

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 24 APRIL 2019

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MINUTES

MINUTES OF A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 24 APRIL 2019 AT 5.30PM.

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

The Presiding Member opened the meeting at 5.30pm.

2. ATTENDANCE

Presiding Member:

Cr Grant Henley Mayor

Members:

Cr Coralie Tarbotton
Cr Ross Paine
Cr Paul Carter
Cr Robert Reekie
Cr Kelly Hick
Cr Lyndon Miles

Officers:

Mr Tony Nottle, Acting Chief Executive Officer
Mr Matt Twyman, Acting Director, Engineering and Works Services
Mr Matt Riordan, Acting Director, Planning and Development Services
Mrs Maxine Palmer, Acting Director, Community and Commercial Services
Ms Sarah Pierson, Manager, Governance and Corporate Services
Miss Kate Dudley, Governance Officer

Apologies:

Nil

Approved Leave of Absence:

Cr John McCallum Deputy Mayor
Cr Rob Bennett

Media:

0

Public:

0

3. PRAYER

The Mayor delivered the ANZAC Ode of Remembrance.

4. APPLICATION FOR LEAVE OF ABSENCE

Nil

5. DISCLOSURE OF INTERESTS

Nil

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

Nil

7. QUESTION TIME FOR PUBLIC**Response to Previous Questions Taken on Notice**

Nil

Question Time for Public

Nil

8. CONFIRMATION AND RECEIPT OF MINUTES**Previous Council Meetings****8.1 Minutes of the Council Meeting held 10 April 2019****COUNCIL DECISION****C1904/072**

Moved Councillor C Tarbotton , seconded Councillor R Reekie

That the Minutes of the Council Meeting held 10 April 2019 be confirmed as a true and correct record.

CARRIED 7/0**Committee Meetings****8.2 Minutes of the Policy and Legislation Committee meeting held on 9 April 2019****COUNCIL DECISION****C1904/073**

Moved Councillor K Hick, seconded Councillor R Reekie

That the Minutes of the Policy and Legislation Committee meeting held on 9 April 2019 be noted.

CARRIED 7/0**9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS****Petitions**

Nil

Presentations

Nil

Deputations

Nil

10. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN (WITHOUT DISCUSSION)**11. ITEMS BROUGHT FORWARD****For the convenience of the Public**

Nil

Adoption by Exception Resolution

At this juncture the Mayor advised the meeting that with the exception of the items identified to be withdrawn for discussion, that the remaining reports, including the Committee and Officer Recommendations, will be adopted en bloc, i.e. all together.

COUNCIL DECISION/ COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1904/074 Moved Councillor C Tarbotton , seconded Councillor P Carter

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





- 12.1 Policy and Legislation Committee - 9/04/2019 - AMENDED COUNCIL POLICY - DESIGNATION OF SENIOR EMPLOYEE AND ACTING CEO
- 12.2 Policy and Legislation Committee - 9/04/2019 - REVIEW OF COUNCIL POLICY COUNCILLOR INDUCTION TRAINING AND PROFESSIONAL DEVELOPMENT
- 13.1 PROPOSED SCHEME AMENDMENT 39 - LOT 202 BUSSELL HIGHWAY AND LOT 201 SEYMOUR STREET, WEST BUSSELTON - CONSIDERATION FOR INITIATION FOR ADVERTISING
- 17.1 COUNCILLORS' INFORMATION BULLETIN

CARRIED 7/0

EN BLOC

12. REPORTS OF COMMITTEE

12.1 Policy and Legislation Committee - 9/04/2019 - AMENDED COUNCIL POLICY - DESIGNATION OF SENIOR EMPLOYEE AND ACTING CEO

SUBJECT INDEX:	Council Policies
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Governance
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Proposed Policy including Committee Changes  Attachment B Current Policy  Attachment C Tracked changes version  Attachment D Proposed Policy 

This item was considered by the Policy and Legislation Committee at its meeting on 9 April 2019, the recommendations from which have been included in this report.

PRÉCIS

This report presents a revised Council policy - Designation of Senior Employees and Acting CEO (Attachment A) (the Policy) for Council approval, with the current policy having been amended to incorporate a policy statement with respect to the Council's succession planning strategy for the role of Chief Executive Officer (CEO). It is recommended that Council adopt the Policy.

BACKGROUND

Section 5.37(1) of the Local Government Act 1995 (the Act) provides for a local government to designate employees or persons belonging to a class of employees to be Senior Employees. Section 5.37(2) of the Act requires the CEO to inform the Council of each proposal to employ or dismiss a Senior Employee.

