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

CITY OF BUSSELTON

MINUTES FOR THE COUNCIL MEETING HELD ON 27 JUNE 2018

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MINUTES

MINUTES OF A MEETING OF THE A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 27 JUNE 2018 AT 5.30PM.

1. DECLARATION OF OPENING/ACKNOWLEDGEMENT OF COUNTRY/ACKNOWLEDGEMENT OF VISITORS/DISCLAIMER

The Presiding Member open the meeting at 5.30pm.

2. ATTENDANCE

Presiding Member:

Cr Grant Henley Mayor

Members:

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

Officers:

Mr Mike Archer, Chief Executive Officer
Mr Paul Needham, Director, Planning and Development Services
Mr Cliff Frewing, Acting Director, Community and Commercial Services
Mr Tony Nottle, Director, Finance and Corporate Services
Mr Daniell Abrahamse, Manager, Engineering and Technical Services
Ms Sarah Pierson, Manager, Governance and Corporate Services
Miss Kate Dudley, Administration Officer, Governance

Apologies

Nil

Approved Leave of Absence

Nil

Media:

“Busselton-Dunsborough Times”
“Busselton-Dunsborough Mail”

Public:

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3. PRAYER

The prayer was delivered by Reverend Wayne Warfield of St Mary’s Anglican.

4. APPLICATION FOR LEAVE OF ABSENCE

Nil

5. DISCLOSURE OF INTERESTS

Nil

6. ANNOUNCEMENTS BY THE PRESIDING MEMBER

Nil

7. QUESTION TIME FOR PUBLIC

Prior to Public Question Time commencing the Mayor advised that the questions taken on notice at the previous meeting had been circulated and would be tabled in the minutes.

Response to Previous Questions Taken on Notice**7.1 Mr Ian Stubbs**

The following questions were taken on notice by the Council at the 13 June 2018 Ordinary Council Meeting.

Question

Are you aware that the 2002 conditional approval of the environment appeals committee on Ford Road was binding on the Minister?

Response

There has never been environmental approval provided by the State for Ford Road. The first recommendation of the Appeals Committee was for a conditional approval, however by the time the appeal process was complete the EP Act had been changed such that the Minister was not bound by an Appeals Committee decision, noting also that the final Appeals Committee decision was to refuse approval and that it also set out what were seen as a number of flaws in the first recommendation. Please see the attached letter.

Question

.... 2. Does the City plan to construct the roundabout at the intersection of Peel Terrace and Brown Street? If so, when, how much will it cost and how will it be funded?

Response

The cost of the roundabout at the intersection of Peel Terrace and Brown Street is estimated at between \$250,000 and \$300,000. This will be funded through municipal funds (one third) and State funding (two thirds), provided through the States 18/19 Regional Road Group allocations.

Question

Can I follow up, is the construction of this roundabout listed on next year's budget?

Response

Yes this roundabout is currently listed on the draft 18/19 budget as part of Peel Terrace works.

Question

You mentioned the relocation of services, there has been a lot of activity in that area in the northern end of the Eastern Link. Has any of that work been the relocation of services for the Eastern Link? And can you advise how much this has cost the rate payers? If the services haven't been relocated how much has been listed for this on next year's budget?

Response

The works undertaken were required for the realignment of Stanley Place and Peel Terrace, Cammilleri Street and Peel Terrace and Brown Street and Peel Terrace, and were planned to go ahead even if the Eastern Link as proposed does not proceed. In the event that the Eastern Link does proceed, it will also contribute positively to this. The cost to the ratepayers of the work undertaken is \$250,000, with State government funding also received for the work. This work is nearing completion and there is nothing listed on next year's budget in relation to further relocation of services along Peel Terrace.

Question

Has the Council considered a left in left out intersection at Strelly Street and the duplicated Causeway Road, saving the enormous cost of a roundabout?

Response

This option hasn't been considered by Council however City engineers have advised that limiting access to Strelly Street/Causeway intersection using left in left out treatment is not considered an effective solution as it would limit access and connectivity to the LIA. These types of treatments generally only work in conjunction with a network of roundabouts or other traffic treatments which allow people to turn around.

Question

Mr Mayor, can I ask why that intersection is a higher priority than any other demand for road works within the City?

Response

Brown Street has been identified through modelling as a distributor road down to the foreshore and providing East West connectivity for the town centre and residential areas. In that context it is seen as a key link road and the roundabout will improve traffic flow and further reduce congestion. If the Eastern Link project does proceed it would be logical to complete that at the same time, however regardless it will receive treatment to improve traffic flow.

Questions by Members of the Public

Nil

8. CONFIRMATION AND RECEIPT OF MINUTES**Previous Council Meetings**8.1 Minutes of the Council Meeting held 13 June 2018**COUNCIL DECISION**

C1806/124 Moved Councillor J McCallum, seconded Councillor P Carter

That the Minutes of the Council Meeting held 13 June 2018 be confirmed as a true and correct record.

CARRIED 9/0

9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS**9.1 PETITIONS**

Nil

9.2 PRESENTATIONS

Mr Chris Hosken presented as a party with an interest on item 15.1 Proposed Dunsborough Foreshore Cafe/Kiosk (A Class Reserve R22965): Lease of Land to Margaret River Hospitality Group for the Purposes of a Café Development and was generally opposed to the officers recommendation.

Mr Ron Glencross presented as a party with an interest on item 15.1 Proposed Dunsborough Foreshore Cafe/Kiosk (A Class Reserve R22965): Lease of Land to Margaret River Hospitality Group for the Purposes of a Café Development and was generally opposed to the officers recommendation.

Mrs Jodie Richards of the Chamber of Commerce presented as a party with an interest on item 15.1 Proposed Dunsborough Foreshore Cafe/Kiosk (A Class Reserve R22965): Lease of Land to Margaret River Hospitality Group for the Purposes of a Café Development and was supportive of the officers recommendation.

Mr Anthony Janssen, the proponent presented as a party with an interest on item 15.1 Proposed Dunsborough Foreshore Cafe/Kiosk (A Class Reserve R22965): Lease of Land to Margaret River Hospitality Group for the Purposes of a Café Development and was supportive of the officers recommendation.

Mrs Christine Fench presented as a party with an interest on item 15.1 Proposed Dunsborough Foreshore Cafe/Kiosk (A Class Reserve R22965): Lease of Land to Margaret River Hospitality Group for the Purposes of a Café Development and was generally opposed to the officers recommendation.

Mr Adrian Cocks presented as a party with an interest on item 15.1 Proposed Dunsborough Foreshore Cafe/Kiosk (A Class Reserve R22965): Lease of Land to Margaret River Hospitality Group for the Purposes of a Café Development and was generally opposed to the officers recommendation.

9.3 DEPUTATIONS

Nil

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

Nil

11. ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY

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.

En Bloc Motion**COUNCIL DECISION/COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**

C1806/125 Moved Councillor J McCallum, seconded Councillor R Reekie

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



- 12.1 Finance Committee - 21/06/2018 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 MAY 2018
- 13.1 APPLICATION FOR A RECREATION FACILITY AND PROFESSIONAL CONSULTING ROOMS - LOT 175 (HSE NO 53) PRINCE REGENT DRIVE WEST BUSSELTON
- 13.2 RE-VESTING AND MANAGEMENT ORDER RESERVE 31005, COMMONAGE ROAD, YALLINGUP SIDING
- 13.3 PROPOSED DEVELOPMENT OF A FUEL SALES AND CONVENIENCE RETAIL OUTLET ON LAND AT THE CORNER OF DUNN BAY ROAD AND CYRILLEAN WAY, DUNSBOROUGH - REPORT ADDRESSING COUNCIL RESOLUTION OF 9 MAY 2018
- 17.1 COUNCILLORS' INFORMATION BULLETIN

CARRIED 9/0

EN BLOC

12. REPORTS OF COMMITTEE MEETINGS

12.1 Finance Committee - 21/06/2018 - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 MAY 2018

| | |
|-----------------------------|--|
| SUBJECT INDEX: | Budget Planning and Reporting |
| STRATEGIC OBJECTIVE: | Governance systems, process and practices are responsible, ethical and transparent. |
| BUSINESS UNIT: | Finance and Corporate Services |
| ACTIVITY UNIT: | Financial Services |
| REPORTING OFFICER: | Manager Financial Services - Kim Dolzadelli |
| AUTHORISING OFFICER: | Director, Community and Commercial Services - Cliff Frewing |
| VOTING REQUIREMENT: | Simple Majority |
| ATTACHMENTS: | Attachment A Statement of Financial Activity - Period Ending 31 May 2018  |
| | Attachment B Investment Report - Period Ending 31 May 2018  |

This item was considered by the Finance Committee at its meeting on 21 June 2018, the recommendations from which have been included in this report.

PRÉCIS

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

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the City's financial performance on a year to date basis for the period ending 31 May 2018.

BACKGROUND

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

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

Additionally, and pursuant to Regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year. At its meeting of 26 July 2017, the Council adopted (C1707/163) the following material variance reporting threshold for the 2017/18 financial year:

"That pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations, the Council adopts a material variance reporting threshold with respect to financial activity statement reporting for the 2017/18 financial year as follows:

- *Variances equal to or greater than 10% of the year to date budget amount as detailed in the Income Statement by Nature and Type/ Statement of Financial Activity report, however*

variances due to timing differences and/or seasonal adjustments are to be reported on a quarterly basis; and

- *Reporting of variances only applies for amounts greater than \$25,000.”*

STATUTORY ENVIRONMENT

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

RELEVANT PLANS AND POLICIES

Not applicable.

FINANCIAL IMPLICATIONS

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

Long-term Financial Plan Implications

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

STRATEGIC COMMUNITY OBJECTIVES

This matter principally aligns with Key Goal Area 6 – ‘Leadership’ and more specifically Community Objective 6.1 - ‘Governance systems, process and practices are responsible, ethical and transparent’.

RISK ASSESSMENT

Risk assessments have been previously completed in relation to a number of ‘higher level’ financial matters, including timely and accurate financial reporting to enable the Council to make fully informed financial decisions. The completion of the monthly Financial Activity Statement report is a control that assists in addressing this risk.

CONSULTATION

Not applicable

OFFICER COMMENT

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

- Statement of Financial Activity

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

- Net Current Position

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

▪ Capital Acquisition Report

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

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

▪ Reserve Movements Report

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

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

COMMENTS ON FINANCIAL ACTIVITY TO 31 May 2018

The Statement of Financial Activity for the period ending 31 May 2018 shows a better than expected Net Current Position "Surplus" of \$10M being \$29.97M more than Year to Date (YTD) Budget. At this time subject to there being no adverse activity in the following month it is expected that a modest surplus in the vicinity of \$500K to \$1M will be achieved at year end.

