meet the requirements of part 6 of the April 2011 Council resolution. There has not been any active proposal for a joint facility between the two groups for the last few years. Both groups have undertaken planning for separate facilities in order to meet their future needs, with the Ambergate Bushfire Brigade looking at a number of possible sites for a new fire brigade facility in the Ambergate area.

There have been some changes in the management of the BPC over the last few years and while the club has investigated a number of different proposals, including alternative temporary and permanent sites, in recent times the club have been actively investigating the development of a modern, fully indoor pistol shooting range. The development of an appropriate and fully compliant indoor range would overcome the complex regulatory requirements associated with an outdoor range as well as other possible associated noise and safety issues.

In the last 4 years, the City has had a number of discussions with Department of Environmental Regulation (DER) to determine the best approach to resolve any contamination issues. As a result of these discussions and correspondence with DER, further site investigations have been undertaken. In 2012, a site remediation plan was prepared. With the necessary works identified, a staged approach towards remediation has been recommended. The proposed works are further detailed later in this report.

For at least the last 8 years, the BPC has been restricted to using the Reserve for indoor air pistol shooting only. However, in recent years the BPC membership has increased substantially. To maintain their affiliation with the relevant State Shooting Associations, BPC members regularly travel to Boyup Brook to shoot other pistol (lead projectile) disciplines. The space within their existing facility limits the numbers of members that can compete at any one time. They have been looking at ways to improve their facilities and have been actively raising funds to enable them to construct new facilities.

Earlier this year the BPC presented the City with a totally new proposal to develop a new fully indoor shooting range. The proposal includes environmental remediation of the Reserve, followed by construction of a fully enclosed indoor shooting range. In February 2016, City officers briefed Council on this proposal. At the same time officers briefed Council on the proposed staged approach to remediate the Reserve and the role the BPC would play in relation to this.

As a result of this, City officers then invited interested residents to a community forum to update them on the situation regarding the Reserve and to inform them of the new BPC proposal. The forum was held on the 23 May 2016. The outcome of the forum is further detailed in the consultation and officer comment sections of this report.

The Ambergate Bushfire Brigade received funding in 2015 to develop a new fire brigade shed facility. Discussions have been ongoing with the Brigade and the Ambergate community regarding a number of possible locations for this shed. The shed could still possibly be located on the Reserve. As the new BPC indoor pistol range proposal only requires a relatively small portion of the Reserve, approval of the BPC proposal would not prevent the new Ambergate Bushfire Brigade shed being located on the Reserve. However, the BPC proposal is a totally separate one to the new Ambergate Fire Brigade shed and the two proposals should now be considered independently.

### **STATUTORY ENVIRONMENT**

When disposing of property whether by sale, lease or other means, a Local Government is bound by the requirement of section 3.58 of the Local Government Act. However 3.58 (5) (d) provides exemptions to this process under Regulation 30 (2) (b) (i) (ii) of the Local Government (Functions & General) Regulations.

This section states “disposal of land to incorporated bodies with objects of benevolent, cultural, educational or similar nature and the member of which are not enlisted to receive any pecuniary profit from the body’s transactions, are exempt from the advertising and tender requirements of section 3.58 of the Local Government Act”. The constitution of the BPC is such that this exemption applies.

Reserve 28419 being Lot 4455, Diagram 10562, Volume LR3004 Folio 303, 573 Queen Elizabeth Avenue, Ambergate (the “Reserve”) is vested with the City with the power to lease for any term not exceeding 21 years, subject to the consent of the Minister of Lands, for the designated purpose of “Hall Site and Recreation”.

In 2006, the Contaminated Sites Act 2003 came into effect which required the then Department of Environment and Conservation (DEC) now known as the Department Environmental Regulation to classify sites reported to it so informed decisions can be made about the site. As the site was previously used as an outdoor pistol shooting range, a use that has potential to cause contamination through the possible presence of contaminants (e.g. metal, lead shot) which may impact on the soil, the Reserve was reported to DER as per the reporting obligations under the Act. The Reserve had been classified as possibly contaminated with further investigations required. A memorial to this effect has been registered on the land title.

The Firearms Act 1973 contains the requirements in relation to the approval of shooting ranges, with all ranges, including indoor facilities, having to be approved by the Commissioner of Police. It will be the BPC’s responsibility to ensure it complies with these requirements if their proposal proceeds.

### **RELEVANT PLANS AND POLICIES**

Although Council have previously resolved to enter into a 21 year lease with the BPC, it is recommended that Council consider offering a slightly different term of lease, one that is consistent with the principles of the recently adopted policy “Leases of City Land and Buildings” adopted by Council on 27 July 2016.

As the club will be making a significant capital investment towards the construction of the facilities, it is recommended that Council consider granting the longer term lease of 10 years with a further 10 year option. However, it is proposed that the option is subject to the City having the ability to review the terms of the lease. This would enable to the City to review such things as the precise leased area and other terms to ensure they are appropriate to meet the needs of the BPC as well as being in the best interests of the community at the time.

The BPC's preference is for the term previously resolved to remain the same, however, the recommendation will still provide them with a similar length of tenure but potentially with some minor changes in terms and conditions after 10 years.

As per the Policy it is proposed that BPC have full responsibility for the construction and ongoing maintenance of the proposed new facility and all associated outgoings and other costs.

## **FINANCIAL IMPLICATIONS**

The rent charged to community and sporting groups for City land and/or building is currently \$205.00 per annum (inclusive of GST). If Council adopt the officer recommendation, then BPC would be liable for all insurance and maintenance costs in respect of their leased premises. Hence the City would not incur any financial liability associated with the proposed new lease to the BPC.

The BPC has agreed to bear most of the costs associated with works to remediate the potential lead contamination on the Reserve, such as removal of infrastructure and providing labour and machinery. The works that the club are unable to do including soil analysis and testing, will be undertaken by the City and a budget of \$25,000 has been allowed for this in the current financial year. The staging and responsibility for remediation works is discussed in more detail in the officer comment section of this report.

### **Long-term Financial Plan Implications**

Nil

## **STRATEGIC COMMUNITY OBJECTIVES**

The recommendation to enter into a lease with the BPC is consistent with the following City of Busselton Strategic Priorities:

Key Goal Area 2 – Well planned, Vibrant and Active Places:

- 2.1 A City where the community has access to quality cultural, recreation and leisure facilities and services.
- 2.3 Infrastructure assets that are well maintained and responsibly managed to provide for future generations.

Council Strategies:

- Ensure our recreational facilities meet the needs of our growing community;
- Maintain community assets at an appropriate standard.

## **RISK ASSESSMENT**

There are no identified risks of a medium or greater level associated with the officer recommendation. The recommendation of a lease with options mitigates the risks associated with the current adopted term of lease. The recommendations to include additional terms and conditions other than those in the standard community group lease addresses some specific concerns and issues in relation to this proposal and the past and present use of the Reserve.

## **CONSULTATION**

The City has worked with DER officers on the best approach towards remediation. Discussions have been held with the BPC on the works required. This is further detailed in the Officer Comment section of this report.

City officers have liaised with other local governments where similar indoor shooting facilities have been established. A site visit to ranges located within residential areas in the Perth area was undertaken. This provided officers with a clearer understanding of the way these facilities are managed, including approaches to noise management and lead containment.

The BPC are keen to secure tenure of a portion of the Reserve to progress with their new indoor shooting range proposal. They are aware and acknowledge that they would be required to continue to work towards the rehabilitation of the Reserve, provide plans addressing issues relating to noise and safety and enter into a lease on the terms and conditions contained in the City's standard community lease.

The City invited all Ambergate Heights residents and those residents within a 1.5km radius of Reserve 28419 to attend a community forum on the 23 May 2016. An invitation was also extended to the whole community, with an advertisement featured in the 18 May 2016 Council for Community pages. The forum was attended by City officers, Councillors, representatives of the BPC and 23 community members. Outcomes of the forum are discussed in more detail in the officer comment section of this report.

## **OFFICER COMMENT**

### Lead Contamination

In accordance with the Council resolution of 2011, the City carried out further site investigations with the objective of finding a timely resolution to the contamination issue. The area subject to remediation is located in the North Eastern corner of the Reserve as shown hatched green on attachment A. This area contained the outdoor shooting stands and range barriers. A site remediation plan was prepared in 2012. Following this there was considerable further discussions and correspondence with DER which indicated that site remediation could be undertaken in stages.

Following the discussions and correspondence with DER it has been in effect determined that there are three stages to the remediation process necessary for the Reserve. The first stage is the removal of the outdoor shooting stands and range barriers and the skimming of the shooting ranges, bunds, embankments and surrounding lands in order to remove all lead contamination. Stage 2 is to remove or treat the soil as necessary and determined by analysis of the remaining soil on site. Stage 3 will be to reinstate soil and other earthworks at the effected site.

These remediation stages have been discussed with the BPC who have agreed that they should take primary responsibility for carrying out stages 1 and 3. As mentioned earlier in the report, the City has budgeted in the 2016/17 budget to spend up to \$25,000 on soil analysis and testing to ensure the completion of stage 2.

The BPC removed the stands and range barriers in August this year. The next work is to skim the shooting ranges, bunds and embankments. It is proposed that the BPC will do this in the next few months with the City overseeing the process. Soil in this area would then need to be removed or treated followed by an analysis of the remaining soil. Subject to the results of this, the last stage would then be to undertake reinstatement works, which would be done by the BPC.

The remediation of this area may take several years to fully resolve, however, there are no current proposals to develop this section of land. DER have advised that while the whole of the Reserve is registered as contaminated, the portion of the Reserve which is now proposed to be leased to the BPC would be suitable for industrial type use. The BPC proposal is likely to fit within this category of use. It is proposed that the completion of the Reserve remediation works as outlined in this report would be made a requirement of any new lease to be granted to the BPC, regardless of whether the premises includes the area to be remediated or not.

#### Ambergate Volunteer Bush Fire Brigade

The fire truck and equipment for the AVBFB is currently stored on private property. During the community consultation on the future use of Reserve 28419, it was identified that there was a need to relocate this to City owned or managed land and that the Reserve would be a possible location.

In April 2011, the Council resolved (C1104/142 item 5) to support the proposal from the AVBFB to construct a bush fire brigade shed and training room on a portion of the Reserve, subject to the resolution of the contamination issue.

The City has obtained funds from the Local Government Grant Scheme Capital Funding Programme administered by the Department of Fire and Emergency Services to construct a shed for the AVBFB. However, the City and the group have been considering alternative sites. A report will be presented to Council at a later date if an alternative site is preferred. The outcome of this will have no impact on the officer recommendation, as there will be sufficient land still available on the Reserve for both the shed and the BPC proposal.

#### Busselton Pistol Club Proposal

In 2011, the BPC presented the City with a proposal to construct an indoor pistol club building on a portion of the Reserve. The Council agreed subject to the facility being used for firing only air pistols and subject to the resolution of the contamination issue.

Since 2011 there have been a number of changes in the Executive Committee of the BPC and the club has been proactive in looking at ways to improve their facilities and expand their membership. Ultimately this has resulted in the BPC developing a totally new proposal for a standalone indoor shooting facility, which the BPC would like to see located on the Reserve.

The BPC would like to offer other disciplines of indoor shooting in the future, such as standard pistol, rapid fire and black powder. Members currently have to travel to other local authorities to train and compete in these disciplines. Under the current resolution of Council (C1104/142 item 4) the club are only permitted to conduct indoor air pistol shooting. They have requested that Council allow the club to conduct other indoor shooting disciplines from this Reserve in the future as part of the development of their proposed new facility.

The BPC are proposing to develop a fully enclosed indoor shooting range. The facility would be constructed from concrete tilt panel walls, which would be required to be built to a sufficient standard to provide a barrier for noise, which has been a concern of nearby residents in the past. The range would also be required to be built to specifications to meet all statutory and regulatory requirements and must be approved by the relevant statutory authorities prior to any use. The West Australian Pistol Association have reviewed the preliminary range design and advised it appears viable, subject to fit out, to be able to conduct sanctioned matches in proposed shooting disciplines from the proposed facility.

The BPC have proposed a development in three stages. The first stage is the construction of a facility that includes a secure 25m indoor shooting range with preparation area, meeting room and internal

ablutions. The construction of a 50m indoor range is the second stage, which will then allow further opportunities for members to compete at state and national levels and increase the number of disciplines available locally. The third stage, is another 25m indoor range and will be considered at a later date if and when membership expands to justify this.

The cost of stage 1 is expected to be in the vicinity of \$315,000. The BPC are currently raising funds and are in the process of seeking funding to assist with these costs. The club submitted an application to the City for the first round of the 2016/17 Community Bids funding program seeking \$100,000 towards stage 1, of which \$40,000 was endorsed by Council at its ordinary meeting on 10 August 2016. The funding was granted subject to the club meeting statutory requirements and obtaining all necessary approvals and securing all other funding necessary for the first stage of the project. With in-kind contributions, voluntary labour and the City's contribution the BPC now have approximately two thirds of the funding required for this stage of the project.