The current policy in relation to the designation of senior employees and the appointment of an acting CEO was adopted in June 2018. Prior to its adoption Council had in place a policy entitled 'Senior Employees' which designated senior employees but did not deal with the appointment of an Acting CEO.

Section 5.36 of the Act establishes that a person is not to be employed in the position of CEO unless the council believes that the person is suitably qualified for the position. While the CEO has responsibility under his contract of employment for all staffing matters, including the appointment of an Acting CEO for periods when he is on leave, it was identified during a review of the City's governance system that the lack of a formal policy position was a gap in the City's policy framework.

In February 2018 the City was invited to participate in a self-assessment governance review facilitated by the Australian Institute of Company Directors (AICD). One of the statements explored within the review was whether the Council has an appropriate CEO succession plan in place that helps to ensure continuity in the management of the local government's activities. While the responses indicated a 'sound' overall rating, it was from a Council member perspective one of the lower average scoring statements.

Further to this the CEO has recently completed some professional development with respect to best practice governance structures, where the importance of clearly identifying a succession planning strategy for critical and senior roles such as a Chief Executive Officer was stressed. The amendments to the Policy seeks to do this.

STATUTORY ENVIRONMENT

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

As detailed in the background section of this report section 5.36 and 5.37 of the Act sets out requirements in relation to the appointment of a CEO and any designated Senior Employees.

RELEVANT PLANS AND POLICIES

The City has a policy framework which was developed and endorsed by Council in response to the recommendations of the Governance Systems Review (GSR). The framework sets out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures.

FINANCIAL IMPLICATIONS

Adoption of the Policy has no budget implications.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

Adoption of the Policy has no long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

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

Key Goal Area 6 - LEADERSHIP: Visionary, collaborative, accountable

6.1 Governance systems, process and practices are responsible, ethical and transparent.

RISK ASSESSMENT

There are no risks identified of a medium or greater level associated with the officer recommendation, with the Policy serving to secure the operational effectiveness of the organisation.

CONSULTATION

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

OFFICER COMMENT

Since commencing employment in August 2010, the CEO has effectively managed the appointment of an Acting CEO for his periods of leave, ensuring that each Senior Employee is given the opportunity to act, while at the same time ensuring timing is appropriate to each person and their role requirements. This has enabled all four Senior Employees to develop their skills and gain experience in the role of CEO, and minimises the risk of the organisation not having a suitably capable person to act as CEO.

The purpose of the Policy (as amended) is to formalise Council's position with respect to which class of employees are the most suitably qualified for the position of Acting CEO, and, in addition, to formally recognise the benefit that acting in the role of CEO can provide for Senior Employees and the organisation in terms of succession planning. Effective succession planning is vitally important for ensuring the continued success of any business or organisation. In times of crisis in particular having a clear succession plan can save an organisation significant time and money and ensure its goals and objectives continue to be realised.

The Policy also makes it clear that Council will make the appointment of a Senior Employee to the role of Acting CEO in the event that the CEO is incapacitated or otherwise unable to, for instance in the event of death. This provides surety and greater clarity with respect to how and from which class of employees an Acting CEO would be appointed in the event of an unforeseen event.

CONCLUSION

The Policy has been updated to formally recognise the importance of providing Senior Employees (City Directors) with the opportunity to act in the role of CEO for succession planning purposes and to provide surety about what would happen in the event that the CEO was unexpectedly unable to appoint an Acting CEO as per the other provisions of the Policy.

OPTIONS

1. Council could decide not to adopt the Policy and instead choose to take a different position in relation to succession planning, noting that the Policy formalises the current established approach.
2. Council could require further amendments to the Policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be placed on the City's website within one week of adoption.

OFFICER RECOMMENDATION

That the Council adopts the amended Designation of Senior Employees and Acting CEO Council policy as per Attachment A, to replace the current policy (Attachment B).

COUNCIL DECISION AND COMMITTEE RECOMMENDATION

C1904/075 Moved Councillor C Tarbotton, seconded Councillor P Carter

That the Council adopts the amended Designation of Senior Employees and Acting CEO Council policy as per Attachment A, to replace the current policy (Attachment B) subject to rewording of 5.5 to read:




Council recognises that the appointment of Senior Employees to the role of Acting Chief Executive Officer is an effective succession planning strategy, providing Senior Employees with valuable exposure to and experience in the functions of a Chief Executive Officer.

Reason: The Committee felt that it would improve readability and clarity.

CARRIED 7/0

EN BLOC

12.2 Policy and Legislation Committee - 9/04/2019 - REVIEW OF COUNCIL POLICY COUNCILLOR INDUCTION TRAINING AND PROFESSIONAL DEVELOPMENT

SUBJECT INDEX:	Council Policy
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Governance
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Proposed Policy including Committee Changes 
	Attachment B Current Policy 
	Attachment C Proposed Policy 

This item was considered by the Policy and Legislation Committee at its meeting on 9 April 2019, the recommendations from which have been included in this report.