The following summarises the major variances in accordance with *Council's adopted material variance reporting threshold* that collectively make up the above difference:

| Description | 2017/2018 Actual | 2017/2018 Amended Budget YTD | 2017/2018 Amended Budget | 2017/18 YTD Bud Variance | 2017/18 YTD Bud Variance |
|--|------------------|------------------------------|--------------------------|--------------------------|--------------------------|
| Revenue from Ordinary Activities | 64,659,810 | 64,468,604 | 66,421,049 | 0.30% | 191,206 |
| Expenses from Ordinary Activities | (60,295,551) | (62,422,003) | (68,674,825) | 3.41% | 2,126,452 |
| Non-Operating Grants, Subsidies and Contributions | 13,094,426 | 23,437,861 | 43,655,339 | -44.13% | (10,343,435) |
| Loss on Asset Disposals | (641,061) | (6,252) | (6,252) | -10513.69% | (634,809) |
| Capital Revenue & (Expenditure) | | | | | |
| Land & Buildings | (4,557,187) | (15,538,361) | (16,636,693) | 70.67% | 10,981,174 |
| Plant & Equipment | (1,868,589) | (4,278,112) | (4,279,400) | 56.32% | 2,409,523 |
| Furniture & Equipment | (484,529) | (800,193) | (830,212) | 39.45% | 315,664 |
| Infrastructure | (38,213,066) | (53,908,332) | (60,684,321) | 29.11% | 15,695,266 |
| Proceeds from Sale of Assets | 318,150 | 635,150 | 635,150 | -49.91% | (317,000) |
| Proceeds from New Loans | 6,960,000 | 10,110,000 | 10,110,000 | -31.16% | (3,150,000) |
| Advances to Community Groups | (110,000) | (260,000) | (260,000) | 57.69% | 150,000 |
| Transfer to Restricted Assets | (2,458,356) | (564,501) | (625,751) | -335.49% | (1,893,855) |
| Transfer from Restricted Assets | 21,688,927 | 15,354,556 | 27,808,739 | 41.25% | 6,334,371 |
| Transfer to Reserves | (10,825,164) | (14,279,526) | (16,285,572) | 24.19% | 3,454,362 |
| Transfer from Reserves | 5,035,307 | 1,146,659 | 19,921,964 | 339.13% | 3,888,648 |

Operating Revenue:

Revenue from ordinary activities is \$191,206 more than expected when compared to YTD Budget with the following items meeting the material variance reporting threshold set by Council for the 2017/2018 Financial Year.

| Description | 2017/2018 Actual | 2017/2018 Amended Budget YTD | 2017/2018 Amended Budget | 2017/18 YTD Bud Variance | 2017/18 YTD Bud Variance |
|---|------------------|------------------------------|--------------------------|--------------------------|--------------------------|
| | \$ | \$ | \$ | % | \$ |
| Revenue from Ordinary Activities | | | | | |
| Operating Grants, Subsidies and Contributions | 1,956,132 | 2,769,653 | 3,637,258 | -29.37% | (813,521) |
| Other Revenue | 476,594 | 355,846 | 426,167 | 33.93% | 120,748 |

Operating Grants, Subsidies and Contributions

| Cost Code | Cost Code Description | Comment | Variance YTD |
|---|---|--|--------------|
| Finance and Corporate Services | | | |
| Reimbursements | | | |
| 10200 | Financial Services | Insurance Recovered - Claims | 47,893 |
| 10521 | Human Resources & Payroll | Reimbursements - Workers Compensation offset with level of expenditure | (75,485) |
| Community and Commercial Services | | | |
| State Government Grants & Subsidies - Operating Activities | | | |
| 10540 | Recreation Administration | Operating Grants & Subsidies Dept. Sport & Rec - balance of Grant to claim | (32,314) |
| 11151 | Airport Operations | Operating Grants & Subsidies - AIRLINE ENGAGEMENT PROJECT - BUSSELTON MARGARET RIVER AIRPORT PROJECT | 56,800 |
| C6101 | Airport Development - Project Expenses | Operating Grant-Following the State Government's Value Optimisation Review of the Busselton-Margaret River Airport Development Project the City negotiated with the State the return of \$1.4M in funding. A variation to the Financial Assistance Agreement for the Royalties for Regions funding followed and the \$1.4M was returned in May 2018. | (1,400,000) |
| Planning and Development Services | | | |
| State Government Grants & Subsidies - Operating Activities | | | |
| 10830 | Environmental Management Administration | Operating Grants & Subsidies-Other - recoup earlier than expected | 44,256 |
| Reimbursements | | | |
| 10940 | Fire Prevention DFES | Reimbursement - ESL Levy - recoup earlier than expected | 40,522 |

| Engineering and Works Services | | | |
|--|--|---|----------|
| State Government Grants & Subsidies - Operating Activities | | | |
| 11300 | Sanitation Waste Services Administration | Operating Grants & Subsidies-Offset with level of expenditure | (90,000) |
| Contributions - Operating Activities | | | |
| 11160 | Busselton Jetty | Contributions - Operating Activities - recoup earlier than expected | 383,017 |
| Reimbursements | | | |
| 11501 | Operations Services Works | Reimbursements - Workers Compensation - offset with expenditure | 38,980 |

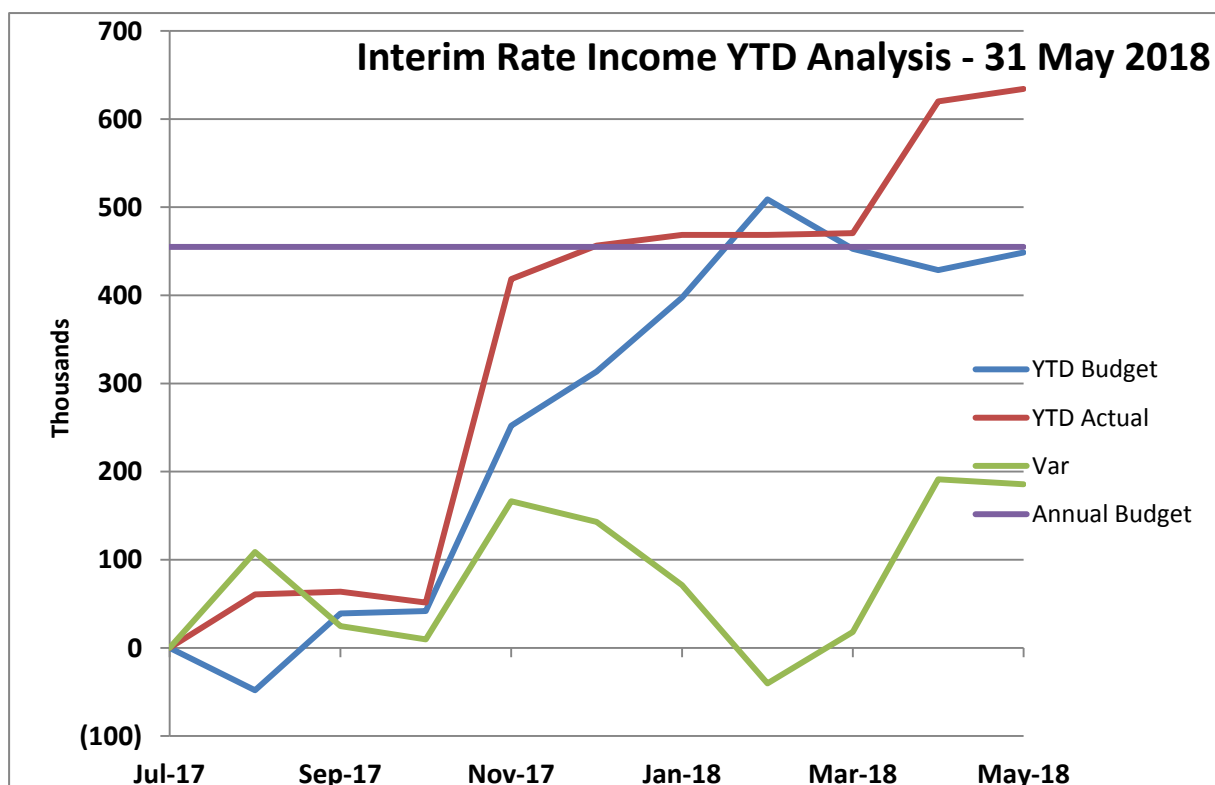
Other Revenue

The items predominately impacting the above “Other Revenue” performance is Sale of Scrap Materials \$104K.

The Officer notes that the above performance of “Operating Grants and Subsidies” and “Other Revenue” is added to by a positive collective performance of \$884K for Rates, Interest and Fees and Charges; these items fall below the Material Variance reporting thresholds. These variations are considered to be that of a timing difference with the exception of Rate Revenue (\$186K) which is expected to be a permanent variation.

Interim Rates:

Officers continue to monitor Interim Rating Income levels and present the following information noting that the YTD Budget has already been achieved;



Operating Expenditure:

Expenditure from ordinary activities, excluding depreciation, is \$2.54M less than expected when compared to YTD Budget with the following items meeting the material variance reporting threshold set by Council for the 2017/2018 Financial Year.

| Description | 2017/2018 Actual | 2017/2018 Amended Budget YTD | 2017/2018 Amended Budget | 2017/18 YTD Bud Variance | 2017/18 YTD Bud Variance |
|--|------------------|------------------------------|--------------------------|--------------------------|--------------------------|
| | \$ | \$ | \$ | % | \$ |
| Expenses from Ordinary Activities | | | | | |
| Materials & Contracts | (13,525,861) | (15,135,292) | (16,914,999) | 10.63% | 1,609,431 |
| Allocations | 1,605,424 | 1,796,173 | 1,996,270 | 10.62% | (190,749) |

Materials and Contracts:

The main items affected are listed below, at this stage these variances are considered to be of a timing nature:

| Cost Code | Cost Code Description / GL Activity | Variance YTD |
|---|---|--------------|
| <u>Finance and Corporate Services</u> | | |
| 10100 | Finance & Corporate Services Support | 29,272 |
| 10250 | Information & Communication Technology Services | 38,175 |
| 10500 | Legal and Compliance Services | 35,175 |
| <u>Community and Commercial Services</u> | | |
| 10591 | Geographe Leisure Centre | 67,480 |
| 10635 | Regional Centres Program | 100,000 |
| 10900 | Cultural Planning | 53,791 |
| 11151 | Airport Operations | (48,718) |
| <u>Planning and Development Services</u> | | |
| 10830 | Environmental Management Administration | 58,315 |
| 10850 | Implement Management Plans Other | 57,492 |
| 10925 | Preventative Services - CLAG | 39,337 |
| 11170 | Meelup Regional Park | 67,099 |
| <u>Engineering and Works Services</u> | | |
| 11104 | Port Geographe | (300,000) |
| 11106 | Street Lighting Installations | 33,086 |
| 11108 | Rural Intersection (Lighting) Compliance | 40,830 |
| 11160 | Busselton Jetty | 498,157 |
| 12600 | Street & Drain Cleaning | (38,419) |
| Various | Bridge Maintenance | 78,396 |
| Various | Building Maintenance | 136,496 |
| C8500 | Cycleways Maintenance Busselton | (26,727) |
| Various | Waste | 398,480 |
| Various | Road Maintenance | (218,543) |
| Various | Reserve Maintenance | (373,765) |
| 5280 | Transport - Fleet Management | 95,701 |

Allocations:

Allocations are running \$190k under YTD Budget; these items are an internal allocation of administrative costs from the Finance and Corporate Services division.