Each year Local Government Authorities are required to rate, prioritise and forward Community Sport and Recreation Facilities Fund (CSRFF) submissions received from within their district. An application received from the BPC seeking a grant for the sum of \$103,000.00 towards the construction of stage 1 was ranked and presented to Council at its meeting of 14 September 2016. The Council resolved to support their application. The BPC should know the outcome of this submission by the end of December 2016.

#### Community Forum

The City invited members of the public and Ambergate residences to attend the community forum. This was an opportunity to provide them with an update on the resolution of the lead contamination issues, the BPC's new proposal and the proposal for an alternative site for the AVBFB. A number of residents and Councillors attended.

Those in attendance had an opportunity to raise their concerns and ask questions. A BPC representative provided information about what the sport in general involves and how the design and construction of the indoor shooting ranges would address their concerns such as lead containment, safety and noise.

The City provided details of the staged approach to the remediation of the Reserve. Those attending were pleased to see some progress with regards to this and appeared happy that the Reserve would be tidied up through this process. The demolition works of the outdoor range infrastructure has since been completed resulting in a considerable improvement to the appearance of the Reserve.

Although those in attendance understood that the new BPC proposal involved the conduct of shooting in a controlled environment, they did have concerns around this type of activity being in close proximity to their community. This is an issue that is likely to arise no matter where an indoor shooting range is located. The City re-iterated that there is no proposal for the Reserve to be used for outdoor shooting now or into the future and that the proposed leased premises would purely be for the purpose of indoor shooting only. Further, the control of potential amenity impacts of developing such a facility, such as noise and safety, would likely be the subject of conditions of planning consent, which would be required before the facility could proceed. There is also a variety of other regulatory requirements addressing these issues that the facility would have to comply with.

#### Ambergate Hall

In 2009 a structural assessment of the Hall was undertaken. The report received stated that the condition of the Hall was such that it should be closed to the public. Since then the Hall has been closed, but continues to deteriorate and should be removed. The Hall would need to be removed prior to the construction of any new facility and the BPC should be required to do this. However, if



the new facility does not progress, it is recommended that the Hall be removed as soon as practical due to its poor condition. The removal of the Hall remains the BPC's responsibility under its existing lease and if stage 1 of the BPC's proposal does not proceed as anticipated, discussions will need to occur with the BPC about the timing of the Hall's removal.

The City acknowledges that the long term Ambergate residents have had a strong connection to the Hall. Knowing that it was imminent that the Hall would need to be removed, the City arranged for its heritage consultant to inspect the Hall. The heritage consultant agreed that the Hall is in a very poor condition and that there have been alterations to the original fabric of the Hall and a loss of historic detail over time, thus reducing its heritage value. The recommendation that the Hall be demolished was supported but prior to doing so, given its social value in the past, the consultant recommended that the Hall should be recorded photographically. This recommendation has been noted and will form part of any future actions in relation to the Hall.

#### New BPC Lease

The most recent resolution of Council relating to the BPC occupation of the Reserve was in 2011, when the Council resolved to enter into a 21 year lease with the BPC subject to a resolution of the lead contamination. As the contamination issues have not been finally resolved, a new lease has never been offered in accordance with this resolution. As mentioned previously, the BPC remain in occupation on a holding over clause of their lease first entered into in 1989.

The 2011 Council resolution only permits the BPC to conduct indoor air pistol shooting so the BPC are seeking Councils approval to be able to conduct other indoor shooting disciplines when the new facility is constructed. This would be subject to obtaining all necessary statutory approvals. Until such time as a new facility is built the club would continue to be permitted to use their existing facility for indoor air pistol shooting only in accordance with the existing Council resolution.

As mentioned previously, a new resolution is being sought in relation to the term of the lease. The recommendation to change the term to 10 years with a further 10 year option provides the BPC with long term tenure but also enables the City to review and update lease terms and conditions after 10 years and maintain an extra level of control over the future use of the Reserve. The proposed term is consistent with the City's recently adopted leasing policy.

It is not proposed that the City enter into a new lease with the BPC straight away. Given the existing obligations of the BPC with respect to the Reserve, the new lease needs to be made subject to satisfactory progress being made on remediation of contamination at the Reserve and the removal of the Hall.

The proposed new lease is also very much dependent on the satisfactory progress of stage 1 of the BPC's proposal for an indoor shooting facility. Thus it is proposed that the new lease should not be entered into until such time as the BPC have obtained planning consent from the City for the facility. A number of issues that have been of concern to Ambergate residents in relation to the BPC's use of the Reserve including lead contamination, safety, noise management and dust issues, are likely to be addressed during the planning consent process.

The timely progression of the new proposal will be made a requirement of the new lease. Thus it is proposed the lease contain a provision requiring the substantial commencement of stage 1 of the BPC facility within 2 years, and the completion of the construction of this stage of the facility within 3 years. In this way, the City would have the option of bringing the lease to an end if for some reason the facility does not progress in a timely fashion.

## CONCLUSION

For many years the City has worked with the BPC to assist them to progress a new, safe and compliant indoor shooting facility. The BPC's proposal involves environmental remediation of the leased site, followed by the construction of a fully enclosed indoor shooting range. By supporting the BPC's funding application and providing the club with grant funds the Council have already shown indicative support for the BPC's proposal.

This new facility will allow members of the local community to participate in shooting in an appropriate environment and also provide an opportunity for the BPC to expand over time. In order to progress this proposal, it is recommended that the City enter into a new lease with the BPC subject to the conditions and on the terms outlined in the Officer Recommendation.

## OPTIONS

There are a range of options with regard to the pre-conditions for leasing a portion of the Reserve to the BPC, the activities permitted on the Reserve and the terms and other requirements of a new lease to the BPC. These are reflected in this report but can be explained in more detail if needed.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

It is not proposed to enter into a lease with BPC until conditions referred to in the Officer Recommendation are met. A new lease will be required prior to construction of stage 1 of the proposed new facility commencing on the Reserve and will be subject to the Minister for Lands approval. If satisfactory progress is not made on the new BPC proposal by December 2017 a further report will be put to Council.

### Council Decision and Officer Recommendation

**C1610/099**

Moved Councillor G Bleachmore, seconded Councillor T Best

That the Council:

1. Subject to:
  - (i) The Busselton Pistol Club making satisfactory progress on remediation of the Reserve in accordance with the agreed staged remediation plan;
  - (ii) Agreeing to remove all existing infrastructure from the Reserve associated with the Busselton Pistol Club's previous use of the Reserve including but not limited to the Ambergate Hall; and
  - (iii) Obtaining planning consent from the City for stage 1 of the new proposed fully indoor pistol shooting facility;
2. Enter into a lease, with the Busselton Pistol Club Incorporated for the occupation of a portion of Reserve 28419, Lot 4455, Queen Elizabeth Avenue, Ambergate, as shown hatched yellow on Attachment A on the following terms;
  - a) The term of the lease to be 10 years commencing no later than 30 December 2017, with a further 10 year option subject to discussions between the City and the club and the Council and the City's consideration of community needs at the time;
  - b) The annual rent to be the nominal rental of \$205.00 inclusive of GST and is to be increased by CPI annually;

- c) The lease will be consistent with the City's standard community group lease with the addition of clauses requiring that;
- (i) The Lessee complete the remediation of all lead contamination issues associated with the Reserve;
  - (ii) The Lessee will be responsible for all costs associated with the removal of any existing infrastructure located on the Reserve including the Ambergate Hall;
  - (iii) The Lessee only be able to conduct shooting activities from the Premises in respect of which all necessary statutory approvals have been issued;
  - (iv) The Lessee prepare and comply with a noise management plan developed for the Premises; and
  - (v) The Lessee prepare and comply with a lead containment and safety plan developed for the Premises;
- d) All costs associated with the preparation of the lease to be met by the Lessee.

**CARRIED 9/0**

**EN BLOC**

## **15. CHIEF EXECUTIVE OFFICER'S REPORT**

### **15.2 COUNCILLORS' INFORMATION BULLETIN**

<b>SUBJECT INDEX:</b>	Councillors' Information
<b>STRATEGIC OBJECTIVE:</b>	Governance systems that deliver responsible, ethical and accountable decision-making.
<b>BUSINESS UNIT:</b>	Governance Services
<b>ACTIVITY UNIT:</b>	Executive Services
<b>REPORTING OFFICER:</b>	Administration Officer - Governance - Hayley Barge
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Planning Applications Received 1 September - 15 September <a href="#">⇒</a>
	Attachment B Planning Applications Determined 1 September - 15 September <a href="#">⇒</a>
	Attachment C State Administrative Tribunal Appeals as at 28 September <a href="#">⇒</a>
	Attachment D City of Busselton - Compulsory Accreditation for Bushfire Consultants <a href="#">⇒</a>
	Attachment E Minister for Commerce - Response to Compulsory Accreditation for Bushfire Consultants <a href="#">⇒</a>
	Attachment F Minister for Planning; Disability Services - Response to Compulsory Accreditation for Bushfire Consultants <a href="#">⇒</a>
	Attachment G Parliament of Western Australia - Letter of Appreciation <a href="#">⇒</a>
	Attachment H Busselton Hospice Care Inc - Letter of Appreciation <a href="#">⇒</a>
	Attachment I Dunsborough Probus Club Inc - Letter of Appreciation <a href="#">⇒</a>

### **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**

#### **15.2.1 Planning and Development Statistics**

Attachment A is a report detailing all Planning Applications received by the City between 1 September, 2016 and 15 September, 2016. 38 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 1 January, 2016 and 14 January, 2016. A total of 28 applications (including subdivision referrals) were determined by the City during this period with 28 approved / supported and 0 refused.

#### **15.2.2 State Administrative Tribunal (SAT) Appeals**

Attachment C is a list showing the current status of State Administrative Tribunal Appeals involving the City of Busselton as at 28 September 2016.

### **15.2.3 Compulsory Accreditation for Bush Fire Consultants**

Attachment D is a letter sent by the City to relevant Ministers associated with accreditation requirements for bush fire consultants. The letter was sent following the Council's recent revocation of its own bush fire planning policies, which have been superseded by equivalent State level policies. Attachment E is a response from the Minister for Commerce, the responsible Minister in relation to the Building Act. The letter, unfortunately, confirms that the State is not currently contemplating making accreditation compulsory. The letter does, however, confirm that if City building surveyors, in their role as certifiers of building permit applications, are not satisfied that bush fire assessments provided in support of a building permit application are adequate, or are not prepared by someone with, in their opinion, adequate experience and qualifications, they can refuse to certify a building permit application on that basis. Also at Attachment F is a response from the Minister of Planning; Disability Services to the City's letter Attachment D. The City is yet to receive responses from the other relevant Ministers.

### **15.2.4 Parliament of Western Australian – Letter of Appreciation**

Correspondence has been received from the Parliament of Western Australia and is available to view in Attachment G.

### **15.2.5 Busselton Hospice Care Inc – Letter of Appreciation**

Correspondence has been received from Busselton Hospice Care and is available to view in Attachment H.

### **15.2.6 Dunsborough Probus Club Inc – Letter of Appreciation**

Correspondence has been received from the Dunsborough Probus Club and is available to view in Attachment I.

### **Council Decision and Officer Recommendation**

**C1610/100** Moved Councillor G Blechmore, seconded Councillor T Best

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

- 15.2.1 Planning and Development Statistics
- 15.2.2 State Administrative Tribunal (SAT) Appeals
- 15.2.3 Compulsory Accreditation for Bush Fire Consultants
- 15.2.4 Parliament of Western Australian – Letter of Appreciation
- 15.2.5 Busselton Hospice Care Inc – Letter of Appreciation
- 15.2.6 Dunsborough Probus Club Inc – Letter of Appreciation

**CARRIED 9/0**

**EN BLOC**



## ITEMS CONSIDERED BY SEPARATE RESOLUTION

At this juncture, in accordance with Clause 5.6 (3)(a) & (b) of the Standing Orders, those items requiring an Absolute Majority or in which Councillors had declared Financial, Proximity or Impartiality Interests were considered.

### **11. PLANNING AND DEVELOPMENT SERVICES REPORT**

#### **11.3 PROPOSED CHANGE TO DOG CONTROL DESIGNATIONS - EAGLE BAY**

<b>SUBJECT INDEX:</b>	Animal management
<b>STRATEGIC OBJECTIVE:</b>	A community where people feel safe, empowered, included and enjoy a sense of good health and wellbeing.
<b>BUSINESS UNIT:</b>	Planning and Development Services
<b>ACTIVITY UNIT:</b>	Rangers & Emergency Services
<b>REPORTING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Proposed Change⇒

#### **PRÉCIS**

The Council is asked to consider a proposed change to dog control designations on a section of beach at Eagle Bay, specifically the extension of the existing 'exercise' area adjoining the townsite. Following the undertaking of community consultation and consideration of the consultation outcomes, it is recommended that the Council endorse the proposed change.