PRÉCIS

This report presents a revised 'Elected Member Training and Professional Development' Council policy (Attachment A) (the Policy) for Council approval, with the current policy entitled 'Councillors Induction, Training and Professional Development' (Attachment B) having been amended as part of the City's overall review of its Council policies, having regard to the recommendations of the Governance System Review (GSR) carried out by Mr John Woodhouse in 2017.

The Policy, which has been moved into the new policy format, is considered to be of continuing relevance and is therefore recommended for Council approval.

BACKGROUND

The current policy was last reviewed as part of the City's policy review process and re-adopted in May 2017, with amendments to incorporate guidelines in relation to overseas travel, contained at the time in Council policy 013 – Specific Requirements for Development Opportunities Involving Significant Travel. Council policy 013 was revoked as a result.

In August 2017 the CEO commissioned a high level independent review of the City's governance systems – the Governance Systems Review (GSR). The GSR made the following recommendations with respect to the City's policy and procedure framework:

- 1. There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. Should deal with higher level objectives and strategies;*
 - b. Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
- 2. As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*
- 3. Consideration should be given to developing a new Council Policy which sets out the 'framework' for Council Policies, OPPs and other procedures. The new Policy would explain the role to be played by each level of document. It could, for example, be called a Policy Framework Policy.*

Prompted by the findings of the GSR and the ongoing requirement to periodically review Council policies, the Policy has again been reviewed by officers and, being considered of continuing relevance, is presented for the Council's consideration, with amendments.

STATUTORY ENVIRONMENT

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

As an outcome of Phase 1 of the Local Government Act review process the Local Government Legislation Amendment Bill 2019 has been introduced and has progressed to the Second Reading stage. Included in the bill is universal training for candidates and council members. Candidates will be required to complete an online induction prior to nominating for election. Following election, elected members will be required to complete five modules of training within the first 12 months of being in office. The foundation units, which will all be available online, will cover a range of topics that will equip council members with the basic skills and knowledge to carry out their duties. No penalties for failure to complete the training will be set at this time. There will, however, be a requirement for councils to report annually on the training completed by all elected members.

The final element of universal training is the requirement for councils to develop an ongoing professional development training policy, with local governments to tailor training to strengthen their council members' capacity to perform their role. This Policy aligns with this pending requirement.

RELEVANT PLANS AND POLICIES

The City has a policy framework which was developed and endorsed by Council in response to the recommendations of the GSR. The framework sets out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures.

FINANCIAL IMPLICATIONS

Adoption of the Policy has no immediate budget implications, with the City's annual budget containing an appropriate amount to meet the Policy requirements. The form and associated costs of any introduced mandatory training is currently unknown. While the Policy proposes that the costs be prioritised from the annual allowance, therefore limiting the financial impacts upon introduction, the potential for this to have future budgetary impacts is acknowledged.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

Adoption of the Policy has no long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

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

Key Goal Area 6 - LEADERSHIP: Visionary, collaborative, accountable

6.1 Governance systems, process and practices are responsible, ethical and transparent.

RISK ASSESSMENT

There are no risks identified of a medium or greater level associated with the officer recommendation, with the Policy maintaining Council's support for elected members to receive training and development which will assist them to undertake their very important role.

CONSULTATION

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

OFFICER COMMENT

The purpose of the Policy is to provide a framework within which elected members may access an annual allowance to fund training and professional development opportunities that will assist them to undertake their role through the development of relevant skills and competencies.

The Policy has been amended to provide greater clarity as to what the annual allowance will be, recommending that it be set at \$3,000 per annum, based on a financial year and pro-rata for elected members elected or standing for election. Aside from overall streamlining of the policy content, other more significant amendments are:

- Removal of reference to the pre-election seminar for aspiring Councillors. While it is intended that an information session for candidates will be held as part of the election process, it is considered outside the scope of the Policy. Additionally as discussed under Statutory Environment under the Local Government Legislation Amendment Bill 2019, it is proposed that candidates will be required to complete an online induction prior to nominating for election.
- Removal of reference to the City induction program for new elected members. While an induction program is considered an important training and development initiative for elected members, it is not funded from the annual allowance and hence is considered to fall outside of the scope of the Policy. Its importance is noted however and a comprehensive induction program is being developed ready for the 2019 election and any resulting new elected members.
- Inclusion of a reference to likely mandatory training for elected members.
- Removal of the ability for unused funds to be carried forward to the next financial year. This has not been occurring in practice and is not considered best practice, instead elected members are encouraged to attend relevant and regular training and development throughout their term.
- Retention of the restriction on intrastate training and development attendance (to two elected members at the same time) unless however the training is mandatory or universal to the functions of an elected member, or it is training being held within the City of Busselton or adjoining districts, where it would make sense to be well represented.
- Standardises reporting requirements for interstate training and development opportunities, removing the when considered appropriate wording.
- Removal of operational detail such as the requirement for the CEO to maintain a register of elected member training and development expenses (something that occurs in any event).