The Officer further notes that the above combined performance of “Materials and Contracts” and “Allocations” is added to by a positive collective performance of \$1.12M for Employee Costs, Utilities, Insurances and Other Expenditure.

Non-Operating Grants, Subsidies and Contributions:

Non-Operating Grants, Subsidies and Contributions are less than YTD Budget by \$10.34M with the main item impacting on the above result is the timing of the receipt of “Airport Development - Project Grant” with a current negative result of \$10.14M; this is a timing difference in nature and effectively Municipal Funds are currently being utilised to offset the level of current expenditure for this project. Other items impacting Non-Operating Grants, Subsidies and Contributions are as follows:

| Cost Code | Cost Code Description | Variance YTD |
|---|--|----------------|
| <u>Finance and Corporate Services</u> | | |
| 10235 | Contributions (Revenue) Prog 7 | (2,603.24) |
| 10239 | Contributions (Revenue) Prog 11 | (108,322.95) |
| 10240 | Contributions (Revenue) Prog 12 | 46,526.91 |
| <u>Community and Commercial Services</u> | | |
| 10900 | Cultural Planning | 32,246.00 |
| C6097 | Airport Construction Stage 1B, Jet Fuel | (242,913.00) |
| C6099 | Airport Development - Project Expenses | (9,899,607.00) |
| <u>Planning and Development Services</u> | | |
| B1023 | Vasse Bushfire Brigade - Donated Asset | 503,967.62 |
| B1029 | Busselton Branch SES | 49,193.59 |
| <u>Engineering and Works Services</u> | | |
| B9517 | GLC - Pool Relining | 32,000.00 |
| B9999 | Donated Buildings | 180,000.00 |
| C1513 | Port Geographe Boat Trailer Parking Layout Redevelopment | (85,875.00) |
| C2512 | Sand Re-Nourishment | (50,413.00) |
| F1019 | Busselton Bypass - Country Road Footpath | (30,696.00) |
| F1020 | College Avenue Shared Path | (114,000.00) |
| S0035 | Strelly Street | (28,826.00) |
| S0049 | Layman Road | (91,663.00) |
| S0064 | Peel Terrace | (390,337.00) |
| S0066 | Queen Street | (86,663.00) |
| S0067 | Layman Road - Reconstruction Between 3250 and 6190 | (46,663.00) |
| S0068 | Georgiana Molloy Bus Bay Facilities | (120,000.00) |
| T0079 | Patton Terrace - Asphalt Overlay | (79,936.00) |
| T0080 | Craig Street - Asphalt Overlay | 60,663.00 |
| T0084 | Yelverton Road- Rural reconstruction & widening | 129,476.00 |

Capital Expenditure

As at 31 May 2018, there is a variance of -39.45% or -\$29.4M in total capital expenditure with YTD Actual at -\$45.12M against a YTD Budget of -\$74.52M; with the table below showing those categories exceeding the 10% material variance threshold. The Airport Development makes up for \$11.96M, Plant and Equipment Purchases, \$2.4M, Furniture and Equipment Purchases \$315K, Major Project - Busselton Foreshore \$3.12M, Main Roads projects \$1.5M, Busselton/Dunsborough Traffic Implementation Works \$990K and Council Roads Initiatives \$754K of the overall variance which also assists in explaining the above current YTD shortfall in Non-Operating Grants.

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

Investment Report

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

As at 31st May 2018, the value of the City's invested funds totalled \$78.19M, up from \$77.64M as at 30th April. The slight increase is due to a net positive inflow of Loan Income compared to on-going expenditure.

During the month of May six term deposits held with five different institutions totalling \$14.0M matured. Five totalling \$12.5M were renewed for a further 10 days at 2.54% (on average). One deposit in the amount of \$1.5M had to be closed so as to maintain compliance with the Investment Policy 218, with specific regard to maximum exposure to a single institution. Investments balances are now falling to levels of a number of years ago and current holdings could no longer be maintained with the bank. The funds were utilised to meet ongoing expenses.

No fixed term deposits relating to the Airport Redevelopment Project matured during the month.

The balance of the 11am account (an intermediary account which offers immediate access to the funds compared to the term deposits and a higher rate of return compared to the cheque account) increased by \$6.0M due to the inflow of new Loan income. The balance of the Airport Development ANZ cash account decreased by \$2.55M as funds were needed to pay ongoing expenses. The balance of funds held at the WA Treasury decreased by \$1.4M when the funds were required to be returned to the WA Government.

The RBA left official rates on hold during May and June. Future movements remain uncertain at this point, although the next movement is likely to be up but not in the immediate future.

Chief Executive Officer – Corporate Credit Card

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

| Date | Amount | Payee | Description |
|-------------|---------------|----------------|--|
| 10-May-18 | \$75.00 | Sticky Tickets | BCCI Budget Breakfast Tickets (2 x Cr's) |

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

+ Allocated against CEO Hospitality Expenses Allowance

CONCLUSION

As at 31 May 2018, the City's financial performance is considered satisfactory. At this time, subject to there being no adverse activity in the following month, it is expected that a modest surplus in the vicinity of \$500K to \$1M will be achieved at year end.

COUNCIL DECISION/COMMITTEE RECOMMENDATION

C1806/126 Moved Councillor J McCallum, seconded Councillor R Reekie

That the Council receives the statutory financial activity statement reports for the period ending 31 May 2018, pursuant to Regulation 34(4) of the Local Government (Financial Management) Regulations.

CARRIED 9/0

EN BLOC

13. PLANNING AND DEVELOPMENT SERVICES REPORT

13.1 APPLICATION FOR A RECREATION FACILITY AND PROFESSIONAL CONSULTING ROOMS - LOT 175 (HSE NO 53) PRINCE REGENT DRIVE WEST BUSSELTON

| | |
|-----------------------------|---|
| SUBJECT INDEX: | Development/Planning Applications |
| STRATEGIC OBJECTIVE: | Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow. |
| BUSINESS UNIT: | Development Services and Policy |
| ACTIVITY UNIT: | Statutory Planning |
| REPORTING OFFICER: | Statutory Planning Coordinator - Joanna Wilson |
| AUTHORISING OFFICER: | Director, Planning and Development Services - Paul Needham |
| VOTING REQUIREMENT: | Simple Majority |
| ATTACHMENTS: | Nil |

PRÉCIS

The Council is asked to consider a development (planning) application seeking approval for a Recreation Facility and Professional Consulting Rooms (Gym and Physiotherapy) at 53 Prince Regent Drive, West Busselton. The proposal is located within the 'West Street Development' along the boundary with the residential properties accessed from Seymour Street.

The proposal is placed before the Council due to the nature of the issues requiring consideration and the level of community interest.

As originally submitted the proposed building comprised of a parapet wall, five metres in height along the boundary with the adjoining residential properties. Officers have been liaising with the applicant to achieve changes to the design of the building and the submission of an acoustic assessment, which also resulted in further design changes.

It is considered that the proposal is consistent with the relevant planning framework and is recommended for approval subject to conditions.

BACKGROUND

Lot 175 (Hse No 53) Prince Regent Drive is located within the 'West Street Development'. The lot is located on the western side of the development and is bound by properties mostly accessed from Seymour Street to the west, a vacant lot with approval for a Childcare Centre to the south, internal access road to the east and another lot yet to be developed to the northern boundary. A location plan is provided in **Attachment A**.

The site is zoned "Restricted Business" under Local Planning Scheme No.21. A Recreation Facility is a 'D' (i.e. discretionary) use and Professional Consulting Rooms is a 'P' (permitted) use in the Restricted Business zone.

The original development plans are provided at **Attachment B**

The development would comprise of a single storey building measuring 26m in width and 25.8m in length. The building comprises of 645m² in floor area, 195m² for the Physiotherapy and 450m² for the Gym. The building would be sited between 1.5-2m to the western boundary and at its lowest point would be 3.5m raising up to 5.75m in height. A bin store would be located between the building and the rear boundary; this would be enclosed and would not extend above the existing fence. The amended development plans are provided in **Attachment C**.

This unit has 6 car parking spaces in front of the building, however there are easements in place across the development for reciprocal parking for the entire car parking areas within the West Street Development. As such, parking supply and demand does not need to be addressed on a site by site basis.

An acoustic assessment has been submitted, which has resulted in some design changes both internal and external to the building as reflected in the amended plans. A copy of the report is at **Attachment D**

STATUTORY ENVIRONMENT

The key elements of the statutory environment that relate to the proposal are set out in Local Planning Scheme No.21 ('The Scheme').

The site is zoned 'Restricted Business', the Objectives of the Restricted Business zone are:

"To make adequate provision for other commercial needs and opportunities not ideally located in the town centres of Busselton and Dunsborough whilst having regard to the strategic importance and need to maintain the commercial primacy of the town centres".