#### **BACKGROUND**

At its ordinary meeting of 22 June 2016, the Council considered and endorsed a report setting out the outcomes of a review of the current pattern of dog control designations in the District, with that pattern having been established by the Council during 2015, and first implemented over the 2015/16 summer season. At that time, the Council determined that –

*That the Council receives the report and resolves to –*

- 1. Make no changes to the current pattern of dog management controls at this time; and*
- 2. Acknowledge that there may be a need to consider detailed changes in future, and indicate that such changes can generally be considered on a case-by-case basis, and that where changes are seriously contemplated, consultation should generally occur before Council consideration of any such changes.*

With respect to point 2 above, following informal discussions involving Councillors and City officers, it was decided that consultation should be undertaken with respect to a potential change to dog control designations on one particular beach area at Eagle Bay. Specifically, it was felt that consultation should occur in relation to potentially shifting the boundary between the 'exercise' and 'prohibited' areas adjacent to the townsite, to extend the exercise area approximately 200 metres to the east-south-east, so that it stopped at a point in line with the public beach accessway west of Gypsy Street, rather than at Jingarmup Brook (the proposed change is illustrated at **Attachment A**). That decision reflected reasonably significant (given the relatively small size of the community in question) and fairly consistent community feedback advocating such a change.

## STATUTORY ENVIRONMENT

The most important statutory environment is set out in the *Dog Act 1976* ('the Act') and the subsidiary Regulations, with s31 of the Act being most relevant to the issues addressed in this report. S31(2B) of the Act sets out that -

*A local government may, by absolute majority...specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited —*

- (a) at all times; or*
- (b) at specified times.*

S31(3A) of the Act also sets out that –

*A local government may, by absolute majority...specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.*

S31(3C) of the Act then establishes notice requirements for specifying prohibited and/or exercise areas -

*At least 28 days before specifying a place to be —*

- (a) a place where dogs are prohibited at all times or at a time specified ... or*
  - (b) a dog exercise area...*
- ...a local government must give local public notice of its intention to so specify.*

Note that, should the Council resolve to make any changes to the current pattern of dog management controls; that would require an absolute majority resolution and could not be implemented until such time as the change had been subject of a 28 day notice period.

## RELEVANT PLANS AND POLICIES

The *Meelup Regional Park Management Plan* is relevant to consideration of this issue. That plan was considered in developing the current pattern of dog management controls, and has also been considered in preparing this report.

## FINANCIAL IMPLICATIONS

Should the Council endorse the officer recommendation, there will be a relatively small cost associated with the erection of replacement signage and updating website information and brochures. Those costs can be met without amending the 2016/17 budget.

### Long-term Financial Plan Implications

Nil

## STRATEGIC COMMUNITY OBJECTIVES

The recommendations of this report reflect Strategic Objective 1.1. of the City of Busselton Strategic Community Plan 2013-2017, which is 'A community where people feel safe, empowered, included and enjoy a sense of good health and wellbeing'.

## RISK ASSESSMENT

An assessment of the recommendations of this report has been undertaken against the City's risk assessment framework. Risks are only identified where the residual risk, once controls are identified, is 'medium' or greater. No such risks have been identified.



## CONSULTATION

Consultation regarding the proposed change took place between 3 and 31 August 2016 (although some submissions were received after that date, and have been accepted as submissions). Consultation involved the following –

- Letters sent to all landowners in the Eagle Bay townsite;
- Newspaper advertisements on 3 and 10 August 2016;
- A survey questionnaire developed, available online using the City's *Engagement HQ* system, as well as hard copies being made available at the CIC and Busselton and Dunsborough Libraries; and
- Explanatory and other background information provided on the City's website.

87 submissions/questionnaire responses were provided (note that not all submissions responded to all questions), with results being as follows –

1. I identify myself as –
  - a) A full-time resident of Eagle Bay (20)
  - b) A part-time resident of Eagle Bay (47)
  - c) A full-time resident elsewhere in the City of Busselton (15)
  - d) A part-time resident elsewhere in the City of Busselton (1)
  - e) A visitor to the City of Busselton (6)
2. Do you or does your household own a dog(s)?
  - a) Yes (62)
  - b) No (25)
3. Do you support the extension of the current dog exercise area at Eagle Bay as indicated on the above map? (i.e. the plan included as Attachment A)
  - a) Yes (63)
  - b) No (24)
4. As an alternative, would you prefer that the proposed area of extension was not included in the dog exercise area but designated 'seasonal'?
  - a) Yes (10)
  - b) No (74)
  - c) No preference (3)
5. I visit this section of the coast –
  - a) Very regularly (i.e. several times per week) (34)
  - b) Regularly (i.e. several times per month) (38)
  - c) Occasionally (i.e. several times per year) (16)

Note that the total number of properties in Eagle Bay townsite is approximately 340.

A further breakdown of the consultation outcomes can be provided if requested by Councillors. It is worth noting that dog ownership is strongly associated with support for the proposed change, and not owning a dog is strongly associated with not supporting the proposed change. Also note that, because of the number of part-time residents in Eagle Bay and amongst the respondents in particular, it is not possible to identify what portion of Eagle Bay households has a dog (because in many cases, dogs will be registered in another local government area). It is considered almost certain, though, that given the rate of dog ownership across the City as a whole is around 40% of households, dog owners are over-represented (i.e. just over 70% of respondents are in dog owning households).

Also note that there was an opportunity for submitters to provide additional comments, and those comments have been reviewed by officers (and can also be provided to Councillors on request). In the main, the comments were either setting out reasons for not extending the exercise area (mostly linked to concerns about compatibility of dogs with some other beach users), or advocating a further extension of the exercise area.

There has also been informal consultation with the Meelup Regional Park Management Committee, which has informally indicated acceptance of the proposed change – although it is understood that at least some Committee members are not supportive of the proposed change, largely because of concerns about dogs interacting with wildlife, including hooded plovers.

#### **OFFICER COMMENT**

It is considered that the consultation process has resulted in a statistically very significant response and, whilst the nature of the responses is very strongly correlated with dog ownership, and dog owners are almost certainly over-represented in the response, letters were actually sent to all landowners, and so the disproportionate response probably reflects the relative importance of the issue for dog owners vs. non dog owners – i.e. it is probably a more important issue for dog owners, on average, which has resulted in a higher level of response from dog owners. It is therefore considered reasonable to assume that there is broad community support for the proposed change and there are not considered to be any other technical or similar considerations that would lead officers to recommend that the Council not support the proposed change.

Some of the submissions also advocated further extensions of the exercise area, however, and officers are not supportive of that occurring. Essentially, the change that is proposed and has been subject of consultation would allow Eagle Bay residents to walk along the beach with their dogs between several locations where beach access can be gained, making that access more useful and convenient. A further extension, however, would extend the exercise area beyond the immediate environs of the townsite, and into areas more broadly understood as being part of Meelup Regional Park, where dogs have traditionally been prohibited, and the values of which are not consistent with the presence of dogs.

#### **CONCLUSION**

It is recommended that the Council endorse the proposed minor change to dog control designations at Eagle Bay.

#### **OPTIONS**

The Council could decide not to support the proposed change.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

It is anticipated that changes to signage and public advertising would be completed by 1 December 2016, with updating of website information and brochures occurring in parallel with that, to be ready at the same time.

**Council Decision and Officer Recommendation****C1610/101**

Moved Councillor J McCallum, seconded Councillor C Tarbotton

**ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council, pursuant to S31(3A) of the *Dog Act 1976*, resolves to amend dog control designations relating to a section of beach adjacent to the Eagle Bay townsite, so that the boundary between the 'exercise' and 'prohibited' areas is moved approximately 200 metres in an east-south-easterly direction, from Jingarmup Brook to a point parallel with the beach access path to the west of Gypsy Street, as illustrated in Attachment A to the agenda report.

**CARRIED 9/0****BY ABSOLUTE MAJORITY**

**12. ENGINEERING AND WORKS SERVICES REPORT**

Nil

**13. COMMUNITY AND COMMERCIAL SERVICES REPORT**

Nil

**14.1 PROPOSED LEASE BUSSELTON SURF LIFE SAVING CLUB INCORPORATED**

<b>SUBJECT INDEX:</b>	Agreements and Contracts
<b>STRATEGIC OBJECTIVE:</b>	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Property and Corporate Compliance
<b>REPORTING OFFICER:</b>	Property Coordinator - Ann Strang
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Matthew Smith
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Youth and Community Activities Building Plan⇒ Attachment B Memorandum of Understanding - City and Busselton Surf Life Saving Club ⇒

**PRÉCIS**

The Busselton Surf Life Saving Club Incorporated (BSLSC) and the City of Busselton entered into a Memorandum of Understanding on 7 December 2015 (MOU) in relation to the proposed construction and lease of premises within the Youth and Community Activities Building (the Building) to be located within Reserve 38558 on the Busselton Foreshore.

The purpose of this report is to seek Council's endorsement of the fundamental terms of BSLSC's proposed lease of premises within the Building and to delegate authority to the CEO to finalise the other terms and conditions.

**BACKGROUND**

The City intends, as part of its Foreshore Redevelopment, to construct the Building within the Youth and Community Activities Precinct located within Reserve 38558, to the east of the Goose Café. The Building will comprise of a clubhouse and storage facilities for the BSLSC and a multi-function community room together with a space dedicated to youth services, as shown in Attachment A.

The vision for such a facility emerged as part of the Busselton Foreshore Master Planning process where synergies between the need to provide suitable accommodation for the BSLSC and the desire to develop a dedicated youth and community activities precinct were recognised. The Surf Life Saving Club of WA and the BSLSC have been involved in development of the Building since its inception and have actively and cooperatively worked with the City to secure funding of \$2,881,000 from Lotterywest to construct the Building.

In order to secure the grant funding from Lotterywest, the City sought in principle agreement from the BSLSC to enter into a lease with the City for a portion of the Building. On the 7 December 2015 a MOU was entered into, a copy of which is provided as Attachment B. The MOU outlines the expectations of the parties and their respective roles and responsibilities in relation to the construction and use of the Building and the terms and conditions to be negotiated in respect of the proposed lease of the premises.

On the 12 July 2016 the City and Lotterywest entered into a Building Grant Agreement for the approved purpose of construction of a building to house the BSLSC and act as a youth facility for a range of groups and activities.

Design and construction of the Building is progressing with the City about to go out to tender to enter into a contract for the Building's construction. The MOU outlines the parties' expectation that a lease for the proposed premises will be finalised and entered into by 1 November 2016, although this was perhaps predicated on practical completion being an earlier date from than is likely to be the case. In any event it is timely for Council to consider and approve the primary terms and conditions of BSLSC's lease of the Building. Given the time until occupation commences, it is proposed that authority be delegated to the CEO to negotiate and finalise the non-essential terms.

Further details of the proposed lease terms and conditions are outlined in the Officer Comment section of this report.

### **STATUTORY ENVIRONMENT**

When disposing of property whether by sale, lease or other means, a Local Government is bound by the requirements of section 3.58 of the Local Government Act. However 3.58 (5) (d) provides exemptions to this process under Regulation 30 (2) (b) (i) & (ii) of the Local Government (Functions & General) Regulations.

This section states "disposal of land to incorporated bodies with objects of benevolent, cultural, educational or similar nature and the members of which are not entitled to receive any pecuniary profit from the body's transactions, are exempt from the advertising and tender requirements of section 3.58 of the Local Government Act." The constitution of the BSLSC is such that this exemption applies.

The land on which the Building is to be constructed is within Reserve 38558, currently Lot 502, Deposited Plan 402933, Volume LR3166, Folio949, being Crown Land vested with the City for the purpose of Recreation and Community. The land is vested in the City under a Management Order which currently grants power to lease for periods up to 21 years, subject to the consent of the Minister for Lands. As part of a land rationalisation process linked to the overall Busselton Foreshore Master Plan, the Lot number will be changed to Lot 560, Deposited Plan 409945. Additionally Council has sought power to lease the land for a term not exceeding 42 years, with approval in the process of being issued by the Department of Lands.

### **RELEVANT PLANS AND POLICIES**

The recommendation to enter into a lease with the BSLSC is generally consistent with the principles of the recently adopted policy, "Leases of City Land and Buildings".