CONCLUSION

The Policy updates and replaces the current 'Councillors Induction, Training and Professional Development', and in doing so refocuses the policy content to the provision and use of an annual allowance for elected member training and development.

OPTIONS

Should Council not agree with the officer recommendation they could

1. decide not to adopt the Policy and instead take a different position / approach.
2. require further amendments to the Policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be placed on the City's website within one week of adoption.

OFFICER RECOMMENDATION

That the Council adopts the Elected Member Training and Professional Development Council policy as per Attachment A, to replace the Councillor Induction, Training and Professional Development policy (Attachment B).

COUNCIL DECISION AND COMMITTEE RECOMMENDATION

C1904/076 Moved Councillor C Tarbotton , seconded Councillor P Carter

That the Council adopts the Elected Member Training and Professional Development Council policy as per Attachment A, to replace the Councillor Induction, Training and Professional Development policy (Attachment B) subject to the rewording of the definition of Annual Allowance to:

"An amount which is an equal share of the budget allocation for Councillor training and development, allocated on a pro-rata basis for each elected member's term of office."





Reason: The budget amount may increase, or potentially decrease, over time and the policy could therefore become redundant, additionally the costs of future mandatory training are currently unknown.

CARRIED 7/0

EN BLOC

13. PLANNING AND DEVELOPMENT SERVICES REPORT

13.1 PROPOSED SCHEME AMENDMENT 39 - LOT 202 BUSSELL HIGHWAY AND LOT 201 SEYMOUR STREET, WEST BUSSELTON - CONSIDERATION FOR INITIATION FOR ADVERTISING

SUBJECT INDEX:	Local Planning Schemes and Amendments
STRATEGIC OBJECTIVE:	Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
BUSINESS UNIT:	Strategic Planning
ACTIVITY UNIT:	Strategic Planning
REPORTING OFFICER:	Strategic Planner - Janine Eriksson
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Location Plan  Attachment B Special Provisions 33  Attachment C Endorsed Structure Plan  Attachment D Scheme Amendment Map 

PRÉCIS

The Council is requested to consider initiating proposed Scheme Amendment No. 39 (Amendment) over Lot 201 Seymour Street and Lot 202 Bussell Highway, West Busselton (the subject land). The Amendment proposes to remove 'Special Provision Area 33' (SP 33) and replace the dual density coding of 'Residential R40/60' with 'Residential R40' on Lot 201 Seymour Street and 'Residential R60' on Lot 202 Bussell Highway.

The Special Provisions are no longer considered relevant and the density rationalisations reflect an already approved Structure Plan. Therefore, it is recommended that the Amendment be adopted for the purposes of public advertising.

BACKGROUND

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

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

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

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

The Amendment seeks to streamline the planning framework by removing SP 33, and apply the residential densities of the approved Structure Plan into the Scheme as indicated on the Amendment Map at Attachment D.

STATUTORY ENVIRONMENT

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

Planning and Development Act 2005 and Regulations 2015

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

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

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

Local Planning Scheme No. 21

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

RELEVANT PLANS AND POLICIES

Draft Local Planning Strategy (2016)

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

Liveable Neighbourhoods (2009/draft 2015)

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

FINANCIAL IMPLICATIONS

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

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There are no long term financial implications.

STRATEGIC COMMUNITY OBJECTIVES

The Officer Recommendation is consistent with Key Goal Area 2 of the City of Busselton Strategic Community Plan 2017 and specifically Community Objective 2.1 – 'Planning strategies that foster the development of neighbourhoods that meet our needs as we grow'.

RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City's risk assessment framework. The assessment identified 'downside' risks only, rather than upside risks as well. The implementation of the Officer Recommendation will involve publicly advertising the proposal for comment. In this regard, there are no risks identified of a medium or greater level.

CONSULTATION

If the Council resolves to initiate the Amendment, the relevant documentation will be referred to the Environmental Protection Authority for formal assessment under Part IV of the Environmental Protection Act 1986. Should the EPA resolve that the Amendment does not require formal assessment, the document will be advertised for 42 days in accordance with the Regulations.