The Policies of the Restricted Business Zone are:

- (a) *To provide for development having relatively low traffic-generating characteristics, but not high turnover shops and offices that might more properly be located in the Business zone.*
- (b) *To provide for relatively low intensity commercial and retail uses with extensive floor space requirements which, by the nature of the activity conducted, require relatively direct and easy access to motor vehicle parking areas for loading purposes.*
- (c) *To provide for development which will not result in a detrimental impact on surrounding commercial centres or an overall adverse impact on commercial centres.*
- (d) *To restrict development which is likely to contribute to ribbon development, the spread of town centres, or otherwise detrimentally impact the efficiency of main or arterial roads.*

In considering the application, the Council needs to consider the 'Matters to be considered' set out in clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, particularly relevant considerations in relation to this application are the following –

- (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;*

- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (zb) *any other planning consideration the local government considers appropriate.*

RELEVANT PLANS AND POLICIES

Land-use Concept Plan

The Land-use Concept Plan (LUCP) guides subdivision and development within the site. The relevant provisions that apply to this application are:

- 7 *Development adjacent to residential zoned land shall be:*
- *Restricted to single storey,*
 - *Incorporate measures to avoid light spill into the adjacent residential area, and*
 - *Provide service areas that are enclosed and located to minimise noise and disturbance to the adjacent residential area.*
- to ensure an appropriate level of amenity and privacy to residential properties.*
8. *Building envelopes and car parks shall be constructed in the location as generally shown on the Land-use Concept Plan to maintain sightlines to buildings.*

A copy of the LUCP is at **Attachment E**

FINANCIAL IMPLICATIONS

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

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

The recommendations in this report reflect Community Objective 2.1 of the City's Strategic Community Plan 2017 – 'Planning strategies that foster the development of healthy 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 identifies 'downside' risks only, rather than 'upside' risks as well. Risks are only identified where the residual risk, once controls are identified, is medium or greater. No such risks have been identified.

CONSULTATION

The proposal was referred to all landowners within the strata complex to the west of the proposed development site for a period of 21 days. As a result of the advertising a letter from the Strata Manager and one further submission has been received, raising the following concerns/contentions:

- Insufficient consultation on applications;
- No regard to the LUCP, in particular the site was identified as Bulky Goods/Showroom and the proposal does not fit with the definition and furthermore a 'X' in the Scheme;
- Detrimental impact on the adjoining properties from the height of the building and does not have an interface that is sensitive to residential development; and
- The LUCP shows car parking to the rear of the building to act as a buffer zone, how can this be ignored?

A copy of the Schedule of Submissions is at **Attachment F**.

OFFICER COMMENT

The main items which need to be considered as part of this proposal are the provisions of the LUCP, acoustic assessment and the amenity of neighbouring residents, and the scale of the building.

Acoustic Assessment and Amenity of Neighbouring Properties

There are two properties accessed from Seymour Street that would be adjacent to the proposed development. The neighbouring properties are orientated so that their garden areas are adjacent to the eastern boundary and their main habitable room windows are located on the eastern elevation of the dwellings, 4m from the rear boundary.

The application was originally submitted without an acoustic assessment. Officers raised concerns that the proposed design/use could result in noise and disturbance to the closest noise sensitive premises, in particular from music. The acoustic assessment that has been submitted has resulted in some design changes both internally and externally, including reducing the amount of glass on the northern elevation. The acoustic assessment has been considered by the City's Environmental Health Officers who are of the opinion that the report still lacks sufficient information in terms of the management of the building, in particular the extent to which music will be audible from the adjoining noise sensitive premises.

It is, however, considered that music can be controlled by an appropriate noise management plan, which would apply measures to limit the times that music can be played, in addition to the volume of the music and classes etc. Officers are recommending that a condition be imposed for the submission of a noise management plan prior to the commencement of development; the recommendations of the plan should then be met throughout the life of the development.

Scale of the building

As discussed above, there are two properties that would be the most affected by the proposed development, as their main habitable room windows would only be approximately 4m from the rear boundary. As originally submitted the proposed building was unacceptable and comprised of a parapet wall, five metres in height. It was considered by officers that the bulk and scale of the building would have resulted in a detrimental impact on the adjoining residents.

Revised plans have been submitted reducing the height of the building adjacent the rear boundary to 3.5 metres and increasing the separation to the boundary from 1.5m to 2m.

In order to consider the impact from the built form on the residential amenity of the neighbouring properties, it was considered appropriate to use the Residential Design Codes (R-Codes) as a guide. On the basis of the proposed length and height of the wall, the boundary setback required by the R-codes would be 1.5m; as a result it is considered that an appropriate level of amenity would be retained for the residential properties (as the built form would be similar to what would be permissible if it was residential development).

Land-use Concept Plan

The LUCP is a guide for development and subdivision at the West Street site, the relevant provisions which shall be given due regard are that development adjacent to residential zoned land shall be:

- Restricted to single storey;
- Incorporate measures to avoid light spill into the adjacent residential area; and
- Provide service areas that are enclosed and located to minimise noise and disturbance to the adjacent residential area.

As discussed above, the building design has now been amended and the section of the building adjacent to the neighbouring properties has been reduced in height to single storey. There will be no vehicular service areas to the rear of the building, only an enclosed bin store and a condition can be imposed to ensure that light spill is contained within the site. It is considered that even though the buildings are not sited within the indicative building envelopes as shown on the concept plan; the proposal would comply with the intent of the provisions to ensure that residential amenity of neighbouring properties is maintained. It is considered that the built form now proposed is in fact in some respects less likely to impact on neighbouring properties than the form shown on the concept plan, which results in parking, loading and storage areas adjacent to the boundary of the adjoining residential properties.

Concerns have been raised that the proposal does not strictly comply with the landuse concept plan; the plan is a guide to development and applicants have the opportunity to submit development applications that vary from the plan, these proposals are required to be assessed on their merits taking into account the Scheme and the plan.

CONCLUSION

It is recommended that the Council grant approval to the development subject to conditions.

OPTIONS

The Council could:

1. Determine that the application is inconsistent with the objectives and policies of the zone in which development is proposed, and refuse the proposal subject to reasons; or
2. Apply additional or different conditions.

If any Councillor is minded to support either of the above options, officers can assist in the drafting of a suitable alternative motion.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The applicant will be notified of the Council's decision within two weeks of a decision consistent with the officer recommendation.

COUNCIL DECISION AND OFFICER RECOMMENDATION**C1806/127**

Moved Councillor J McCallum, seconded Councillor R Reekie

That the Council resolve:

That application DA17/0971 submitted for a Recreation Facility and Professional Consulting Room at Lot 175 (HSE 53) Prince Regent Drive, West Busselton, 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.

That Development Approval is issued for the proposal referred to 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) including any notes placed thereon in red by the City, and except as may be modified by the following conditions.

PRIOR TO THE 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 stormwater and surface water drainage (Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 65m² of impervious area);
 - 3.2 Details of the proposed bin storage areas including, but not limited to, the design and the materials to be used in their construction;
 - 3.3 Noise Management Plan, which is to incorporate measures including structural mitigation options and management practices to ensure that noise is contained within the built form and does not result in an unacceptable impact on residential amenity;
 - 3.4 Details of the bicycle parking facilities, including the design and materials;
 - 3.5 Details of external materials, incorporating design features on the rear elevation and hard surfaced areas; and
 - 3.6 Details of lighting of external areas to avoid unacceptable light spill to adjoining residences.

PRIOR TO THE OCCUPATION/USE OF THE DEVELOPMENT:

4. The development hereby approval shall not be occupied or used until all plans, details of works required by Condition(s) 2 and 3 have been implemented:

ONGOING CONDITIONS:

5. The works undertaken to satisfy Condition(s) 2, 3 and 4 shall be subsequently maintained for the life of the development and the following conditions complied with.
 - 5.1 The approved Noise Management Plan shall be implemented and carried out in accordance with the approval details, including any notes placed thereon in red by the City.

**CARRIED 9/0
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13.2 RE-VESTING AND MANAGEMENT ORDER RESERVE 31005, COMMONAGE ROAD, YALLINGUP SIDING

| | |
|-----------------------------|---|
| SUBJECT INDEX: | Crown Land Administration |
| STRATEGIC OBJECTIVE: | Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations. |
| BUSINESS UNIT: | Strategic Planning and Development Services |
| ACTIVITY UNIT: | Strategic Planning and Development |
| REPORTING OFFICER: | Senior Strategic Planner - Helen Foulds |
| AUTHORISING OFFICER: | Director, Planning and Development Services - Paul Needham |
| VOTING REQUIREMENT: | Simple Majority |
| ATTACHMENTS: | Attachment A Location Plan  Attachment B Aerial Photo  Attachment C Site Inspection Photos  |

PRÉCIS

Reserve 31005 is currently set aside for the purpose of 'Quarry and Drainage' with a Management Order issued in favour of the Water Corporation. The Water Corporation has identified that this Reserve is no longer required for operational purposes and has approached the City as part of investigations regarding the future use and management of this land.

In response to a request from the Water Corporation, the City advised that the land is not considered suitable for rezoning to Rural Residential, for a number of reasons. Alternatively, the inclusion of this reservation into a contiguous conservation/recreation corridor with nearby reservations already under the City's management control would appear to be a more rational and desirable outcome.

The re-vesting of Reserve 31005 with the City would be a desirable outcome, enabling the City to better meet community expectations for the management and protection of landscape values in the area and creating a contiguous conservation/recreation corridor with the adjacent Reserves. Also, it is unlikely that another authority would take on the management of Reserve 31005.

Officers recommend that the Department of Planning, Lands and Heritage be advised that the Council supports the re-vesting/re-issuing of the Management Order for Reserve 31005 from the Water Corporation to the City of Busselton for the purposes of 'Landscape Protection and Quarry'.

BACKGROUND

Reserve 31005 Commonage Road, Yallingup Siding, being Lot 4531 on Deposited Plan 211719, is currently set aside for the purpose of 'Quarry and Drainage' under management by the Water Corporation. The parcel is a 4.1 hectare 'C' class reserve, which is largely vegetated with a well-constructed fire break within the boundary. Fencing around the boundary is largely intact and a gate is in place, although broken, along the frontage to Commonage Road.

Located to the north is Reserve 25889 for 'Quarry Shire and Public Use' and to the south is Reserve 29522 for 'Quarry Sand Grit' both under management of the City. Located directly east and surrounding Reserves 31005, 25889 and 29522 are private freehold properties zoned 'Rural Residential'. A location plan and aerial photo is provided at **Attachments A and B**, respectively.

The Water Corporation has identified that this Reserve is no longer required for operational purposes and has been investigating the future of this land.

In November 2017, the City was approached by the Department of Planning, Lands and Heritage – Land Asset Management Unit (DPLH) investigating divestment options on behalf of the Water Corporation.

Whilst initially the DPLH was considering divestment of the Reserve and possible rezoning of the land to Rural Residential, the City advised that this would not be supported for a number of reasons, but partly due to the significant environmental values, bushfire risk and expectation of the local community. The City advised its preference would be for the Management Order for the Reserve to be re-issued to the City and the Reserve designated for 'Landscape Protection and Quarry', provided confirmation is given in writing by the Water Corporation that there are no site contamination issues it is currently aware of, or that might otherwise be likely, or feasibly possible.