Leases to not for profit, community and sporting groups will generally require the lessee to meet the full cost of maintenance and repair of the buildings and facilities leased as well as the costs of utilities and insurance. Due to the strategic location and nature of the Building it was agreed in the MOU that the City would maintain the structural integrity of the Building, however the BSLSC will be responsible for the internal maintenance of the Premises

The proposed term of the lease is 10 years with an option exercisable by the Lessee to extend the term by a further 10 years. This term was the outcome of negotiations with Lotterywest and BSLSC. The policy supports the Council offering this longer term and the BSLSC use of the Building has been fundamental in the City being able to secure the funding. Therefore, officers support the term requested.

The Busselton Foreshore Management Plan is a strategic document that provides detailed guidance for the planning and development of the Busselton Foreshore. The original Plan was adopted by Council on 28th March 2012 and further revisions were adopted on 9th December 2015. The construction and use of the Building in the manner described in this report is consistent with the Plan.

## **FINANCIAL IMPLICATIONS**

The rent charged to community and sporting groups leasing City owned land and/or buildings is currently \$205.00 per annum (inclusive of GST) and reviewed annually by CPI. It is proposed that this be the annual rent charged to the BSLSC.

Under the MOU the City will maintain the structure of the Building and will be responsible for cleaning and maintaining the Common Area being the gallery and the universal access toilets. The BSLSC will be responsible for cleaning and maintaining their Premises and have agreed to contribute to 50% of the costs associated with the cleaning and the electricity consumption of the Common Area, based on the area of floor space of the Common Area to the remainder of the Building.

### **Long-term Financial Plan Implications**

Funding of ongoing maintenance and asset management costs are included in the Long Term Financial Plan. An amount equal to 0.5% of the building cost is allocated in year 1 increasing in increments of 0.25% thereafter until it reaches 1.75% of the total capital cost.

## **STRATEGIC COMMUNITY OBJECTIVES**

The recommendation to enter into a lease with the BSLSC is consistent with the City of Busselton Strategic Community Plan 2013 (Review 2015) and in particular with the Community Objectives of Key Goal Area 1 and 2:

Key Goal Area 1 – Caring and inclusive community

- 1.2 A community that provides opportunities for our youth to learn, grow, work and become healthy adults

Key Goal Area 2 – Well planned, vibrant and active places:

- 2.1 Provide a range of quality leisure, cultural, recreation and sporting facility and services;
- 2.3 Responsible management of public infrastructure assets.

## **RISK ASSESSMENT**

There are no identified risks of a medium or greater level associated with the officer recommendation, with the recommendation serving to mitigate the risks associated with there not being a formal lease in place.

## **CONSULTATION**

The development of a dedicated youth and community precinct and the need to provide suitable accommodation for the BSLSC have been key considerations within the Busselton Foreshore Master Planning process for many years now. The Master Plan has been the subject of extensive community consultation and widely advertised.

The BSLSC have been involved in discussions concerning the Building from the outset and have more recently been actively involved in the design phase of the Building.

The MOU was developed with extensive consultation between the City, BSLSC and Lotterywest.

### **OFFICER COMMENT**

The BSLSC became incorporated in 2007 and have since provided an essential community service and support for many of the events which happen in and around Geographe Bay.

They have historically run their club competition days from the Busselton Foreshore near the Jetty however due to the Foreshore redevelopment they relocated, initially moving next to the Sea Scouts building and then next to the Busselton Volunteer Marine Rescue building, where they currently use sea containers to store their training and safety equipment.

The importance of the services provided by the BSLSC will continue to grow as the City's population and the number of visitors to the region increases. This new facility will enable the club to attract new members and allow them to continue providing high quality services to the community.

The area proposed to be leased to the BSLSC is approximately 564m<sup>2</sup> and consists of equipment store, club rooms, first aid room, patrol room, administration room, kitchen and internal ablutions (the Premises), as shown shaded green on Attachment A.

It is proposed that the City will manage the usage of the areas marked Events/Multi-Function Room, Store, Kitchen and the toilets marked Male (City) and Female (City) on the Building Plan (the Events/Multi-Function Area) as well as usage of the areas marked Meeting and Foreshore Management/Events Office. Both of these areas will be available for hire by the public with the City managing the bookings process. This is similar to the management model used for the hire of meeting rooms at the Busselton Community Resource Centre. A report in relation to the proposed fees and charges for hire of these areas will be presented to Council at a later date.

The areas marked Youth Space and Youth Office are intended to be used for City run youth activities.

The key provisions of the lease which have been negotiated with and approved by BSLSC are as follows:

#### Term and Rent

The proposed term is for an initial period of 10 years followed by a further 10 year option exercisable by BSLSC. The lease will commence upon practical completion of the construction of the Building.

As mentioned before the rent will be the same as the City's community lease rate of \$205 per annum and subject to CPI review each year.

#### Maintenance

It is proposed that the City will maintain the structural integrity of the Building and will be responsible for cleaning and maintaining the Common Area, as shown shaded pink on Attachment A. The BSLSC will contribute towards the cleaning and electricity costs of the Common Area.

#### Reciprocal Use Arrangements

Reciprocal use arrangements have been agreed for the Events/Multi-Function Area and the Clubroom and Kitchen Facilities within the Premises. The BSLSC may use the Events/Multi-Function Area on 5 single occasions in a calendar year without payment, subject to there being no prior booking, and reciprocally the City may use the Clubroom and Kitchen Facilities subject to availability.

## General

Rules and regulations will be developed and annexed to the lease relating to operational policies for the Building, in particular concerning the activation and deactivation security system and access system. The City will work with the BSLSC to formulate these rules.

## **CONCLUSION**

The Building has been designed to provide for both the City and the BSLSC's needs. For the BSLSC the Building will enable the club to operate from a prime location with the added benefit of direct access to Busselton beach front. Use of the Building by the BSLSC complements and adds to the City's overall objectives for the Youth and Community Activities Precinct.

It is recommended that Council resolve to delegate authority to the CEO to enter into a lease with the BSLSC on completion of the Building, subject to the lease containing certain fundamental terms as identified in this report and the officer recommendation.

## **OPTIONS**

1. Council could resolve to enter into a different term of lease with BSLSC, however the term offered could not exceed 42 years (subject to final approval of the new Management Order).

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

A draft lease will be forwarded to the Minister for Lands for pre-approval approximately 3 months prior to completion of the Building. It is anticipated that the lease will be executed no later than December 2017.

## **Council Decision and Officer Recommendation**

**C1610/102**

Moved Councillor J McCallum, seconded Councillor C Tarbotton

**ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council:

Delegate authority to the CEO to enter into a lease, subject to the Minister for Lands approval, with the Busselton Surf Life Saving Club Incorporated for a portion of the Youth and Community Activities Building to be located on Lot 502, Reserve 38558, on the following terms and conditions:

- a) The term of the lease to be 10 years commencing on the date on which construction of the premises to be leased is substantially complete, with an option exercisable by the Lessee to extend the term by a further 10 years.
- b) The rent to commence at \$205.00 per annum inclusive of GST and to be increased each year by CPI.
- c) The reservation of a right to the City to use the Clubrooms and Kitchen within the premises up to 5 times per year free of charge but subject to the provision of reasonable notice and there being no prior bookings.
- d) The reservation of a right to the BSLSC to use the Event/Multi-Function Area within the premises up to 5 times per year free of charge but subject to the provision of reasonable notice and there being no prior bookings.
- e) The Lessee to be granted a right of access to the gallery and universal access toilets, known as the Common Area;
- f) The Lessee to be required to contribute 50% towards the cost of electricity and cleaning costs of the Common Area calculated based on floor space ratios.



- g) A requirement that the Lessee must comply with any reasonable rules and regulations determined by the City, in consultation with the BSLSC, in relation to the use of the Building.
- h) Other relevant terms and conditions that are consistent with the City's standard community groups lease.

**CARRIED 9/0**  
**BY ABSOLUTE MAJORITY**

### 15.1 AWARD OF TENDER RFT17/16 MILNE STREET SPORTS PAVILION CONSTRUCTION

<b>SUBJECT INDEX:</b>	Milne Street Pavilion, Barnard Park
<b>STRATEGIC OBJECTIVE:</b>	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Major Projects
<b>REPORTING OFFICER:</b>	Contract & Tendering Officer - Lisa McDonald Senior Consultant Major Projects - Jan Hopper
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Confidential Tender Evaluation and Recommendation Report Attachment B Confidential Tender Evaluation

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

#### **PRÉCIS**

The Council is requested to consider the tenders received in response to Request for Tender RFT17/16 for Milne Street Sports Pavilion Construction. The tender has now closed and tender submissions have been received and evaluated. This report summarises the submissions received and recommends that Council awards RFT17/16 – Milne Street Sports Pavilion Construction Contract to Innovest Construction Pty Ltd, in accordance with the tender evaluation panel recommendation.

#### **BACKGROUND**

The City of Busselton’s 2016/17 Capital Works Program includes provision for the construction of a multi-user sports pavilion on the original alignment of Milne Street within the Barnard park Sports Complex (see attached plan A). The purpose of the works is to provide a facility for the sporting groups that use Barnard Park now and into the future including change rooms, public ablutions, a function room, kitchen and bar.

#### **STATUTORY ENVIRONMENT**

Section 3.57 of Local Government Act 1995 requires “A local government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods and services”.

Part 4 (Tenders) of the Local Government (Functions and General) Regulations 1996 require that tenders be publicly invited for such contracts where the estimated cost of providing the total service exceeds \$150,000.

Compliance with the Local Government Act 1995 section 3.57 is required in the issuing and tendering of contracts.

#### **RELEVANT PLANS AND POLICIES**

The City’s purchasing, tender selection criteria, occupational health and safety and engineering technical standards and specifications, were all relevant to this tender and have been adhered to in the process of requesting and evaluating tenders.

## FINANCIAL IMPLICATIONS

The total budget for the construction of the Milne Street pavilion within the Barnard Park precinct is \$1,626,940 (Cost Centre B9593) which is less than required for the preferred tender. Based on the tender received it is now proposed the total project budget be \$1,876,736, which allows for the preferred tender and a small contingency. It is proposed that the additional funding to complete the works which could be sourced from the Community Development Reserve Fund. This is shown in the table below:

Description	Account String	2016/2017 Adopted Budget	2016/2017 Amended Budget (Proposed)	Variation to 2016/17 Budget
Milne Street Pavilion	120-B9593-3280	\$1,626,940	\$1,876,736	\$249,796
Transfer from Community Development Contribution Reserve (City District)	302-9103	(\$1,041,313)	(1,291,109)	(\$249,796)
CSRFF Grant	120-b9593-1213	(\$542,310)	(\$542,310)	0
Municipal Fund	Municipal Fund	(\$43,317)	(\$43,317)	0
<b>Net Exp / (Rev)</b>		\$0	\$0	0

Innovest Construction's submitted tender price is accommodated within the amended budget.

It is expected that any variations will be paid from the existing budget, authorised by the Superintendent.

### Long-term Financial Plan Implications

Nil

## STRATEGIC COMMUNITY OBJECTIVES

The construction of the Milne Street pavilion is consistent with following the City of Busselton's Strategic Objectives:

2. Well planned, vibrant and active places;
- 2.3 Infrastructure assets are well maintained and responsibly managed to provide for future generations.

## RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer's recommendation has been undertaken using the City's risk assessment framework. The assessment sought to identify 'downside' risks only rather than 'upside' risks and where the risk, following implementation of controls has been identified as medium or greater are included below.

Risk	Controls	Consequence	Likelihood	Risk Level
Delay of materials from a third party and services supplied by a sub-	Early award to the contractor. Included in the contract	Medium	Unlikely	Medium

contractor. The worst impact would be a delay in materials delaying the completion of the project.	scope and project timeline. Delay would be at contractor's risk. Liquidated damages may be imposed for delays that cause loss to the City.			
The contractor fails to complete the installation by the end of June 2017.	Weekly project meetings to monitor progress. Liquidated damages may be imposed for delays that cause loss to the City.	Medium	Possible	Medium
The costs associated with the construction is over the Council endorsed budget due to variations to the contractors scope of work.	Tender contract terms & conditions; Regular project meetings to monitor progress and provision of a contingency budget.	Medium	Likely	Medium
The contractor fails to construct the infrastructure in accordance with the design.	The Contractor will be monitored to confirm that design is being adhered to at appropriate hold points.	Medium	Unlikely	Medium

## CONSULTATION

RFT17/16 was advertised in the West Australian newspaper on 13 August 2016; the Council for Community pages in the Busselton Dunsborough Mail editions on 17 August 2016; the City of Busselton tenders website page on Saturday 13 August 2016 and Public Notice Boards on Monday 15 August 2016. The closing date for submissions was 15 September 2016 at 2.00pm.

## OFFICER COMMENT

The City issued Request for Tender documents to twenty-seven (27) potential Respondents and received a total of ten (10) submissions from; Innovest Construction, Pro Construction, Civil Con, Q Design and Construct, Smith Constructions, Pindan, Perkins, Big Ben Builders, ZD Construction and CLPM.