OFFICER COMMENT

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

- **Density**

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

- **Special Provision Area 33**

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

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

These matters also present sufficient grounds to support revocation of the currently endorsed Structure Plan by Council as both Lots 202 and 201 can be developed in an orderly and proper way in accordance with the zoning. Therefore, it is recommended that the Structure plan be revoked by Council at final adoption of this Amendment.

CONCLUSION

Officers are of the view that the proposal is generally consistent with the aims and objectives of the State and local planning policy framework. It is recommended that the Amendment be adopted for public consultation.

OPTIONS

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

1. To decline the request to initiate the Amendment in its entirety (and provide a reason for such a decision). It should be noted that under the relevant legislation there is no right of appeal against a Council decision not to initiate an amendment.
2. To seek further information before making a decision.
3. To initiate the Amendment subject to further modification(s) as required.

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

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the Officer Recommendation will involve advising the applicant of the resolution of Council and commencing the process to advertise the Amendment, which will occur within one month of the date of the decision date.

Requirements for a 'standard' Scheme Amendment, are for the proposal to be advertised for no less than 42 days.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1904/077 Moved Councillor C Tarbotton , seconded Councillor P Carter

That the Council:



1. In pursuance of the Planning and Development (Local Planning Schemes) Regulations 2015, adopts Amendment 39 to the City of Busselton Local Planning Scheme 21 for the purposes of:
 - a) Amending Schedule 3 – 'Special Provision Areas' by deleting Special Provision 33.
 - b) Re-coding Lot 202 Bussell Highway, West Busselton from 'Residential R40/R60' to 'Residential R60';
 - c) Re-coding Lot 201 Seymour Street, West Busselton from 'Residential R40/R60' to 'Residential R40';
 - d) Amending the Scheme Map accordingly.
2. Notes that, as the draft Amendment is consistent with Part V of the Planning and Development Act 2005 and Regulations pursuant to that Act, that following preparation of the necessary documentation the draft Amendment be referred to the Environmental Protection Authority (EPA). Upon receipt of a response from the EPA stating that the draft Amendment is not required to be subject to a formal environmental assessment, it be advertised for public consultation for a period of 42 days. In the event that the EPA determines that the proposed Amendment is to be subject to formal environmental assessment, this assessment is to be prepared by the proponent prior to consultation.
3. Advises the Western Australian Planning Commission that the proposed Amendment is considered by Council to be a 'standard amendment' pursuant to Planning and Development (Local Planning Scheme) Regulations 2015, for the following reasons:
 - a) It is an amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve.
 - b) It is an amendment that would have minimal impact on land in the Scheme area that is not the subject of the amendment.
 - c) It is an amendment that does not result in significant environmental, social, economic or governance impacts on land in the Scheme area.

CARRIED 7/0

EN BLOC

17. CHIEF EXECUTIVE OFFICER REPORT

17.1 COUNCILLORS' INFORMATION BULLETIN

SUBJECT INDEX:	Councillors' Information Bulletin
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Governance Officer - Kate Dudley
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A WALGA Summary 
	Attachment B Informal Minutes 

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

17.1.1 2018/2019 TENDERS

RFT16/18 OLD BUTTER FACTORY REPAIR WORKS

- Requirement – repair and rectification works to the Old Butter Factory following fire damage to the building.
- A Request for Tender was advertised on 20 October 2018 with a closing date of 9 November 2018.
- No submissions were received.
- The CEO determined that a private request for quotation be made in respect of the works.
- One response was received in respect of the request for quotation.
- Officers have completed an evaluation, recommending the contract to be awarded to Clinton Long Project Management Pty Ltd.
- Council endorsed on 30 January 2019 the officer recommendation and delegated authority to the CEO to negotiate and agree final terms and conditions with that contractor.
- It is anticipated that the contract will be awarded in April 2019.

RFT17/18 PORT GEOGRAPHE FINGER JETTY REPLACEMENT

- Requirement – the demolition of existing finger jetty or jetties (as determined by the City) located at the Port Geographe Marina boat launching facility in Busselton and the replacement of such jetty or jetties with floating pontoon style finger jetty or jetties.
- A Request for Tender was advertised on 3 November 2018 with a closing date of 20 November 2018.
- Four submissions were received which provided quotes on completing either 1 or all 3 jetties (as a one-off project).

- The submissions received indicated a significant saving should the City resolve to proceed with replacement of all 3 jetties.
- The cost of replacing all 3 jetties will exceed the budget for this project.
- The Finance Committee Meeting for Council in February 2019 approved an increase of the funding for this project to allow replacement of all 3 jetties.
- A contract was awarded by the CEO in March 2019 to Walcon Marine Australasia Pty Ltd.