The Water Corporation responded that no evidence of contamination was found following a site inspection and that the site "appears to be remarkably intact and free from fly-tipping" ('fly-tipping' being the act of illegally dumping rubbish by the public). Further, the DPLH relinquishment process requires the Water Corporation to make a statutory declaration that should the site be found to be contaminated, it will be required to fulfil its obligations under the *Contaminated Sites Act* including full remediation of the subject site. This should provide another level of security for the City.

Officers are now formally seeking support from the Council to submit to the DPLH a request to proceed with the re-vesting of Reserve 31005 to the City of Busselton, for use as "Landscape Protection & Quarry", and with a subsequent Management Order issued in favour of the City for that Reserve.

STATUTORY ENVIRONMENT

The following legislation is relevant with respect to this matter:

- The *Land Administration Act 1997* – provides for the creation and administration of reserves in Crown land.
- The *Local Government Act 1995* – provides at section 3.54 that "the local government may do anything for the purpose of controlling and managing that land that it could do under section 5 of the *Parks and Reserves Act 1895* if it were a Board appointed under that Act".

The City of Busselton *Local Planning Scheme No. 21* identifies the parcel as 'Recreation Reserve' and located within the 'Landscape Value Area'.

RELEVANT PLANS AND POLICIES

The key policy implications with respect to the proposal are set out as follows:

- *State Planning Policy 2.5: Rural Planning, State Planning Policy 6.1: Leeuwin-Naturaliste Ridge* and the *Draft Leeuwin-Naturaliste Sub-Regional Strategy* – in that the policies seek the preservation of landscape values.
- *Commonage Policy Area Consolidated Structure Plan* – identifies the land as "Public Open Space".

FINANCIAL IMPLICATIONS

Costs to the City for the vesting and acceptance of a Management Order over this parcel would be limited to managing bushfire risk. There is no City infrastructure currently located within the parcel, nor is there a proposal for this to take place. Minimal maintenance of the land parcel is anticipated.

The parcel is located within the Toby Inlet Catchment area and as such there is potential for the Toby Inlet Catchment Group to assist in revegetation programs. Opportunity for a 'Friends Group' also exists for residents in the area who might seek to contribute to the management and enhancement of the Reserves.

It is conceivable that, in the future, changes imposed by the State (such as changes that increase land managers' obligations to manage bush fire risk) may have financial implications for the City. Overall, though, it is considered that the financial implications of the recommendation will be minimal, and are more than outweighed by the benefits arising from the obtaining of a Management Order over the land in question (such as the protection of landscape values and management of the site in line with community expectations).

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

The Officer Recommendation is consistent with Key Goal Area 3 of the *City of Busselton Strategic Community Plan 2017* and specifically the following community objective:

- 3.2 *"Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations."*

RISK ASSESSMENT

The only risks that have been identified are the financial risk that has already been described above, or the increased additional public liability risk should the land not be managed adequately and that results in an injury or loss that the City could reasonably be determined in having some responsibility for. Within the broader context of the City's operations, those risks are not considered to be significant.

CONSULTATION

Initial correspondence in relation to this property from the Land Asset Management Unit of the DPLH, sought comments from the City in relation to the divestment of Reserve 31005, particularly regarding the possible rezoning of the land to support Rural Residential use.

The City advised that it did not support the proposed disposal of Reserve 31005 for the development for rural residential purposes and instead requested that the DPLH progresses changes to the vesting, management and purpose of Reserve 31005 in order that management is assigned to the City of Busselton and the Reserve newly vested for 'Landscape Protection & Quarry'.

The DPLH then requested the Water Corporation to liaise directly with the City to consider the alternative management arrangement moving forward.

OFFICER COMMENT

Reserve 31005 was historically used as a 'quarry for water filter medium' and the remnant vegetation appears to be in reasonably good condition and relatively intact. Photos from a site inspection undertaken in May 2018 are provided at **Attachment C**.

A Reserve Ecological Assessment conducted in 2008 identified much of the vegetation on the site to be in 'Very Good' or 'Excellent' condition, with two areas near the road that were 'Degraded', being the previously mined sand and gravel pits where natural regeneration is occurring. The 'Common Bunny Orchid' was in flower on site during the site inspection (May 2018).

The site inspection indicated the presence of dieback, evidenced by signage, poor vegetation health and tree deaths, predominately within the western portion of the site. The City's mapping software also confirms the presence of "Fire Break Dieback Infestation" over Reserve 31005 and Reserve 29522 to the south.

A well maintained firebreak exists around the site boundary and a prescribed burn was undertaken in winter 2017.

Very little rubbish was present, likely due to the fencing around the boundary, providing limited access to the site other than on foot.

Rezoning of the land, as initially considered by DPLH, was considered to be fundamentally at odds with the established strategic direction for the Commonage area, generally summarised (but not exhaustively outlined) as follows:

1. The identification of additional land for rural residential development is not supported.

This is a position of the WAPC expressed variously through the State Planning Framework, including the recently advertised Draft Leeuwin-Naturaliste Sub-Regional Planning Strategy. One of the key principles of this document outlined at Part 1.6 is:

"Confirmation there will be no further rezoning of land to rural residential or special rural type lifestyle lots, other than those already identified in local planning strategies."

The Commonage Policy Area Consolidated Structure Plan (CPACSP) identifies this reserve (and those adjoining) as 'Public Open Space' and the City does not generally support ad-hoc and unplanned departures from the Structure Plan.

While the City's Draft Local Planning Strategy identifies that some consolidation of rural residential land may be desirable, it is generally expected that this will only occur on existing zoned and predominantly cleared land, where there is a demonstrable community benefit, and where bushfire risk can be adequately mitigated.

2. The retention of this and adjoining reserves for the purpose of 'Landscape Protection' is warranted.

These reserves exist at a high point in the landscape and the retention of this remnant vegetation preserves views of the Leeuwin-Naturaliste Ridge. This includes both Commonage Road (immediately west) and Vasse-Yallingup Siding Road (2-2.5km east) that are identified as 'Travel Route Corridors with Rural Landscape Significance' in State Planning Policy 6.1 – Leeuwin-Naturaliste Ridge. Existing rural residential land to the east is downslope and will also be sensitive to the loss of views that are maintained on this site at present.

The preservation of landscape values is also supported by relevant principles and policies within the Draft Leeuwin-Naturaliste Sub Regional Planning Strategy, State Planning Policy 2.5 – Rural Planning, and the designation of a Landscape Value Area within the City's Local Planning Scheme No. 21.

3. The site may have significant environmental values and/or purpose with ecological linkages through the area.

Given that the Reserve is heavily vegetated, the City cannot indicate support for a proposed change in land use without a detailed assessment of the environmental attributes of the site. This assessment should further consider the function of this vegetation as part of an extended ecological linkage with adjoining reserves and bushland areas.

Development and consolidation should generally be targeted to cleared (and secondarily degraded) areas – a position reflected in the Draft Leeuwin-Naturaliste Sub Regional Planning Strategy (Part 7.1.2 – 3a), where it states that the WAPC will:

“adopt a primary position for no further clearing of native vegetation within the sub-region, and a strong preference for development to occur on cleared land”

Further, the drainage function of the site needs to be identified, and managed appropriately.

4. Any development of the site would be essentially incompatible with planning requirements for bushfire protection.

With the vegetation, slope and broader fire risk evident within the adjoining and surrounding areas, any proposal to develop this reserve for rural residential purposes would have the potential to introduce vulnerable uses into a designated bushfire prone area and would need to go to significant lengths in order to mitigate the bushfire risks to future built assets and residents (as per State Planning Policy 3.7 – Planning for Bushfire Protection, and the Planning for Bushfire Protection Guidelines). City officers are very doubtful that this could in fact be achieved without severely compromising other planning framework objectives relating to biodiversity, landscape values, proper and orderly planning etc.

5. The City expects that the disposal and development of Reserve 31005 would not be supported by surrounding landowners.

When considering the setbacks to development that are required in the CPACSP (ie. 70 - 100m from Commonage Road), development and cleared asset protection zones would have to be located in such a way that it is likely that neighbours would feel adversely affected. It is noted that already existing building envelopes have been established towards the rear of adjoining lots to the east, closest to the subject land.

There may also be a level of expectation that this reserve will remain as ‘public open space’ on account of it being identified for this purpose in the CPACSP and zoned accordingly in the City’s Local Planning Scheme No. 21. This designation in the CPACSP reflects the retention of reserves to provide low key public recreational opportunities (where appropriate), preserve remnant vegetation and ecological linkages, and protect significant landscape views. It is clear that the Reserve is currently in use for recreational purposes given the presence of footprints (human, dog and horse) during the site inspection.

It is recommended the City seek to preserve the opportunity to extract sand from Reserve 31005 if this resource was required at some point in future. In other forums the City has highlighted with the DPLH its concerns about the availability of basic raw materials within the district. For this reason, the City considers that the retention of ‘Quarry’ within the vested reserve purpose is necessary to allow for the availability of sand resources in the western portion of Reserve 31005 to be further investigated. If a viable resource is ultimately located, the licensed extraction of same would be considered a ‘temporary use’ of the site and subsequent rehabilitation would be required in order to restore the broader purpose and function of ‘Landscape Protection’.

Having a Management Order over the land in question will better enable the City to meet community expectations in relation to the management of the land. For example, some or all of the powers that the City is able to exercise under the *Property Local Law* and *Dog Act* only apply where the land is City managed or owned. The inclusion of this reservation into an effectively contiguous conservation/recreation corridor together with those nearby reservations already under the City's management control would appear to be a rational and desirable outcome.

CONCLUSION

Officers recommend that the DPLH be advised that the Council supports the re-vesting of Reserve 31005 for the purposes of 'Landscape Protection and Quarry' with a Management Order issued in favour of the City of Busselton over that reserve.

OPTIONS

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

1. To seek the land to be re-vested, and issued with a Management Order in favour of the City of Busselton for an alternative purpose; or
2. To not support the re-vesting and re-issuing of the Management Order for Reserve 31005 to the City of Busselton, requiring the DPLH to seek an alternative authority to manage the land, although it would be unlikely that another authority would be prepared to take on management of the Reserve.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Implementation of the Officer Recommendation will involve providing advice of the Council resolution to the Department of Planning, Lands and Heritage and the Water Corporation. This will occur within one month of the resolution made by the Council.