The tender assessment was carried out by a tender review panel consisting of Martyn Glover – Executive Director (Panel Chair), Jan Hopper – Senior Consultant Major Projects, and Lisa McDonald – Contracts and Tendering Officer. A copy of all documentation was provided to each member of the tender review panel for assessment.

As part of the tender evaluation process an initial compliance check was conducted to identify submissions that were non-conforming with the immediate requirements of the RFT. This included compliance with contractual requirements and the provision of requested information. All tender submissions were found to be compliant with the specified requirements.

The tender required applicants to address the specified qualitative and quantitative criteria, and complete a pricing schedule for the contract.

The qualitative criteria assessed and weightings applied were as follows:

- Relevant Experience 10%
- Key Personnel Skills and Experience 10%
- Tenderer's Resources 10%
- Demonstrated Understanding 10%

The Tendered price was given a weighting of 60%.

The preferred tenderer has been recommended on the basis of a complete tender evaluation in accordance with the above.

The attached confidential Tender Evaluation and Recommendation report (Attachment B) provides the detailed evaluation outcome.

In Summary, the final ranking demonstrated that the tender from Innovest Construction Pty Ltd represents the best value for money option for the City

## **CONCLUSION**

The tender evaluation panel has completed their assessment in line with the City's tender process and Officers now recommend the Council award Milne Street Pavilion Construction to Innovest Construction Pty Ltd.

## **OPTIONS**

The Council may consider the following alternate options:

1. The Council chooses not to accept the Officers Recommendation and award the Tender to an alternative tenderer. In the view of the Officer's this could result in a Tender being awarded to a tenderer that has not presented the "best value" for money offer.
2. The Council may choose not to accept the Officers Recommendation and not award the tender. This would mean going back out to tender, resulting in significant delays to the contract award and potential significant delays to the development of the Busselton Foreshore.

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The award of the tender can be made immediately after the Council has endorsed the Officer's recommendation. Subject to finalisation of a number of administrative requirements, the successful tenderer will receive formal written notification within seven (7) days of the resolution. All unsuccessful tender applicants will also be notified at this time.

### **Council Decision and Officer Recommendation**

**C1610/103**

Moved Councillor J McCallum, seconded Councillor C Tarbotton

**ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council:

1. Endorses the outcomes of the evaluation panel's assessment in relation to Tender RFT17/16 for Milne Street pavilion Construction which has resulted in the tender submitted by Innovest Construction Pty Ltd being ranked as the best value for money.
2. Delegate authority to the CEO to award the contract for Tender RFT17/16 to Innovest Construction Pty Ltd, subject to negotiations over the final price sum.
3. That the Council Endorses an amendment to the 2016/2017 adopted budget on the following basis to enable the commitment of additional funding to the Milne Street Pavilion project:

<b>Description</b>	<b>Account String</b>	<b>2016/2017 Adopted Budget</b>	<b>2016/2017 Amended Budget (Proposed)</b>	<b>Variation to 2016/17 Budget</b>
Milne Street Pavilion	120-B9593-3280	\$1,626,940	\$1,876,736	\$249,796
Transfer from Community Development Contribution Reserve (City District)	302-9103	(\$1,041,313)	(1,291,109)	(\$249,796)
<b>Net Exp / (Rev)</b>		\$585,627	\$585,627	0

**CARRIED 9/0  
BY ABSOLUTE MAJORITY**

11.1 APPLICATION FOR PLANNING CONSENT FOR A SERVICE STATION (WITH ANCILLARY WHOLESALE FRUIT AND VEGETABLE, INCLUDING SMALL SCALE RETAIL AND DRIVE-THROUGH COFFEE OUTLET)

<b>SUBJECT INDEX:</b>	Development/Planning Applications
<b>STRATEGIC OBJECTIVE:</b>	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
<b>BUSINESS UNIT:</b>	Development Services and Policy
<b>ACTIVITY UNIT:</b>	Statutory Planning
<b>REPORTING OFFICER:</b>	Statutory Planning Coordinator - Joanna Wilson
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Location Plan⇒ Attachment B Development Application Plans⇒ Attachment C Endorsed DGP⇒ Attachment D Summary of Submissions⇒

## PRÉCIS

A development application has been received by the City for a proposed service station (with ancillary wholesale fruit and vegetable, including small scale retail and drive through coffee outlet).

The proposal has been placed before the Council due to the nature of the issues and level of community interest which were generated during the consultation on the proposal.

During the consultation period the main concerns that have been raised are traffic management and congestion, adequacy of car parking, and the intensity of proposed development of the site.

It is considered that, on balance, this development is consistent with the relevant planning framework and it is recommended for approval.

## BACKGROUND

The Council is asked to consider a planning application seeking approval for a service station (with ancillary wholesale fruit and vegetable, including small scale retail and drive through coffee outlet) at Lot 1 (Hse No 99) Causeway Road (Attachments A and B). Under the City of Busselton Local Planning Scheme No.21 (the Scheme) the site is zoned "Special Purpose - Service Station/Plant Nursery" and also subject to Special Provision No.15 and an endorsed Development Guide Plan (Attachment C). The site has an area of 1.433 hectares.

The site is situated at the southern end of Causeway Road and bounded by roads/road reserve along each boundary. To the north the site is bound by Koorden Place, the undeveloped Ford Road reserve forms the eastern boundary and Causeway Road the south-western boundary.

The development application comprises of a single storey service station which would have 400m<sup>2</sup> of Net Lettable Area (NLA) including cashiers, convenience good display and sales area, a restaurant, ablution facilities, staff and storage areas. The service station would have four bays with access from both sides.

The Fruit and Vegetable wholesale building would comprise of 500m<sup>2</sup> NLA of wholesale floor space and 300m<sup>2</sup> NLA of retail. The wholesale section will be utilised for unpacking and repackaging, it will contain cool rooms and staff facilities. The building is single storey construction but slightly higher than the service station as extra height is required to allow access by large trucks, to allow for

inclusion of the cool rooms, storage generally and the movement of machinery such as fork lifts moving pallets of product.

Along the northern side of the building is proposed a loading and unloading area. This area has been designed to accommodate semi-trailers both through the loading area and in relation to the internal and external road design.

The proposed Drive-Through Coffee Outlet is situated immediately south of the fruit and vegetable building. This building is also single storey and will comprise 50m<sup>2</sup> NLA of floor space. Products will be able to be purchased by vehicles traveling past the building in both directions and waiting bays have also been provided to provide for better traffic flow. Excluding the waiting bays there is sufficient space for 15 vehicles to be stacked without interfering with the normal traffic circulation system.

## **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 Provisions set out in Schedule 2 of the *Planning and Development Regulations 2015*.

### ***Land Use Classification***

The only permissible land use on this site is 'Service Station' and 'Nursery'. Councillors will be aware of the recent use class classification of a 'Convenience Store' by the State Administrative Tribunal (SAT) for a service station; this is not a Supreme Court decision so the City would only be required to give the decision due regard. As a result of this decision, the City is looking at modifying the Scheme to address this issue and ensure that there are no overlaps between the use classes proposed through the Omnibus. In many respects, the SAT decision and some other recent SAT decisions have forced some to rethink their approach to interpreting and applying land use definitions in Western Australian town planning schemes – and may well lead to a more careful and disciplined approach to defining and categorising land uses in WA in future, which is quite possibly somewhat overdue in any case.

Notwithstanding the SAT decision, officers have consistently provided advice to the landowner that the proposed development fits within the definition of 'Service Station'; a Plain English (dictionary) definition of 'Service Station' is "an establishment beside a road selling petrol and oil and sometimes having the facilities to carry out maintenance". In Plain English usage in Australia, though, in the present context, a service station would ordinarily not include vehicle servicing or similar, but would include a significant, convenience retail element. Vehicle servicing is now much more likely to be associated with car dealerships, or with other, stand-alone businesses. Officers are of the opinion that the service station element of the proposal clearly fits both the 'letter' and even more clearly the intent of the 'Service Station' definition in the Scheme, and is therefore a permitted land use. Whilst not directly relevant, it is also worth noting that the landowner has been working on the proposal for quite some time, including from well before the recent SAT decision, on the entirely reasonable understanding that the main element of the proposed development is a 'Service Station' and is therefore a permitted land use.

With regard to the drive through coffee outlet and Wholesale Fruit and Vegetable Building, it is not uncommon across the state in particular the south-west to find the co-location of fruit and vegetable sales and drive-through coffee outlets within service stations e.g Puma service station in Stratham and Gull service station in Donnybrook. It is considered that these uses would be ancillary to the primary use of the service station and conditions would be recommended to ensure that the retail outlet in particular shall only be limited to the area shown on the approved plans, and at no time expand into the wholesale area. There is no clear direction about what can be considered ancillary



to a service station, but in light of others that have evolved in the south-west, on balance the proposal is considered to be ancillary and acceptable. Notwithstanding that, a reasonable planning authority could probably also determine that the scale of 'ancillary' development proposed is beyond what is reasonable, and look to scale back that ancillary development.

It is, though, considered that the scale of building and intensity of the proposal would be similar to a nursery being constructed on the site which could include a more substantial retail component and result, potentially, in more and/or larger buildings/structures being developed on the site than are now proposed.

Given what is now proposed, should the development be approved and proceed, officers are of the view that a future amendment to the Scheme to clarify the land-use controls in relation to the site, and also to remove potential for additional commercial development on nearby land with the same ownership would be appropriate. That would both provide greater clarity around the development now proposed, but also ensure that future development does not result in a cumulative impact that would be incompatible with the relevant matters to be considered, which clearly point towards not supporting significant or further commercial development on these key part of the 'entry experience' into the Busselton City Centre, other than where the Scheme already explicitly provides for such development, as is the case with the site subject of this application. An advice note reflecting that direction is recommended.

### ***Special Purpose Zone***

The site is zoned "Special Purpose – Service Station/Plant Nursery" under the Scheme. The objectives of this zone relevant to this application are as follows:

- (a) *To provide a zone capable of accommodating a land use or combination of land uses which do not fall within the objectives of other zones or reserves and which, by their nature or location, require specific consideration.*

The policies of the zone relevant to this application are:

*To permit land included within the zone to be used for the purpose as identified on the Scheme map consistent with the proper planning and servicing of the community and the protection of the amenity of the locality.*

### ***Special Provision No.15***

The site is subject to SP15 which states that development be generally in accordance with the DGP, access to Causeway Road be a left out only and to accommodate road widening requirements for Causeway Road.

### ***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;*

6.4.2 *The local government shall not grant planning approval for the carrying out of development on land within the Landscape Value area or on land on or near any ridgelines where, in the opinion of the local government, that development is likely to substantially detract from the visual amenity of the area, having regard to, among other things, the cumulative visual effect of the development related to other development that may be anticipated in the locality and in the area generally.*

### **Matters to be considered**

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;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
  - (i) *environmental impacts of the development;*
  - (ii) *the character of the locality;*
  - (iii) *social impacts of the development;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66;*

### **RELEVANT PLANS AND POLICIES**

#### ***Local Planning Policy 2 – Traffic and Transport Policy***

The Traffic and Transport Policy outlines the requirements for assessing the traffic impacts of any development or subdivision proposal to ensure the provision of adequate road infrastructure.

The applicant has submitted a detailed breakdown of the traffic expected to be generated by the proposal. This is discussed in more detail within the Officer Comment section of the report.

#### ***Local Planning Policy 8A – Car parking Provisions***

Planning Policy 8 establishes the parking criteria for any proposed development and is intended to provide a practical guide to aid in the preparation of drawings to be submitted in support of an application. The requirements for the proposal are:

#### **Service Station:**

A service station requires 1 bay per working pump; the service station would require a maximum of 8 bays for the pumps;

The service station has an area that is proposed to be utilised for dining, this would be calculated at a rate of 1 space per 4 seats/6 m<sup>2</sup> of public area, this proposal would allow for 28 seats/persons to be accommodated, which generates the need for 7 bays.

#### Fruit and Vegetable Building:

The wholesale component is essentially a warehouse as identified under the policy. Car parking for a warehouse is required at a rate of 1 bay per 50<sup>m<sup>2</sup></sup> NLA plus 1 loading bay per development. The wholesale component consists of 500<sup>m<sup>2</sup></sup> NLA which generates the need for 10 car parking bays. A loading and unloading area is proposed along the building's northern side.

The incidental retail component would fit the interpretation of shop under the policy. Car parking for a shop is required at a rate of 1 bay per 30<sup>m<sup>2</sup></sup> NLA plus 1 loading bay per development. This component comprises 300<sup>m<sup>2</sup></sup> NLA of floor space and therefore generates the need for 10 car parking bays.