EOI01/18 CONSTRUCTION OF THE CITY CENTRE EASTERN LINK – STAGE 1

- Requirement – Construction of the City Centre Eastern Link Stage 1.
- An Expression of Interest was advertised on 15 December 2018 with a closing date of 22 January 2019.
- The process for making a preliminary selection among prospective tenderers has been completed and pursuant to delegation LG3K, the CEO determined that Ertech Pty Ltd, Georgiou Group Pty Ltd and BMD Constructions Pty Ltd be accepted by the City as “acceptable tenderers” and thus eligible to participate in the forthcoming request for tender.
- The tender phase was commenced by private notice pursuant to RFT05/19 (see below).

PQS01/19 PLANT AND EQUIPMENT HIRE – REQUEST FOR APPLICATIONS TO JOIN A PANEL OF PRE-QUALIFIED SUPPLIERS

- Requirement – hire of plant and equipment.
- The PQS was advertised on 9 February 2019 with a closing date of 7 March 2019.
- The closing date has been extended until 14 March 2019. A further State wide advertisement providing notification of the extension was provided by the City on 9 March 2019.
- Thirty submissions were received.
- In accordance with delegation LG3M the CEO has authority to establish the panel and to decide which applications to accept.
- It is anticipated that the panel of pre-qualified suppliers will be established by the CEO in April 2019.

PQS02/19 SUPPLY OF CONCRETE SERVICES – REQUEST FOR APPLICATIONS TO JOIN A PANEL OF PRE-QUALIFIED SUPPLIERS

- Requirement – supply of concrete services.
- The PQS was advertised on 9 March 2019 with a closing date of 2 April 2019.
- Seven submissions were received.
- In accordance with delegation LG3M the CEO has authority to establish the panel and to decide which applications to accept.
- It is anticipated that the panel of pre-qualified suppliers will be established by the CEO in April/May 2019.

RFT01/19 SUPPLY OF MOBILE WASTE SHREDDER

- Requirement – the supply of a mobile waste shredder to be delivered at the Dunsborough Waste Facility.
- A Request for Tender was advertised on 9 March 2019 with a closing date of 26 March 2019.
- Five submissions were received.
- The value of the contract is expected to exceed the CEO’s delegated authority under Delegation LG3J and will require Council approval.
- It is anticipated that the contract will be awarded in May 2019.

RFT02/19 PROVISION OF CLEANING SERVICES TO CITY OWNED FACILITIES

- Requirement – the provision of cleaning services to City owned facilities.
- A Request for Tender was advertised on 9 March 2019 with a closing date of 4 April 2019.
- Eight submissions were received.
- The value of the contract is expected to exceed the CEO's delegated authority under Delegation LG3J and will require Council approval.
- It is anticipated that the contract will be awarded in May 2019.

RFT03/19 ROCK COASTAL PROTECTION REFURBISHMENT: CRAIG STREET AND WONNERUP

- Requirement – refurbishment of six rock coastal protection structures on Geographe Bay, including a groyne and seawall at Craig Street and four groynes at Wonnerup.
- A Request for Tender was advertised on 16 March 2019 with a closing date of 2 April 2019.
- Seven submissions were received.
- The value of the contract is not expected to exceed the CEO's delegated authority under Delegation LG3J.
- It is anticipated that the contract will be awarded in May 2019.

RFT04/19 SUPPLY OF TWO TRI-AXLE SIDE TIPPING TRAILERS

- Requirement – supply of two tri-axle side-tipping trailers.
- A Request for Tender was advertised on 23 March 2019 with a closing date of 9 April 2019.
- The value of the contract is not expected to exceed the CEO's delegated authority under Delegation LG3J.
- It is anticipated that the contract will be awarded in April/May 2019.

RFT05/19 CITY CENTRE EASTERN LINK

- Requirement – following an Expression of Interest (EOI 01-18) process for making a preliminary selection among prospective tenderers, the City of Busselton invited tenders for the construction of the City Centre Eastern Link Road upgrade including stages 1,2A and 2B.
- Three tenderers were invited to submit a tender – Georgiou Group Pty Ltd, Ertech Pty Ltd and BMD Constructions Pty Ltd, with a closing date of 14 May 2019.
- The value of the contract is expected to exceed the CEO's delegated authority under Delegation LG3J and will require Council approval.
- It is anticipated that the contract will be awarded in July 2019. However contract commencement is subject to the relevant conditions precedent being satisfied including environmental approvals being obtained.

17.1.2 Donations Contributions and Subsidies Fund – March 2019

The Council allocates an annual budget allowance to the Donations, Contributions and Subsidies (Sponsorship Fund). This is provided such that eligible groups and individuals can apply for and receive sponsorship to assist them in the pursuit of endeavours that bring direct benefit to the broader community. Allocation of the funds is delegated to the Chief Executive Officer, in accordance with published guidelines and funding availability.