COUNCIL DECISION AND OFFICER RECOMMENDATION


C1806/128 Moved Councillor J McCallum, seconded Councillor R Reekie

That the Council advise the Department of Planning, Lands and Heritage and the Water Corporation that the City of Busselton supports the re-vesting of Reserve 31005 for the purposes of 'Landscape Protection and Quarry' with a Management Order issued in favour of the City of Busselton over that reserve.

CARRIED 9/0

EN BLOC

13.3 PROPOSED DEVELOPMENT OF A FUEL SALES AND CONVENIENCE RETAIL OUTLET ON LAND AT THE CORNER OF DUNN BAY ROAD AND CYRILLEAN WAY, DUNSBOROUGH - REPORT ADDRESSING COUNCIL RESOLUTION OF 9 MAY 2018

| | |
|-----------------------------|---|
| SUBJECT INDEX: | Development / Planning Applications |
| STRATEGIC OBJECTIVE: | Council engages broadly and proactively with the community. |
| BUSINESS UNIT: | Planning and Development Services |
| ACTIVITY UNIT: | Planning & Development Services |
| REPORTING OFFICER: | Director, Planning and Development Services - Paul Needham |
| AUTHORISING OFFICER: | Director, Planning and Development Services - Paul Needham |
| VOTING REQUIREMENT: | Simple Majority |
| ATTACHMENTS: | Attachment A SAT approval and related plans  |

PRÉCIS

At its 9 May 2018 meeting, Council resolved to request that some further investigation and communication be undertaken in relation to the proposed development of a fuel sales and convenience retail outlet on land at the corner of Dunn Bay Road and Cyrillean Way, Dunsborough, and that a report be presented to the Council setting out the work undertaken and the outcomes, for the Council's further consideration. The tasks required by the resolution have now been completed, as set out in the report. It is recommended that the Council note the report.

BACKGROUND

At its ordinary meeting of 9 May 2018, the Council resolved as follows –

With respect to the proposed development of a fuel sales and convenience retail outlet on land at the corner of Dunn Bay Road and Cyrillean Way Dunsborough -

1. *The Council requests that the CEO bring a report to Council, as a matter of priority, enumerating the actions and outcomes undertaken to date in relation to the following:*
 - (i) *negotiating with the developers and other landowners in Dunsborough to find an alternative site for the proposed convenience store or service station;*
 - (ii) *discussions with the landowner of the subject land possible alternative uses of the land; and*
 - (iii) *persuading the developers that the development will be contrary to the good planning of the Dunsborough town centre.*
2. *The Council requests that the CEO explores further options (including the obtaining of external legal advice) to facilitate the community wishes including:*
 - (i) *the enforcement of the 'Convenience Store' definition applied by the SAT which limits fuel sales to petrol only, thereby excluding the sale of diesel at convenience stores;*
 - (ii) *at a State Government level, prohibiting a fuel retailer at the proposed location based on health and environmental concerns;*
 - (iii) *further investigations of possible alternative locations for the Puma service station/convenience store and alternative uses and/or the rezoning of the land at the corner of Dunn Bay Rd and Cyrillean Way Dunsborough; and*

- (iv) *The Council requests that the CEO presents a report for Council consideration as soon as practicable, but no later than three months from resolution, on the outcomes arising from 2(i), (ii) and (iii) above.*

This report is presented to the Council in pursuance of the above resolution.

At the time the above resolution was made, the City was awaiting the outcome of a Southern Joint Development Assessment Panel (DAP) appeal in the Supreme Court. That appeal related to a State Administrative Tribunal (SAT) decision to grant planning approval to the proposed development. The Supreme Court in fact handed down their decision, which was to dismiss the appeal, on 10 May 2018. The DAP essentially had 21 days in which to lodge a further appeal, and have not done so. Given that, unless some other regulatory impediment can be identified, or the proponents make a decision not to proceed with the proposed development, it can be assumed that the proposed development will proceed.

The following are key events and dates related to the proposed development –

1. **Various pre-application enquiries related to the proposed development between late 2014 and September 2015**, with the City consistently advising that the development was not considered appropriate in the context of the relevant planning framework (note there has been a suggestion of earlier pre-application advice which was different, but no evidence of that has been found within City records).
2. **Application received by the City on 8 September 2015**, with the applicants electing to have the application determined by the DAP, rather than by the City (the estimated cost of development was within the range in which applications can either be determined by the local government or relevant DAP, at the discretion of the applicant).
3. **Application considered by the DAP on 14 December 2015**, with the DAP refusing to approve the proposed development, consistent with the City's recommendation. The agenda and minutes of the DAP meeting, which include the City's report and recommendation to the DAP, can be viewed at –
[Agenda](#)
[Minutes](#)
4. **Application for SAT review lodged by the applicant on 4 January 2016.**
5. **First SAT hearing held 26 May 2016**, which at the agreement of the parties (i.e. applicant and DAP), dealt with a preliminary issue only, namely what the correct land-use classification was.
6. **First SAT decision delivered 25 August 2016**; which found that the correct classification was 'Convenience Store', which was a 'P' (or 'permitted') use in the Zone in which development was proposed. The SAT decision can viewed at –
[First SAT Decision](#)
7. **SAT Mediation in October 2016**, which involved discussion of potential design changes (the City was not a party to the mediation, but was represented, at the invitation of the DAP).
8. **Application reconsidered by the DAP on 14 November 2016**, with the DAP refusing to approve the proposed development, consistent with the City's recommendation. The agenda and minutes of the DAP meeting, which include the City's report and recommendation to the DAP, can be viewed at -
[Agenda](#)
[Minutes](#)

9. **Second SAT hearing held 1 and 2 February 2017**, which assumed the land-use classification as per the first SAT decision, and otherwise addressed the full range of relevant planning issues (as identified by the DAP, SAT and the applicants). The author of this report acted as one of two planning witnesses, on behalf of and at the invitation of the DAP.
10. **Second SAT decision delivered 23 August 2017**, which found that the development was appropriate and resulted in approval for the development (the SAT decision can be viewed at –
[Second SAT Decision](#))
11. **Supreme Court appeal lodged by DAP against the SAT decision In September 2017.**
12. **Supreme Court hearings held 12 February 2018.**
13. **Supreme Court decision delivered 10 May 2018**, which was to dismiss the appeal. The Supreme Court decision can be found at –
[Supreme Court Decision](#)

A copy of the SAT approval and related plans is included as **Attachment A**.

STATUTORY ENVIRONMENT

The key statutory environment with respect to this matter is set out in the *Planning and Development Act 2005* and subsidiary legislation, especially the City's town planning scheme, and the *Planning and Development (Local Planning Schemes) Regulations 2015*, which are incorporated into the City's town planning scheme. That statutory environment has been considered in the drafting of this report, and has also been considered more broadly in implementing Council's 9 May 2018 resolution. In the Officer Comment section of this report, where an additional understanding of the relevant statutory environment is necessary to understand the issue and the officer advice, the relevant statutory environment is also briefly explained.

RELEVANT PLANS AND POLICIES

The outcome of the processes associated with this proposal, in that there is an approval for the proposed development, will need to be considered in the planned development of an Activity Centre Plan for the Dunsborough Town Centre, noting that work on that project has commenced.

FINANCIAL IMPLICATIONS

There are no financial implications of the recommendations of this report. The cost associated with obtaining independent legal advice in pursuance of Part 2 (i) of the Council resolution was \$2,500.

Long-Term Financial Plan Implications

There are no Long-Term Financial Plan Implications of the recommendations of this report.

STRATEGIC COMMUNITY OBJECTIVES

The recommendations of this report reflect Objective 6.2 of the City's Strategic Community Plan, that is 'Council engages broadly and proactively with the community'.

RISK ASSESSMENT

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

CONSULTATION

The City has not undertaken community consultation specifically relating to implementation of the Council's 9 May 2018 resolution. It should be noted that the original application was the subject of consultation, and there were a number of submissions received that raised concerns about the proposed development. Whilst there will be a diversity of opinion in most communities on most issues, and there is a diversity of opinion on the proposed development, there is clearly a significant level of community concern about the proposed development.

In preparing this report, the City has sought advice from the State Departments of Water & Environmental Regulation (DWER) and Mines, Industry Regulation & Safety (DMIRS).

OFFICER COMMENT

Action undertaken and the resultant outcomes, with respect to the implementation of the Council's 9 May 2018 resolution, is outlined and discussed below under appropriate sub-headings.

Part 1 of the Council resolution

This part of the resolution required that -

The Council requests that the CEO bring a report to Council, as a matter of priority, enumerating the actions and outcomes undertaken to date in relation to the following:

- (i) negotiating with the developers and other landowners in Dunsborough to find an alternative site for the proposed convenience store or service station;*
- (ii) discussions with the landowner of the subject land possible alternative uses of the land; and*
- (iii) persuading the developers that the development will be contrary to the good planning of the Dunsborough town centre;*

Noting that this relates to actions undertaken prior to the Council's resolution, the City had sent numerous letters to both the landowners and the proposed operators with respect to these matters. There had also been several attempts to discuss the matter with the proposed operators over the telephone. Further, discussions of this kind had occurred with the landowners prior to the lodging of the application. It is also known that members of the community have had multiple conversations with the landowners to the same end. The City had also, on several occasions, assisted interested community members in identifying potential alternative sites. Since the lodging of the application, neither the landowners nor the proposed operators have indicated any interest to the City in actually considering alternative forms of development and/or alternative sites.

Since the Council's 9 May resolution, the City has advised the community, through media, social media and the *Bay-to-Bay* newsletter, with respect to the seeking and considering of the legal advice that has been obtained. The City has also provided advice, through the same channels, of communication with the landowners and proposed operators with respect to identifying alternative uses for the site and alternative sites for the proposed development.

The City has spent a considerable amount of time liaising with community members and seeking to communicate with the landowners and proposed operators in relation to the proposed development, as well as in relation to alternative forms of development on the site and alternative locations for the proposed development.

Part 2 (i) of the Council resolution

This part of the resolution required that the City consider –

The enforcement of the ‘Convenience Store’ definition applied by the SAT which limits fuel sales to petrol only, thereby excluding the sale of diesel at convenience stores.

The background to this part of the resolution was that the SAT had determined, through their first decision, that the land use classification was ‘Convenience Store’, as defined in the City’s town planning scheme at the time the decision was made. That definition made specific reference to the sale of petrol, but made no mention of the sale of diesel, LPG or any more generic reference, such as ‘fuel’ or ‘petroleum products’, and was as follows –

*Convenience store means any land and buildings used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents, but including the sale of **petrol** and operated during hours which include, but which may extend beyond, normal trading hours and providing associated parking. The buildings associated with a convenience store shall not exceed 300m² net lettable area.*

The City has obtained independent legal advice with respect to this matter. That advice has been provided to Councillors separately and confidentially. The City has given extensive consideration to its legal position following the receipt of that advice and is satisfied that it is not in a position to require that the proposed development sells petrol fuel only.