#### Drive-Through Coffee Outlet:

There is no set car parking requirement for this type of activity; the applicant sought advice from business owners who have similar activities elsewhere. In relation to queuing, advice is that through the normal part of the day the line rarely gets longer than 4 vehicles however in the peak period (between 7 am and 10 am) the line can reach up to 10 vehicles but for very short periods (accommodated in two lanes). The proposed development allows for queuing for 15 vehicles, 6 from the Ford Road end and 9 from internal to the site. Additional waiting bays are also incorporated in this case.

Some business owners also advise that in their case they have recently introduced an app which allows people to pre order which assists movement of traffic. They also utilise latest technology coffee machines which speed up the process of making coffee.

#### Summary

A total of 32 normal car parking bays are required not including the coffee outlet drive through. A total of 57 bays are proposed. In addition and although not required by City Policy, 5 caravan/boat parking bays are also proposed.

### **FINANCIAL IMPLICATIONS**

The recommendation of this report is a planning determination. It does not impose any direct financial implications upon the City.

### **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 where the individual risk, once controls are identified, is medium or greater.

Risk	Controls	Consequence	Likelihood	Risk Level
Reputational risk should the Use Class be challenged.	Appropriate assessment and understanding of the Use Classes and amendment/clarification of the Uses within the Omnibus.	Minor	Rare	Low

## CONSULTATION

The proposal was referred to all adjoining landowners for a period of 21 days and advertised on the City's website and within the local newspaper for a period of 14 days. The City received 6 submissions from members of the community raising concerns about the proposal and one submission in support of the proposal (Attachment D refers). In addition, a submission was also received from Main Roads objecting to the proposal. The key concerns raised by Main Roads in their submission are summarised below:

- The plan should be modified to accommodate the required road reserve widening for Causeway Road as shown on the 2003 Development Guide Plan and the road reserve widening should be ceded free of cost to the Crown;
- The existing median crossing at Koorden Place does not allow adequate space for vehicles to wait while turning right out from Koorden Place. A road safety audit should be undertaken to identify appropriate treatments or upgrading requirements; and
- The proposed left out access to Causeway Road is located close to the roundabout at the intersection of Causeway Road and Bussell Highway. The left out be designed and constructed to the specifications and satisfaction of Main Roads and the City.

## OFFICER COMMENT

The City has assessed the application having regard to the objectives and policies of the Special Purpose zone, and other Matters to be considered, in particular consideration of proper and orderly planning, as required by the Scheme. The most significant issues to consider do, in fact, relate to land-use classification questions, which are addressed in some detail in the 'Statutory Environment' section of this report.

As a result of the comments from Main Roads and concerns raised by the City's Engineering Department, the City sought its own independent traffic advice. The traffic assessment concluded that the proposal would significantly increase the potential for vehicle conflicts at the intersection with Koorden Place and Causeway Road. As a result the intersection should be upgraded with a slip lane from Causeway Road to accommodate left hand turning into Koorden Place and a splitter island located in Koorden Place.

With regard to the ceding of land, the traffic assessment concludes that there is no requirement for ceding of any land as the widening of Causeway Road can be achieved within the existing road reserve.

A submission has been received that the proposal is inconsistent with the Development Guide Plan and would result in the overdevelopment of the site. The DGP was endorsed in 2003; the changes to the Planning and Development Regulations 2015 introduced a 'sunset' clause to Development Guide Plans/Local Development Plans that they have effect for 10 years. As a result the DGP would have lapsed. Notwithstanding this, it is considered by officers that the proposal is generally consistent with the layout and scale of development as shown on the DGP.

Concerns have been raised about the use of the Ford Road reserve for car parking and the impact from the proposed development on the viability of other service stations and character of the area.

Car parking has always been envisaged within Ford Road reserve, as shown on the DGP and officers and Main Roads have concluded that this area will not be required in the future, so the proposal would make a good use of the land (note that other portions of the Ford Road reserve may have some utility in constructing a future Ford Road, but this most southerly section will not). With regard to viability and an unsuitable use, the use is compatible with Special Provision No.15. In terms of the visual impact, the proposal is a single storey development and a condition is proposed that a landscaping scheme is submitted for the site and adjoining road reserves to ensure that the proposal is in keeping with the rural character of the area.

## **CONCLUSION**

The proposed development is considered to be consistent with the applicable requirements, including the Policy and Objectives of the “Special Purpose” zone prescribed under the Scheme. Therefore it is recommended that the application be approved.

## **OPTIONS**

The Council could:

1. Approve the application subject to different conditions.
2. Refuse the proposal, setting out reasons for doing so.

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The proponent will be advised of the Council decision within two weeks of the Council meeting.

## **OFFICER RECOMMENDATION**

That the Council resolve:

1. That application DA16/0400 submitted for development at 99 Causeway Road is considered by the Council to be consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.
2. That Development Approval is issued for the proposal referred to in 1. above subject to the following conditions:

## **GENERAL CONDITIONS:**

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

## **Prior to Commencement of Any Works Conditions:**

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing:
  - 3.1 Details of type and colour of all external materials to be used;

- 3.2 Details of the finished treatment of all hard surfaced areas to be used for the construction of the parking and manoeuvring areas and pedestrian footpaths as shown on the Approved Development Plans;
- 3.3 A Landscape Plan, which shall include the adjoining Causeway Road, Ford Road and Koorden Place verges;
- 3.4 A Drainage Management Plan setting out details of stormwater and surface water drainage works. The Plan shall include but not be limited to the following:
  - a. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 40m<sup>2</sup> of impervious area;
  - b. Kerbing or grade changes for paved areas;
  - c. installing and maintaining stormwater collection systems, such as bio-retention gardens and soak wells to intercept roof and general runoff that would otherwise enter the forecourt;
  - d. establishing soaks that collect and permit infiltration of Stormwater.
- 3.5 Preparation of an Emergency Chemical Spill Response Plan.
- 3.6 Details for the connection to the comprehensive district drainage system;
- 3.7 Details for the upgrading of the Causeway Road and Koorden Place intersection, including
  - a. Slip Lane from Causeway Road to accommodate left hand turning into Koorden Place;
  - b. Splitter island within Koorden Place; and
  - c. Alterations to the southern radius of Koorden Place to accommodate articulated vehicles;
- 3.8 Details for the upgrading of Koorden Place;
- 3.9 Details for the left out access to Causeway Road to be designed and constructed;
- 3.10 Details of signage, including but not limited to the design, location, materials and levels of illumination.
- 3.11 Details of one pylon sign for all business that shall not exceed 6 metres in height.

**Prior to Occupation/Use of the Development Conditions:**

4. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition 3 have been implemented; and, the following conditions have been complied with;
  - 4.1 Landscaping and reticulation shall be implemented in accordance with the approved Landscape Plan and shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, as assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.
  - 4.2 The parking area(s), driveway(s) and point(s) of ingress and egress [including crossover(s)] shall be designed, constructed, sealed, drained and marked.

**On-going Conditions:**

5. The works undertaken to satisfy Conditions 3 and 4 shall be subsequently maintained for the life of the development and subject to the following condition:
  - 5.1 Sale of goods and services to the general public shall only occur in association with the service station, drive-through coffee facility and in the portion of the 'FRUIT/VEGETABLE WHOLESALE' building marked 'INCIDENTAL RETAIL OUTLET' on the approved plan.

- 5.2 Should, at any time, the service station cease to operate, then all of the other (ancillary) land-uses shall cease immediately, and none of the other land uses may commence operating until the service station has commenced operating.
- 5.3 Should the wholesale operations of the 'FRUIT/VEGETABLE WHOLESALERS' building cease, the retail operations must also cease immediately.

**Advice Note:**

1. You are advised that no other commercial development will be supported over the adjoining lots owned by the applicant. The City envisages amending the Scheme to remove any further commercial development potential over the sites.

5.47pm At this time the Chief Executive Officer left the meeting.

Note: Officers provided Councillors with a Revised Recommendation, replacing Advice Note 1 to better reflect the intent and proposed direction of the Development Approval. Councillor Bleechmore proposed an Alternative Motion for Council consideration that included the Revised Officer Recommendation of Advice Note 1 with the removal of Works Condition 3.7 (a) Slip Lane from Causeway Road to accommodate left hand turning into Koorden Place. Subsequently renumbering Works Conditions 3.7 (b) and (c) to 3.7 (a) and (b).

5.54pm At this the Chief Executive Officer returned to the meeting.

**Council Decision and Alternative Motion**

**C1610/104** Moved Councillor G Bleechmore, seconded Councillor T Best

That the Council resolve:

1. That application DA16/0400 submitted for development at 99 Causeway Road is considered by the Council to be consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.
2. That Development Approval is issued for the proposal referred to in 1. above subject to the following conditions:

**GENERAL CONDITIONS:**

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

**Prior to Commencement of Any Works Conditions:**

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing:
  - 3.1 Details of type and colour of all external materials to be used;
  - 3.2 Details of the finished treatment of all hard surfaced areas to be used for the construction of the parking and manoeuvring areas and pedestrian footpaths as shown on the Approved Development Plans;
  - 3.3 A Landscape Plan, which shall include the adjoining Causeway Road, Ford Road and

- Koorden Place verges;
- 3.4 A Drainage Management Plan setting out details of stormwater and surface water drainage works. The Plan shall include but not be limited to the following:
    - a. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 40m<sup>2</sup> of impervious area;
    - b. Kerbing or grade changes for paved areas;
    - c. installing and maintaining stormwater collection systems, such as bio-retention gardens and soak wells to intercept roof and general runoff that would otherwise enter the forecourt;
    - d. establishing soaks that collect and permit infiltration of Stormwater.
  - 3.5 Preparation of an Emergency Chemical Spill Response Plan.
  - 3.6 Details for the connection to the comprehensive district drainage system;
  - 3.7 Details for the upgrading of the Causeway Road and Koorden Place intersection, including
    - a. Splitter island within Koorden Place; and
    - b. Alterations to the southern radius of Koorden Place to accommodate articulated vehicles;
  - 3.8 Details for the upgrading of Koorden Place;
  - 3.9 Details for the left out access to Causeway Road to be designed and constructed;
  - 3.10 Details of signage, including but not limited to the design, location, materials and levels of illumination.
  - 3.11 Details of one pylon sign for all business that shall not exceed 6 metres in height.

**Prior to Occupation/Use of the Development Conditions:**

4. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition 3 have been implemented; and, the following conditions have been complied with;
  - 4.1 Landscaping and reticulation shall be implemented in accordance with the approved Landscape Plan and shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, as assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.
  - 4.2 The parking area(s), driveway(s) and point(s) of ingress and egress [including crossover(s)] shall be designed, constructed, sealed, drained and marked.

**On-going Conditions:**

5. The works undertaken to satisfy Conditions 3 and 4 shall be subsequently maintained for the life of the development and subject to the following condition:
  - 5.1 Sale of goods and services to the general public shall only occur in association with the service station, drive-through coffee facility and in the portion of the 'FRUIT/VEGETABLE WHOLESALÉ' building marked 'INCIDENTAL RETAIL OUTLET' on the approved plan.
  - 5.2 Should, at any time, the service station cease to operate, then all of the other (ancillary) land-uses shall cease immediately, and none of the other land uses may commence operating until the service station has commenced operating.
  - 5.3 Should the wholesale operations of the 'FRUIT/VEGETABLE WHOLESALÉ' building cease, the retail operations must also cease immediately.

**Advice Note:**

1. You are advised that, to clarify the land-use controls relating to the site and to allow the



ancillary/subsidiary land-uses to operate independent of the predominant land-use in the future, the City envisages amending the town planning scheme in the future. Were that to occur, Conditions 5.1, 5.2 and/or 5.3 may be able to removed subject to the receipt and assessment of an applicant to amend the planning approval. As part of the same or a different town planning scheme amendment, the City also envisages presenting for the Council's consideration proposals for the better management and control of non-agricultural land-uses on Agriculture zoned and other land adjoining the City's major road network, consistent with the adopted strategic planning direction which is generally opposed to unplanned commercialisation of land-use along that major road network.

**CARRIED 8/1**

**Voting:**

For the motion: Councillor R Bennett, Councillor T Best, Councillor G Bleechmore, Mayor G Henley, Councillor J McCallum, Councillor C Tarbotton, Councillor P Carter and Councillor R Reekie.

Against the motion: Councillor R Paine.

**Reasons for Change to Officers Recommendation:**

While in an ideal world a slip lane might be desirable, the engineering advise from two consultants advise that technically a slip lane is not required in this instance. With cost estimates of between \$180,000 to \$240,000 to install the slip lane to the extent as shown on the Cities plan as distributed to Councillors last week, I believe this to be not appropriate to burden the proponent with this extra cost when the professional advise which has modelled traffic flows up to 2026 tells us that it's not required.

**Note:** As Councillor Bleechmore's Alternative Motion was carried, the Revised Officer Recommendation and Councillor Paine's Alternative Motion were not presented for Council Consideration.