Two applications were supported in March 2019, totalling \$550.00 as outlined in the table below:

App. No.	Recipient	Purpose	Amount
March 2019			
53/1819	Bryce Commins	Selected to represent WA as part of the Junior State MTB Team at the Australian MTB National Championships in Bright, Victoria.	\$300.00
54/1819	Gail Kearney Memorial Hospice Charity Golf Day	Donation requested as a contribution towards catering expenses for participants. Despite being a ticketed event, all funds raised are donated to Busselton Hospice Care.	\$250.00
		March Total	\$550.00

At the end of March 2019, expenditure from the Donations, Contributions and Subsidies Fund totalled \$18,471.00, leaving a balance of \$11,529.00.

17.1.3 WALGA Summary

Attachment A shows the summary of the WALGA Zone and State council meetings.

17.1.4 Meelup Regional Park Management Committee

Attachment B shows the minutes for the informal Meelup Regional Park Management Committee meeting.

17.1.5 Indicative Audit Fee 2019

Our indicative audit fee is based on our estimate of the costs of the audit. For your audit and 56 other local government audits that we assumed from 2018-19, we obtained and considered a quote from the existing audit firm. We did not perform a competitive tender process because for the first year of our management we wanted to keep some consistency in the audit team.

We identified various audit procedures required by Australian Auditing Standards that were not being performed, or were not adequately performed on most local government audits by the various audit firms doing these audits. We communicated these requirements to the firms and, in quoting for the audits, including your audit, they have taken into account the additional required testing. We also have to recover the costs of reporting the financial audit results to Parliament.

These factors have contributed to the increased audit fee. Our audits will provide greater transparency about controls, probity and governance matters for your Council. After the transition period for the revised local government audit legislation, we expect competitive tendering, managed by our office to ensure a combination of audit quality and value for money, will bring about improved audit outcomes.

17.1.6 Small Business Friendly Approvals Project

Following the launch of the Small Business Friendly Local Governments (SBFLG) initiative in August 2016, there has been a steady increase in the number of local governments making a public commitment to supporting small businesses and developing their local economies.

Across the network of 30 small business friendly local governments, it is encouraging to see the SBFLG Charter being embraced and a broad range of small business initiatives being implemented. As a group, these local governments are home to half of all small businesses in the State, which means this small business commitment is significant and far reaching.

The Small Business Development Corporation (SBDC) has identified an opportunity to build on the work of a number of small business friendly local governments and pilot a new project aimed at streamlining approval processes. This project will be known as the Small Business Friendly Approvals Project and will be commencing in May 2019 for a six month period.

In undertaking this pilot project, the SBDC will work closely with two local governments to map the small business customer journey within the retail and food sectors, and design a number of reforms aimed at improving the associated approval processes. A consultant has been engaged to oversee and deliver the Approvals Project.

At our current level of resourcing for this project our capacity for the pilot is limited to two local governments based in the metropolitan region: the Cities of Canning and Stirling. Factors guiding this selection include the number of small businesses within their boundaries and the size of their local economies which will enable us to demonstrate the scale of economic benefit achievable through well planned and designed reforms.

An important component of the Approvals Project is the development of how-to guides to assist local governments introduce similar reforms within their own organisations. I look forward to sharing this guidance material with you later this year, as well as providing an overview of the lessons learned and opportunities for future projects and partnerships.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1904/078 Moved Councillor C Tarbotton , seconded Councillor P Carter

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

- 17.1.1 2018/2019 TENDERS
- 17.1.2 Donations Contributions and Subsidies Fund – March 2019
- 17.1.3 WALGA Summary
- 17.1.4 Meelup Regional Park Management Committee
- 17.1.5 Indicative Audit Fee 2019
- 17.1.6 Small Business Friendly Approvals Project

CARRIED 7/0

EN BLOC

ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION, WITHOUT DEBATE**18. FINANCE AND CORPORATE SERVICES REPORT****16.1 POLICY AND LEGISLATION COMMITTEE - TERMS OF REFERENCE**

SUBJECT INDEX:	Committee
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Governance Officer - Kate Dudley
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

PRÉCIS

The purpose of this report is to advise Council, that due to the non-attendance of Councillor Bennett at the Policy and Legislation Committee (the Committee) meetings held between January and March 2019, Council are required to consider the forfeiture of Councillor Bennett's membership, as per Clause 5.2 of the Terms of Reference, of the Committee.