Part 2 (ii) of the Council resolution

This part of the resolution required that the City investigate -

At a State Government level, prohibiting a fuel retailer at the proposed location based on health and environmental concerns.

The background to this part of the resolution is thought to be that the location of the proposed development, relative to potential, future residential development on adjoining lots (noting that the zoning of those adjoining lots would allow residential development up to the lot boundary) may not comply with environmental guidance or standards, and that some in the community may contend that the proposed development may be prevented from proceeding on that basis. Similar contentions have been made with respect to the location of the proposed development relative to Dugalup Brook, and that required environmental ‘buffer’ or ‘setback’ distances would not be met.

It is understood that the contentions may relate, at least in part, to guidance statements issued by the Environmental Protection Authority (EPA). The proposed development, though, in terms of potential impact, is well below the threshold that might require formal assessment by the EPA. As such, those EPA guidance statements could only be considered if some other necessary administrative process allowed and/or required them to be considered. Potentially, that can occur as part of the development application process, but as there is now a development approval in place, that issue cannot be further considered as part of the development application process, unless the proponents lodge an application to amend the approval. It should also be noted that the DAP and State Solicitor’s Office (SSO), which acted on behalf of the DAP in both SAT and the Supreme Court, were aware of these contentions in developing their case for the second SAT hearings.

The City has sought advice from DWER and DMIRS with respect to this matter. DWER have advised that the proposed development does not require an approval under any legislation implemented by that agency. The Dangerous Goods branch of DMIRS have confirmed that the proposed development does require their approval, pursuant the *Dangerous Goods Safety Act 2004*. They have also advised that they would not seek advice of DWER in assessing the application (which, at the time the advice was provided, had not been lodged with DMIRS), and would assess the application against *AS1940: The storage and handling of flammable and combustible liquids*.

Given the above, there is not considered to be any trigger or basis for the assessment of the proposed development against any guidance statements issued by the Environmental Protection Authority, and nor has any power been identified that might allow the State Government to prohibit or prevent the development on the basis of health or environmental concerns.

Part 2 (iii) of the Council resolution

This part of the resolution required that the City undertake -

Further investigations of possible alternative locations for the Puma service station/convenience store and alternative uses and/or the rezoning of the land at the corner of Dunn Bay Rd and Cyrillean Way, Dunsborough.

At the time the Council made the resolution, the Supreme Court decision had not been delivered, and there was also no clear timeframe as to when a decision may be delivered, and/or whether the decision may be appealed (and therefore whether there may be a further period of uncertainty). As set out with respect to Part 1 of the resolution, however, the City had already undertaken comprehensive investigations identifying alternative uses for the site and alternative sites for the proposed development. The City had also made a number of attempts to engage with the landowners and proposed operators with respect to those options, without success. Communication from the proponents since that time, whilst limited, indicates there remains no interest in engaging with the City. As such, there is not seen to be any benefit in undertaking further investigations.

Part 2 (iv) of the Council resolution

This part of the resolution requires that a report be brought to the Council within three months setting out actions and outcomes with respect to the resolution – this part of the resolution is therefore implemented through the presentation of this report to the Council.

CONCLUSION

At this stage, unless the proponents make a commercial decision to not proceed with the proposed development, there does not appear to be any means to prevent the development occurring. A major contributor to that situation is the wording of the ‘Convenience Store’ definition in the City’s town planning scheme at the time the first SAT decision was made, the SAT’s interpretation of that definition, and the fact that the land use was a ‘P’ (or ‘permitted’) use at the time. The Council has progressed subsequent changes to the City’s town planning scheme that should prevent the same or similar issues arising again in future. Those changes, though, would not change the outcome retrospectively.

As noted in the ‘Consultation’ section of this report, whilst there is a diversity of opinion on the proposed development, there is clearly a significant level of community concern about the proposed development. City officers share many of those concerns, as has been consistently reflected in City advice to the proponents and recommendations to the DAP. Given the situation that now exists, however, it is considered best to accept that the development is likely to proceed, and to then consider and address the implications in terms of future planning and development of the Dunsborough Town Centre. The Activity Centre Plan process, that has already commenced, is an appropriate means of doing that.

There may be some in the community who would like the City to do more to prevent the development, or to provide more detail to describe what has already been done, especially in terms of identifying alternatives and communicating with the proponents. There is not, however, seen to be anything more that the City can reasonably do, and it is not appropriate for the City to provide a detailed summary of communication with the proponents, or potential alternative sites. To do so would involve the identification of sites owned by third parties, who may well have no interest in making their sites available for development.

Finally, it is perhaps worth specifically addressing what seems to be an expectation of some in the community that the City should actively participate in what has become a quite significant public campaign opposed to the proposed development, under the banner 'Puma2Go'. Whilst the City can provide information to the community, as it can to the proponents, the City, especially the senior officers in the planning team and Councillors that may need to make decisions about the matter, cannot involve itself in a public campaign in relation to a matter where it has a role in statutory decision-making.

OPTIONS

The Council could require further work to be undertaken with respect to this matter.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation would not require any implementation.

Addendum to Officer Report for Item 13.3 (Proposed development of a fuel sales and convenience retail outlet on land at the corner of Dunn Bay Road and Cyrillean Way, Dunsborough – report addressing Council resolution of 9 May 2018) of Council's 27 June 2018 Ordinary Meeting

During the agenda briefing session, Councillors requested that more detailed information be provided with respect to Part 1 of the Council's 9 May 2018 resolution. That part of the resolution set out that –

The Council requests that the CEO bring a report to Council, as a matter of priority, enumerating the actions and outcomes undertaken to date in relation to the following:

- (i) negotiating with the developers and other landowners in Dunsborough to find an alternative site for the proposed convenience store or service station;*
- (ii) discussions with the landowner of the subject land possible alternative uses of the land; and*
- (iii) persuading the developers that the development will be contrary to the good planning of the Dunsborough town centre.*

This addendum provides more detailed information as requested.

The following sets out key elements of the communication to and from the proponents, and the outcomes (dating back to late 2016) –

- In December 2016, the then Acting CEO (Mr Cliff Frewing) sent a letter to Puma Energy Australia in Perth asking and offering to meet to discuss the proposed development. The landowners (DCSC Pty Ltd) were sent a copy of the letter. There has been no response to the letter.
- In October 2017, the Mayor sent a similar letter to Puma Energy Australia in Perth (also copied to the landowners). There has also been no response.

- In March and April 2018, the Director of Planning & Development Services made several calls (one on 20 March, one around a week later, and one around a further week later) to Puma Energy Australia's head office in Brisbane. He twice left messages indicating that he would like to speak to either the person responsible for overseeing their Western Australian developments or operations, or community/public affairs staff. The aim of the calls was to organise for the Mayor and Director to speak to Puma about the proposed development. At no stage have the calls been returned and nor has there been any other response.

In May 2018, shortly after Council's 9 May resolution and the Supreme Court decision the following day, the proponents' solicitors wrote to the City setting out their views as to why the 'diesel' question would not be able to prevent the development occurring. There has been no communication between the City and the proponents since that letter.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1806/129

Moved Councillor J McCallum, seconded Councillor R Reekie

That the Council note the report with respect to the proposed development of a fuel sales and convenience retail outlet on land at the corner of Dunn Bay Road and Cyrillelan Way, Dunsborough.

CARRIED 9/0

EN BLOC

17. CHIEF EXECUTIVE OFFICER'S REPORT

17.1 COUNCILLORS' INFORMATION BULLETIN

| | |
|-----------------------------|---|
| SUBJECT INDEX: | Councillors' Information |
| STRATEGIC OBJECTIVE: | Governance systems, process and practices are responsible, ethical and transparent. |
| BUSINESS UNIT: | Governance Services |
| ACTIVITY UNIT: | Governance Services |
| REPORTING OFFICER: | Administration Officer - Governance - Katie Dudley |
| AUTHORISING OFFICER: | Chief Executive Officer - Mike Archer |
| VOTING REQUIREMENT: | Simple Majority |
| ATTACHMENTS: | Attachment A Planning Applications received by the City between 16 May, 2018 and 31 May, 2018  |
| | Attachment B Planning Applications determined by the City between 16 May, 2018 and 31 May, 2018  |
| | Attachment C State Administrative Tribunal Appeals  |

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 Planning Applications

Attachment A is a report detailing all Planning Applications received by the City between 16 May, 2018 and 31 May, 2018. A total of 48 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 16 May, 2018 and 31 May, 2018. A total of 35 applications (including subdivision referrals) were determined by the City during this period with 35 approved / supported and 0 refused / not supported.

17.1.2 State Administrative Tribunal Appeals

Attachment C is a list showing the current status of State Administrative Tribunal Appeals involving the City of Busselton as at 7 June, 2018.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1806/130 Moved Councillor J McCallum, seconded Councillor R Reekie

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

- 17.1.1 Planning Applications
- 17.1.2 State Administrative Tribunal Appeals

CARRIED 9/0

EN BLOC

ADOPTION BY EXCEPTION RESOLUTION ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**12. REPORTS OF COMMITTEE MEETINGS****12.2 Finance Committee - 21/06/2018 - BUDGET AMENDMENT REQUEST**

| | |
|-----------------------------|---|
| SUBJECT INDEX: | Budget Planning and Reporting |
| STRATEGIC OBJECTIVE: | Governance systems, process and practices are responsible, ethical and transparent. |
| BUSINESS UNIT: | Finance and Corporate Services |
| ACTIVITY UNIT: | Finance and Corporate Services |
| REPORTING OFFICER: | Manager Financial Services - Kim Dolzadelli |
| AUTHORISING OFFICER: | Director, Community and Commercial Services - Cliff Frewing |
| VOTING REQUIREMENT: | Absolute Majority |
| ATTACHMENTS: | Nil |

This item was considered by the Finance Committee at its meeting on 21 June 2018, the recommendations from which have been included in this report.

PRÉCIS

This report seeks recommendation of the Finance Committee to Council for the approval of budget amendments as detailed in this report. Adoption of the Officers recommendation will result in no change to the City's current Amended Budgeted Surplus Position of \$0.

BACKGROUND

Council adopted its 2017/2018 Municipal Budget on Wednesday, 26 July 2017 with a balanced Budget position.