11.2 DRAFT STRUCTURE PLAN– LOT 115, WILDWOOD ROAD, YALLINGUP - CONSIDERATION OF ADOPTION FOR FINAL APPROVAL

<b>SUBJECT INDEX:</b>	Planning and Development
<b>STRATEGIC OBJECTIVE:</b>	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
<b>BUSINESS UNIT:</b>	Strategic Planning and Development Services
<b>ACTIVITY UNIT:</b>	Strategic Planning and Development
<b>REPORTING OFFICER:</b>	Strategic Planner - Nick Edwards
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Location Plan⇒ Attachment B Draft Structure Plan Aerial⇒ Attachment C Draft Structure Plan Conditions⇒ Attachment D Schedule of Submissions⇒ Attachment E Schedule of Modifications to the Structure Plan⇒ Attachment F Proposed Wildbrook Place Emergency Access Way Connection Points⇒

## PRÉCIS

The Council is requested to consider adopting for Final Approval a draft Structure Plan for Lot 115 Wildwood Road, Yallingup (subject land) (Attachment A), which is within the Rural Residential Zone.

The draft Structure Plan (Attachments B & C) provides for the subdivision of the subject land into 29 lots with an average area per lot of 2ha and a 1ha minimum lot size. The plan was advertised for 66 days between 22 June and 26 August 2016. During this time 40 submissions were received (Attachment D). Following this process, certain modifications (Attachment E) are recommended to the draft Structure Plan.

The most significant issues raised in submissions related to proposed road connections to Wildbrook Place and Seascape Rise. Having carefully reviewed the submissions and issues, officers are recommending deletion of the Wildbrook Place road connection (Attachment F) but retention of the Seascape Rise connection.

This site is one of the few remaining large lots (over 50ha) within the Commonage area that does not have an existing Structure Plan and is zoned appropriately for development. The draft Structure Plan is a valuable opportunity to consolidate rural residential development, coordinate the delivery of safer bushfire evacuation and emergency services access, enhance long term environmental protection of native species on the site and improve the local road network in the Commonage.

## BACKGROUND

The subject land is 62.5ha in area and located 13.5 km southwest of the Dunsborough town centre. It is bordered by Wildwood Road to the south, forested land containing four rural residential lots to the east and further rural residential developments to the north and west. Along the northern half of the property there are a series of springs and Donald Creek intersects the north-eastern corner, which also contains remnant bushland.

The draft Structure Plan proposes 29 lots on the subject land ranging from 1ha to 4ha in size, including the two existing dwellings and the rural enterprise 'The Shearing Shed', which is a non-conforming land use first approved over 20 years ago. All proposed lots can be serviced by reticulated power and telecommunications, but independent potable water will need to be provided and effluent disposal treated on site for use or disposal.

A 'Tree Habitat Assessment' and 'Environment and Land Capability Assessment' have been submitted with this application which address the potential impacts upon any present rare flora and fauna. These reports concluded that there was little or no evidence of rare flora or fauna species on the subject land and it is noted that potential negative impact on remaining vegetation is limited by measures proposed in the draft Structure Plan.

The subject land contains clusters of Marri, Jarrah and WA Peppermint trees in a semi-circular pattern spread across the property, as well as a stand of Tasmanian Bluegums. The 'Environment and Land Capability Assessment' report does not identify any significant reasons why the proposed subdivision of the land should not be supported.

The subject land is identified as bushfire prone and accordingly, a Bushfire Management Plan has been submitted with the application and discussed later in this report.

### **STATUTORY ENVIRONMENT**

The relevant statutory provisions affecting this proposal include:

- Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations)
- City of Busselton Local Planning Scheme No. 21 (LPS21);

The subject land is identified in the LPS21 as 'Rural Residential' zone which is suitable for development. An appropriate Structure Plan can thus be prepared and lodged by the owner of the land as stated in the Regulations (Part 4 *Structure plans*, cl.15, 16).

In line with the 'Landscape Value Area' (LVA) provisions within the LPS21, the draft Structure Plan excludes development within 100m from Wildwood Road, improves protection of significant remnant vegetation and acknowledges the existing landscape values.

### **RELEVANT PLANS AND POLICIES**

The relevant plans and policies affecting this proposal include:

- State Planning Policy No. 3.7 – Planning In Bushfire Prone Areas (2015);
- State Planning Policy No. 6.1 - Leeuwin-Naturaliste Ridge Policy (1998);
- South West Regional Planning and Infrastructure Framework (2015);
- Commonage Policy Area Consolidated Structure Plan (CPACSP) (2004);
- Local Rural Planning Strategy (2007); and,
- City of Busselton 'Firebreak and Fuel Hazard Reduction Notice' (Annual).

#### *State Planning Policy No. 3.7 – Planning In Bushfire Prone Areas (2015)*

All land within the Commonage north of Wildwood Road including the subject land, is designated as a 'Bushfire Prone Area' by the Department of Fire and Emergency Services (DFES).

Consistent with *State Planning Policy No. 3.7 (SPP3.7)*, a Bushfire Management Plan (BMP) has been prepared for the subject land containing a Bushfire Attack Level (BAL) assessment for each lot as well as identifying emergency access arrangements throughout the Structure Plan area. The BMP provides setback details from vegetation for each development site in order to achieve acceptable BAL ratings, which will assist future landowners when deciding where to construct buildings on their

property. The highest rating for a proposed lot is BAL29 and the lowest achievable is BAL12.5 depending on the distance of vegetation to the proposed dwelling location.

Any non-habitable building (e.g. a shed) greater than 6m from the dwelling is not required to comply with the fire provisions of the Building Code and does not need a Building Protection Zone (BPZ). This means that a non-habitable building (garage, shed, carport or the like) can be built to the boundaries of the Development Exclusion Area (DEA) which protects the vegetation, in accordance with the Structure Plan conditions.

*State Planning Policy 6.1: Leeuwin-Naturaliste Ridge Policy (1998)*

This Policy identifies the landscape values of the subject land, consisting of plateaus and valleys with 'Rural Landscape Significance'. The vegetated area in the north-east corner, which contains Donald Creek, is classified as 'Natural Landscape Significance'. Wildwood Road is identified as a 'Travel Route Corridor with Rural Landscape Significance'.

The relevant provisions in SPP6.1 require the rural character of the land to be protected, which is accomplished through the proposed lot sizes and configuration, road layout, vegetation retention and enhancement. Donald Creek is to have its riparian zone protected. Development will be screened from Wildwood Road through the improvement of the vegetation corridor.

The Policy also encourages the use of Commonage land already committed for Rural Residential development to adopt 'clustered' subdivision designs that are more responsive to retaining landscape values and potentially allowing some agricultural pursuits.

*South West Regional Planning and Infrastructure Framework (2015)*

The provisions of the *South West Regional Planning and Infrastructure Framework* (SWRPIF) support consolidation in the Rural Residential Zone provided there are proven community and environmental benefits.

*Commonage Policy Area Consolidated Structure Plan (2004)*

The CPACSP indicates a requirement for a minimum lot size of 2ha with an average lot size of 3ha for this site. However, it was identified (in preliminary consultation with the applicants, Department of Planning Officers and City officers) to support consideration of a variation to these lot sizes in order to allow for potential community and environmental benefits. It should be noted that the CPACSP is an overarching, guiding document and not a 'Structure Plan' in the sense that the term is now used in the Regulations.

The draft Structure Plan recognises where desirable revegetation is to occur consistent with the CPACSP provisions and provides for this to be implemented at subdivision stage.

*Local Rural Planning Strategy (2007)*

The proposed subdivision is consistent with the strategy as it presents a compact yet permeable design, improving on the local road network and designated Public Access Way (PAW) connections by including proposed road connections to the north and east (and the advertised Structure Plan included the north west as well).

*City of Busselton 'Firebreak and Fuel Hazard Reduction Notice' (Annual)*

All lots must conform to the City of Busselton requirements listed in the annual 'Firebreak and Fuel Hazard Reduction Notice'. The proposed lots will be within 'Category 6'. This will have effect on the

placement of buildings away from the DEA and provides local guidance in siting any habitable buildings at least 25m (in 2015/16) from bushfire prone land. Any development must conform to the current application of this Notice.

### **FINANCIAL IMPLICATIONS**

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

#### **Long-term Financial Plan Implications**

Nil

### **STRATEGIC COMMUNITY OBJECTIVES**

City officers consider the proposal to be consistent with Strategic Priority 2.2 of the City's *Strategic Community Plan 2013*, which is – "A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections."

### **RISK ASSESSMENT**

Officers have undertaken an assessment of the potential implications of carrying out the Officer Recommendation using the City's risk assessment framework. The assessment identifies 'downside' risks only, rather than 'upside' risks. The implementation of the Officer Recommendation will involve adopting the Structure Plan for Final Approval. In this regard, there are no significant risks identified.

### **CONSULTATION**

Preliminary informal consultation with the Department of Planning (DOP) indicated that it is generally supportive of the draft Structure Plan.

The draft Structure Plan was advertised for 28 days from 22 June to 20 July which was extended to 26 August 2016 resulting from concern raised by some local landowners and residents who had not been contacted directly. The draft Structure Plan was also referred to relevant State Government agencies for comment.

Following advertising, 40 submissions were received, 14 from Government agencies which had no objections to the proposal. The remaining 26 submissions were from nearby landowners expressing concern over specific aspects of the draft Structure Plan.

### **OFFICER COMMENT**

The majority of submissions received from nearby landowners and residents addressed four main themes of the draft Structure Plan -

- Road connectivity;
- Lot sizes and Building Envelopes;
- Environmental and Community Benefits; and
- Land supply in the Commonage area.

The following discussion focusses on these themes and does not address the specific design outcomes, which are to be addressed at the subdivision stage.

### *Road Connectivity*

There are four road access ways proposed to service the subdivision -

1. Wildwood Road on the southern boundary will provide the primary entrance point to the subdivision.
2. A temporary cul-de-sac provides a future road connection point should land to the east be developed. To mitigate the interim bushfire risk of such a long cul-de-sac, a temporary right-of-carriageway easement is to be established along the eastern boundary to Wildwood Road. This access way will be gated and signposted to identify use by emergency vehicles only.
3. A road connection is to be built at the north-east of the property, extending the internal road network from Lot 115 to Seascape Rise. The road will use land currently reserved as PAW, which is proposed to be re-vested by the Department of Lands (DOL) for its use as a gazetted public road reserve. When that PAW was first created, it was very clear that the intent was for it to be converted to a public road when Lot 115 was subdivided.
4. A proposed link in the north-west of the property to connect Wildbrook Place to the existing PAW by an Emergency Access Way (EAW), which is defined by SPP3.7 as a road built to the lowest acceptable standard and only to be used in an emergency. This is also to be gated and signposted. Note that the advertised Structure Plan identified this as a public road link.

The proposed road connections are intended to improve bushfire evacuation options by providing access in two directions. Without the road joining Seascape Rise, vehicle evacuation routes all move towards Wildwood Road, which is a considerable risk should it be cut off in an emergency. The draft Structure Plan proposes a link with Seascape Rise which would provide a critical northerly exit direction moving away from Wildwood Road.

The proposed road link with Seascape Rise would also ensure compliance with SPP 3.7 – ‘*Planning in Bushfire Prone Areas*’. Seascape Rise does not currently conform to these standards, which require any road in a bushfire prone area to ensure that vehicle access is to have -

- two way access for any subdivision road which allows safe access and egress to two different destinations;
- cul-de-sacs that are either less than 200m long or less than 600m long provided they include an EAW and only service a maximum of eight lots; and,
- cul-de-sacs not more than 600m long.

Wildbrook Place is approximately 450m long and Seascape Rise is over 750m long.

The existing PAW linking Seascape Rise to the subject land was intended to equitably share the construction costs of the road between the developers of both sites. Following protracted SAT process consideration over the original development to the north, the City may be left with an obligation to reconstruct parts of the PAW to allow upgrading to a road standard. The extent of this liability will be determined during the subdivision design process. These works would be eligible for funding from the money collected by the Commonage Developer Contributions Scheme, which could meet a reasonable portion of these costs.

Following further investigation, the road originally proposed to service Wildbrook Place is proposed to be replaced with an EAW that offers an alternative egress direction in times of emergency. This connection would improve local safety and bushfire connectivity without exceeding the traffic or level of infrastructure required in this rural residential setting. The EAW is proposed to run along the northern boundary of the subject land before connecting with the existing PAW and is to be signposted and gated.

The proposed connections with the subject land, Seascape Rise and Wildbrook Place improve emergency accessibility and connectivity in the area, which is considered a significant community benefit.

The entrance to *'The Shearing Shed'* off Wildwood Road will remain but will not provide access to the internal road network servicing the other lots. Relevant conditions are included on the draft Structure Plan so that if a change in land use occurs, this crossover will be removed and access will be required from the internal network only. The crossover will then be planted with native trees consistent with the vegetation corridor required along Wildwood Road.