This report seeks to provide a remedy to the contravention of Clause 5.2 and to consider existing and future approved leave of absence for Councillor Bennett from the Committee

BACKGROUND

In January 2019, Councillor Bennet requested a leave of absence from the Ordinary Meetings of Council held on 13 and 27 February, 13 and 27 March, and 10 and 24 April. This request was subsequently approved by Council (C1902/026 and C1903/044).

As a member of the Committee, Councillor Bennett has been an apology for the meetings held 22 January 2019, 12 February 2019 and 12 March 2019, however without an approved leave of absence for that purpose.

Clause 5.2 of the Committee ToR state – *"...if any member is absent from three (3) consecutive meetings without leave of the committee, they shall forfeit their position on the committee. The Council shall be informed, who will then appoint a replacement for the balance of the members term of appointment"* (Attachment A).

At the 9 April 2019 Committee meeting, a general discussion item regarding Clause 5.2 and the absence of Councillor Bennett was tabled and the committee requested officers to prepare a report to Council to consider Councillor Bennett's re-appointment as a member of the committee and future leave of absence requirements. This would need to be in line with the existing and future approved leave of absence from the ordinary meetings of Council.

STATUTORY ENVIRONMENT

Part 5, Division 2 of the *Local Government Act 1995* provides for the establishment and membership of committees.

RELEVANT PLANS AND POLICIES

The City of Busselton Policy and Legislation Committee ToR is a relevant document associated with this report.

These ToR's outline the requirements for membership, quorum requirements and the like and indicates the reasons for Cr. Bennett's forfeiture of the position on the Committee

FINANCIAL IMPLICATIONS

There are no financial implications associated with the officer recommendation.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

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

STRATEGIC COMMUNITY OBJECTIVES

This report primarily aligns with and supports the Key Goal Area 6 – 'Leadership' of the Strategic Community Plan 2017 and more specifically Community Objective 6.1 – 'Governance systems, process and practices are responsible, ethical and transparent'.

RISK ASSESSMENT

There are no identified risks associated with the continued appointment of Councillor Rob Bennett to the Policy and Legislation Committee.

CONSULTATION

No external consultation is required in relation to this matter.

OFFICER COMMENT

Councillor Bennett has been an approved leave of absence from Ordinary Meetings of Council since January 2019 and this will continue until 24 April 2019. Councillor Bennet has been an apology for the Committee for three consecutive meetings since January 2019 without an approved leave of absence in place for that purpose.

Whilst there are no statutory requirements regarding attendance at Committee meetings, Council adopted a ToR for the Committee (C1706/152) and Clause 5.2 of the terms of reference states:

"...if any member is absent from three (3) consecutive meetings without leave of the committee, they shall forfeit their position on the committee. The Council shall be informed, who will then appoint a replacement for the balance of the members term of appointment."

Due to Councillor Bennett being an apology from three consecutive Policy and Legislation Committee meetings without a formal approved leave of absence in place as mentioned above, a forfeiture of membership, in accordance with Clause 5.2, has occurred.

Further, upon reviewing the relevant sections of the Local Government Act 1995 and associated Regulations, the approved leave of absence of the ordinary meetings of Council cannot be reasonably interpreted to include committee meetings, as the approved leave of absence that was granted by Council for specific "ordinary council meeting" dates.

CONCLUSION

It is the officer recommendation that Council acknowledge the forfeiture of membership, as per Clause 5.2, re-appoint Councillor Bennett to the membership of the Committee, and further approve a leave of absence for Councillor Bennett from the Committee to align with the current approved leave of absence from the ordinary meetings of Council and any future approved leave of absence.

In addition, officers are currently undertaking a review of the ToR for all Committees of Council and will prepare a report for Council at a future date to recommend amendments of a minor nature.

OPTIONS

The Council may decide not reappoint Cr Bennett and to appoint another member to the committee.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The membership of the committee will be effective on the date it is resolved.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1904/079 Moved Councillor R Paine, seconded Councillor R Reekie

That the Council:

1. Re-appoint Councillor Bennett as a member of the Policy and Legislation Committee; and
2. Approve a leave of absence for Councillor Bennett from the Policy and Legislation Committee to align with any existing and future approved leave of absence from the Ordinary Meetings of Council; and
3. Note officers are undertaking a review of the terms of reference for all Committees of Council and will prepare a report to Council at a future date, with recommendations for minor amendments.

CARRIED 7/0

CARRIED BY ABSOLUTE MAJORITY

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. URGENT BUSINESS

Nil

20. CONFIDENTIAL REPORTS

Nil

21. CLOSURE

The Presiding Member closed the meeting at 5.34pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 26 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 8 MAY 2019.

DATE: _____ PRESIDING MEMBER: _____