#### *Lot Sizes and Building Envelopes*

There have been submissions raising the concern that the proposed lot sizes in the draft Structure Plan appear to contradict those in the CPACSP. The CPACSP however, allows consideration of more intensive development patterns (as does the LPS21, SPP6.7 and SWRPIF) in order to constrain low density residential sprawl. The CPACSP is also a guiding and not binding document. Greater lot densities, though, should generally only be considered if there are wider community benefits. These benefits include emergency bushfire risk (addressed above), environmental acceptability and road connectivity.

The lot sizes are consistent with those adjacent on the eastern, northern and western boundaries. The largest proposed lot in the draft Structure Plan is just over 4ha and in the north eastern corner. The size of this lot reflects its steep terrain and the remnant bushland to be protected, which covers half of this lot. Adjacent to Wildwood Road, eight larger lots are proposed to range between 2.9ha and 3.7ha, which are to have no development within 100m of Wildwood Road, which is also to be screened with native vegetation. The remaining lots range between 1ha and 1.8ha and provide a transition between the Commonage area and land in the 'Viticulture and Tourism' zone, south of Wildwood Road.

The submission discussed a perceived lack of design constraints such as building envelopes and setbacks proposed for each lot. There was concern that this would allow unrestricted building works in an area with recognised landscape values. It is because of these values that existing planning controls are considered to be sufficient in regulating building design in this area. For example, Rural Residential Zone provisions require all dwellings and incidental development to be contained within a 2,000m<sup>2</sup> regular square or rectangular shape within each allotment. There is not, however, generally seen to be a need to specify exactly where development must occur within each lot in the rural-residential zone and for that reason, the City has generally moved away from specific building envelopes for rural-residential subdivision.

The proposed lots 4, 17 and 18 are located in areas where existing topography and vegetation cover could not provide adequate separation between houses. Additional setbacks are thus recommended to be included in the Structure Plan to maintain the 'rural feel' of the area.

Further design considerations and siting of proposed buildings will be subject to a visual landscape assessment at the time of subdivision and will consider the policy guidance provided in SPP 6.1, including the placement of buildings within lots to avoid 'sky-lining' on the higher ridges.

*'The Shearing Shed'* is to be retained as it contributes significantly to the tourism activity mix within the Commonage area. It will continue to use the existing crossover to Wildwood Road but should a change of use be proposed on the lot, planning approval will be required. This will allow consideration of the context of new use and require access and revegetation conditions to be applied.

### *Environmental and Community Benefits*

The draft Structure Plan improves vegetation protection on the subject land, which has been identified in the accompanying Land Capability Assessment as 'Degraded' to 'Completely Degraded'. The existing trees have been continually grazed for many years, leaving insufficient new growth to replace older trees.

A DEA has been placed over viable plant communities which is designed to promote long term maintenance and growth within areas identified on the CPACSP and draft Structure Plan. This approach allows lot owners to determine where to build on their lot in order to minimise any impact on the existing species. Felling of trees within the DEA is not supported, including for maintenance for fire reasons. New dwellings are to acknowledge this protection and be a minimum of 25m from the DEA boundary.

The community benefits of increased accessibility and greater environmental protection refer to the wider 'City of Busselton' community but they also serve the immediate neighbours. Improving travel through subdivision areas by bike, foot or car increases contact within a local community and creates neighbourhood resilience. Improving the quality and quantity of vegetation on the property also strengthens the existing landscape values, benefitting the entire region.

### *Land Supply in the Commonage Area*

The subject land has been identified for development in SPP6.1 and guiding policy documents which support the draft Structure Plan. The development of this site will provide greater housing choice for those wishing to move into this area. No further Rural Residential Zone is being considered within the City of Busselton boundaries and the application of the Structure Plan will restrict any further subdivision.

## **CONCLUSION**

There are considerable potential benefits to the community in developing Lot 115 as proposed in the draft Structure Plan, with the identified road connections in terms of bushfire safety and overall community connectivity being prominent among them.

The draft Structure Plan represents a logical and orderly planning approach to the rural residential development of Lot 115 that will contribute to the aims and objectives for the Commonage precinct. As such, officers recommend that the Council adopts this proposal for Final Approval.

## **OPTIONS**

Should the Officer Recommendation not be supported, the following options could be considered:

1. To decline the adoption of the draft Structure Plan for Final Approval for reasons to be identified;
2. To seek further information before making a decision;
3. To adopt the Structure Plan for Final Approval, subject to further modification(s) as required.

The assessment of the application has not revealed sufficient grounds to support any of the above options.



## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The implementation of the Officer Recommendation will involve referral of the draft Structure Plan documents to the Western Australian Planning Commission. This will occur within one month of the resolution.

### **OFFICER RECOMMENDATION**

1. That the Council:
  - 1.1. Pursuant to Schedule 2, Part 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts the draft Structure Plan for Lot 115, Wildwood Road, Yallingup for Final Approval subject to the changes included in the Schedule of Modifications at Attachment E of this report.
  - 1.2. Pursuant to Schedule 2, regulation 19 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to endorse the Schedule of Submissions at Attachment D prepared in response to the public consultation undertaken in relation to this draft Structure Plan.
  - 1.3. Pursuant to Schedule 2, regulation 20 of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires that a report on the draft Structure Plan be provided to the Western Australian Planning Commission within the timeframe agreed with the Commission.
2. Pursuant to Schedule 2, regulations 22 and 23 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should the WAPC require modifications be made to the draft Structure Plan, these modifications are to be 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 Structure Plan, in which case the matter shall be formally referred back to the Council for assessment and determination.

Note: Councillor Bennett proposed an Alternative Motion for Council consideration that would modify the road connection with Seascope Riseto be an Emergency Access Way (EAW) and retain the existing EAW.

### **Council Decision and Alternative Motion**

**C1610/105** Moved Councillor R Bennett, seconded Councillor J McCallum

1. That the Council:
  - 1.1 Pursuant to Schedule 2, Part 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts the draft Structure Plan for Lot 115, Wildwood Road, Yallingup for Final Approval subject to the changes included in the Schedule of Modifications at Attachment E of this report with the addition that the proposed road connection with Seascope Rise is to be modified to be an Emergency Access Way (EAW) and the existing EAW retained as such, with the reason being as per the reason set out in the support of the Alternative Motion.
  - 1.2. Pursuant to Schedule 2, regulation 19 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to endorse the Schedule of Submissions at Attachment D prepared in response to the public consultation undertaken in relation to this draft Structure Plan.
  - 1.3. Pursuant to Schedule 2, regulation 20 of the *Planning and Development (Local Planning*

*Schemes) Regulations 2015* requires that a report on the draft Structure Plan be provided to the Western Australian Planning Commission within the timeframe agreed with the Commission.

2. Pursuant to Schedule 2, regulations 22 and 23 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should the WAPC require modifications be made to the draft Structure Plan, these modifications are to be 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 Structure Plan, in which case the matter shall be formally referred back to the Council for assessment and determination.

**CARRIED 5/4**

Voting:

For the motion: Councillor R Bennett, Councillor G Bleechmore, Councillor J McCallum, Councillor P Carter and Councillor R Reekie.

Against the motion: Councillor T Best, Mayor G Henley, Councillor C Tarbotton and Councillor R Paine.

Reasons for Change to Officers Recommendation:

Point 2 of the officer's comment indicates that another road exit to the east could eventuate, providing a second exit from the subdivision.

By gating the link to Seascape Rise it will ensure that there is still an exit in the case of an emergency. As only 29 lots are proposed in the subdivision, there is no real need to have this connection turned into a major road which would be attractive as a short cut and not service the needs of residents in this proximity.

**16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**17. CONFIDENTIAL REPORTS**

The reports listed below are of a confidential nature, in accordance with section 5.23(2) of the Local Government Act 1995. These reports have been provided to Councillors, the Chief Executive Officer and Directors only.

**RECOMMENDATION**

That the meeting is closed to members of the public to discuss the following items which are confidential for the reasons as shown.

**17.1 Airport Advisory Committee - 30/09/2016 - RFT11/16 - AIRSIDE D & C CONTRACTOR**

This report contains information of a confidential nature in accordance with Section 5.23(2)(c) and Section 5.23(2)(e)(ii) of the Local Government Act 1995, as it contains information relating to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting and a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government

**17.1 Airport Advisory Committee - 30/09/2016 - RFT11/16 - AIRSIDE D & C CONTRACTOR**

**SUBJECT INDEX:** Busselton-Margaret River Airport  
**STRATEGIC OBJECTIVE:** Infrastructure assets are well maintained and responsibly managed to provide for future generations.  
**BUSINESS UNIT:** Commercial Services  
**ACTIVITY UNIT:** Airport Development  
**REPORTING OFFICER:** Project Officer Contracts and Tendering - Ben Whitehill  
**AUTHORISING OFFICER:** Director, Community and Commercial Services - Naomi Searle  
**VOTING REQUIREMENT:** Absolute Majority  
**ATTACHMENTS:** Attachment A Confidential RFT1116 - Tender Evaluation Report  
**This item is confidential in accordance with section 5.23(2) (c) and (e)(ii) of the Local Government Act 1995, as it contains information relating to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting, and a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government.**

**This item was considered by the Airport Advisory Committee at its meeting on 30 September 2016, the recommendations from which have been included in this report.**

**OFFICER RECOMMENDATION****ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council:

1. Endorses the outcomes of the evaluation panel's assessment in relation to Tender RFT11/16 – Airside D&C Contractor, which has resulted in the tender submitted by PREFERRED TENDERER being determined as the best for value money tender.
2. Endorses that any variation made pursuant to Regulation 20 of the Local Government (Functions and General) Regulations involving strengthening aircraft pavements, providing

additional taxiways, providing wider shoulders to aircraft pavements and increasing the size apron parking areas are, separately and together, minor variations having regard to the total goods and services that tenderers were invited to supply under Regulation 20 of the Local Government (Functions and General) Regulations.

3. Delegates authority to the CEO to negotiate the terms of the contract for a finalised lump sum price for the design and construction of the Airside Infrastructure at Busselton-Margaret River Regional Airport including any variations in accordance with Regulation 20 of the Local Government (Functions and General) Regulations provided that the total cost does not exceed the allocated budget.
4. Delegates authority to the CEO to approve variations in accordance with Regulation 21A of the Local Government (Functions and General) Regulations limited so as not to exceed the overall project budget.

Note: Officers provided a Revised Recommendation for Committee Consideration that would allow the allocation of a second preferred tenderer.

#### **Council Decision and Committee Recommendation**

**C1610/106**

Moved Councillor G Bleechmore, seconded Councillor J McCallum

**ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council:

1. Endorses the outcomes of the evaluation panel's assessment in relation to Tender RFT11/16 – Airside D&C Contractor, which has resulted in the tender submitted by ERTECH PTY LTD being determined as the best value for money tender and the tender submitted by BMD CONSTRUCTION PTY LTD as the second best value for money tender.
2. Endorses that any variation made pursuant to Regulation 20 of the Local Government (Functions and General) Regulations involving strengthening aircraft pavements, providing additional taxiways, providing wider shoulders to aircraft pavements and increasing the size apron parking areas are, separately and together, minor variations having regard to the total goods and services that tenderers were invited to supply under Regulation 20 of the Local Government (Functions and General) Regulations.
3. Delegates authority to the CEO to negotiate, with ERTECH PTY LTD, the terms of the contract for a finalised lump sum price for the design and construction of the Airside Infrastructure at Busselton-Margaret River Airport including any variations in accordance with Regulation 20 of the Local Government (Functions and General) Regulations provided that the total cost does not exceed the allocated budget.
4. Delegates authority to the CEO to negotiate, with the second preferred tenderer BMD CONSTRUCTIONS PTY LTD if negotiations with the first preferred tenderer ERTECH PTY LTD are unsuccessful, the terms of the contract for a finalised lump sum price for the design and construction of the Airside Infrastructure at Busselton-Margaret River Airport including any variations in accordance with Regulation 20 of the Local Government (Functions and General) Regulations provided that the total cost does not exceed the allocated budget.
5. Delegates authority to the CEO to approve variations in accordance with Regulation 21A of the Local Government (Functions and General) Regulations limited so as not to exceed the overall project budget.

**CARRIED 9/0**

**BY ABSOLUTE MAJORITY**

**18. QUESTIONS FROM MEMBERS**

Nil

**19. PUBLIC QUESTION TIME**

Nil

**20. NEXT MEETING DATE**

Wednesday, 26 October 2016

**21. CLOSURE**

The meeting closed at 6.16pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 85 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 26 OCTOBER 2016.

DATE: \_\_\_\_\_

PRESIDING MEMBER: \_\_\_\_\_