Since this time Council has been advised of certain funding changes that have impacted the original Budget and Council is now being asked to consider Budget Amendments for the following Key Areas/Projects:

1. "Regional Road Group Projects"**BACKGROUND**

A budget amendment is being requested to transfer left over funds between Regional Road Group Projects Queen Street and Peel Terrace. The current scope of the Queen St project has been bought in under Budget and approval from RRG has been received to transfer \$100,000 in Regional Road Group (RRG) funding from this project to the Peel Terrace project.

As this funding requires a 1/3 contribution from the City a total transfer of funds of \$150,000 is being sought between the two projects; \$100,000 RRG and \$50,000 municipal funds.

The \$50,000 contribution has already been budgeted and will simply be transferred between projects meaning this amendment has a nil impact on the City's bottom line.

PLANNED EXPENDITURE ITEMS

Increased expenditure on Peel Terrace project.

The following amendments shown below in Table 1 are being sought for approval.

Table 1:

| <i>Cost Code</i> | <i>Description</i> | Current Budget | Change | Proposed Amended Budget |
|--------------------|---|-----------------------|---------------|--------------------------------|
| Expenditure | | | | |
| S0066 | RRG Project Queen Street | 254,412 | -150,000 | 104,412 |
| S0064 | RRG Project Peel Terrace | 1,102,549 | 150,000 | 1,252,549 |
| Income | | | | |
| S0066 | RRG Project Queen Street – Grant Income | -160,000 | 100,000 | -60,000 |
| S0064 | RRG Project Peel Terrace – Grant Income | -644,000 | -100,000 | -744,000 |
| | Net Total | 552,961 | 0 | 552,961 |

PROPOSED OUTCOME

Increased expenditure on Peel Terrace project and retention of grant funding.

STATUTORY ENVIRONMENT

Section 6.8 of the Local Government Act refers to expenditure from the municipal fund that is not included in the annual budget. In the context of this report, where no budget allocation exists, expenditure is not to be incurred until such time as it is authorised in advance, by an absolute majority decision of the Council.

RELEVANT PLANS AND POLICIES

There are multiple Plans and Policies that support the proposed Budget Amendments.

FINANCIAL IMPLICATIONS

Budget amendments being sought will result in no change to Council's Budget Surplus position of \$0.

Long Term Financial Plan Implications

There are no LTFP implications in relation to this item.

STRATEGIC COMMUNITY OBJECTIVES

This matter principally aligns with Key Goal Area 6 – 'Leadership' and more specifically Community Objective 6.1 - 'Governance systems, process and practices are responsible, ethical and transparent'.

RISK ASSESSMENT

There is a risk to the City, as there is with all projects undertaken, that the final cost could exceed budget. If this looks to be the case Council will be notified so a suitable offset / project scope back can be identified.

CONSULTATION

Consultation has occurred with Main Roads WA.

OFFICER COMMENT

The Officer commends the requested Budget Amendment to the Finance Committee for consideration and recommendation to Council.

CONCLUSION

Council's approval is sought to amend the budget as per the details contained in this report. Upon approval the proposed works will be planned, organised and completed.

OPTIONS

The Council could decide not to go ahead with any or all of the proposed budget amendment requests.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should the Officer Recommendation be endorsed, the associated budget amendment will be processed within a month of being approved.

COUNCIL DECISION/COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1806/131 Moved Councillor P Carter, seconded Councillor J McCallum

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That Council endorse the Requested Budget Amendments outlined in table 1 below, resulting in no change to an Amended Budgeted Surplus Position of \$0.

Table 1:

| <i>Cost Code</i> | <i>Description</i> | Current Budget | Change | Proposed Amended Budget |
|--------------------|---|-----------------------|---------------|--------------------------------|
| Expenditure | | | | |
| S0066 | RRG Project Queen Street | 254,412 | -150,000 | 104,412 |
| S0064 | RRG Project Peel Terrace | 1,102,549 | 150,000 | 1,252,549 |
| Income | | | | |
| S0066 | RRG Project Queen Street – Grant Income | -160,000 | 100,000 | -60,000 |
| S0064 | RRG Project Peel Terrace – Grant Income | -644,000 | -100,000 | -744,000 |
| | Net Total | 552,961 | 0 | 552,961 |

CARRIED 9/0

BY ABSOLUTE MAJORITY

12.3 Finance Committee - 21/06/2018 - CREATION OF NEW RESERVE ACCOUNTS AND BUDGET AMENDMENT REQUEST

| | |
|-----------------------------|---|
| SUBJECT INDEX: | Budget Planning and Reporting |
| STRATEGIC OBJECTIVE: | Governance systems, process and practices are responsible, ethical and transparent. |
| BUSINESS UNIT: | Finance and Corporate Services |
| ACTIVITY UNIT: | Finance and Corporate Services |
| REPORTING OFFICER: | Manager Financial Services - Kim Dolzadelli |
| AUTHORISING OFFICER: | Director, Community and Commercial Services - Cliff Frewing |
| VOTING REQUIREMENT: | Absolute Majority |
| ATTACHMENTS: | Nil |

This item was considered by the Finance Committee at its meeting on 21 June 2018, the recommendations from which have been included in this report.

PRÉCIS

This report seeks recommendation of the Finance Committee to Council for the approval to create three (3) new Reserve accounts.

BACKGROUND

During the Long Term Financial Plan (LTFP) and Draft Budget workshops with Council, a number of changes to reserve accounts were identified. This item requests creation of new reserves in accordance with those discussions including the transfer of Surplus Funds from the 2017/2018 Financial Year in order to establish opening balances for these new Reserves.

Specifically the Reserve accounts to be established, as above, are as follows:

- **Emergency Disaster Recovery Reserve**

Purpose: To provide funds for Disaster Recovery activities within the district.

Proposed Transfer: \$50,000

- **Energy Sustainability Reserve**

Purpose: To provide funds for the investigation, implementation and optimisation of Energy Sustainability initiatives on City owned assets.

Proposed Transfer: \$100,000

- **Cemetery Reserve**

Purpose: To provide funding for the renewal, expansion/establishment and major maintenance and initiatives of Cemeteries within the district.

Proposed Transfer: \$100,000

STATUTORY ENVIRONMENT

Section 6.11 of the Local Government Act 1995 the manner in which a local government may establish and maintain a reserve account.

“6.11. Reserve accounts

- (1) *Subject to subsection (5), where a local government wishes to set aside money for use for a purpose in a future financial year, it is to establish and maintain a reserve account for each such purpose.*
 - (2) *Subject to subsection (3), before a local government —*
 - (a) *changes* the purpose of a reserve account; or*
 - (b) *uses* the money in a reserve account for another purpose,**it must give one month’s local public notice of the proposed change of purpose or proposed use.*
- * Absolute majority required.*
- (3) *A local government is not required to give local public notice under subsection (2) —*
 - (a) *where the change of purpose or of proposed use of money has been disclosed in the annual budget of the local government for that financial year; or*
 - (b) *in such other circumstances as are prescribed.*
 - (4) *A change of purpose of, or use of money in, a reserve account is to be disclosed in the annual financial report for the year in which the change occurs.*
 - (5) *Regulations may prescribe the circumstances and the manner in which a local government may set aside money for use for a purpose in a future financial year without the requirement to establish and maintain a reserve account.”*

Section 6.8 of the Local Government Act refers to expenditure from the municipal fund that is not included in the annual budget. In the context of this report, where no budget allocation exists, expenditure is not to be incurred until such time as it is authorised in advance, by an absolute majority decision of the Council.

RELEVANT PLANS AND POLICIES

There are multiple Plans and Policies that support the proposed Budget Amendments.

FINANCIAL IMPLICATIONS

Budget amendments being sought will result in a reduction in the Estimated Surplus position as at 30 June 2018 in the amount of \$250,000; which at this time, subject to there being no adverse activity in the following month, is expected to be a modest surplus in the vicinity of \$500K to \$1M. As has previously been endorsed by Council any remaining Surplus at the end of the financial year would be transferred to the New Infrastructure Development Reserve as part of the 2018/2019 Budget.

Long Term Financial Plan Implications

The proposed creation of the above Reserves is in line with the recently adopted LTFP.

STRATEGIC COMMUNITY OBJECTIVES

This matter principally aligns with Key Goal Area 6 – ‘Leadership’ and more specifically Community Objective 6.1 - ‘Governance systems, process and practices are responsible, ethical and transparent’.

RISK ASSESSMENT

This report outlines the potential establishment of reserve accounts. Reserve accounts are used to hold monies for future expenditure relating to a specific purpose. Therefore the proposed reserve accounts seek to ensure the risk associated with the future funding of specific obligations is reduced.

CONSULTATION

Consultation has occurred with the appropriate City of Busselton officers and during the LTFP and Draft Budget workshops with Council.

OFFICER COMMENT

The Officer recommends the requested creation of Reserve accounts and Budget Amendments to the Finance Committee for consideration and recommendation to Council, noting that the requested amendments are in line with the 2018/2019 Draft Budget.

CONCLUSION

Council's approval is sought to create three (3) new Reserves and amend the 2017/2018 Budget as per the details contained in this report.

OPTIONS

The Council could decide not to go ahead with any or all of the proposed new Reserve accounts or Budget amendment requests.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should the Officer Recommendation be endorsed, the associated budget amendment will be processed by 30 June 2018.

COUNCIL DECISION/COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**C1806/132**

Moved Councillor P Carter, seconded Councillor C Tarbotton

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED


That the Council endorse:

1. The creation of the following Reserve accounts:
 - **Emergency Disaster Recovery Reserve**
Purpose: To provide funds for Disaster Recovery activities within the district.
 - **Energy Sustainability Reserve,**
Purpose: To provide funds for the investigation, implementation and optimisation of Energy Sustainability initiatives on City owned assets.
 - **Cemetery Reserve.**
Purpose: To provide funding for the renewal, expansion/establishment and major maintenance and initiatives of Cemeteries within the district.

2. The following Transfers to Reserve to occur from the 2017/2018 Surplus position:
 - **Emergency Disaster Recovery Reserve \$50,000**
 - **Energy Sustainability Reserve \$100,000**
 - **Cemetery Reserve \$100,000**

CARRIED 9/0**BY ABSOLUTE MAJORITY**

12.4 Finance Committee - 21/06/2018 - ENDORSEMENT OF RESERVES AND RESERVE PURPOSES FOR THE 2018/19 ANNUAL BUDGET

| | |
|-----------------------------|---|
| SUBJECT INDEX: | Budget Planning and Reporting |
| STRATEGIC OBJECTIVE: | Governance systems, process and practices are responsible, ethical and transparent. |
| BUSINESS UNIT: | Finance and Corporate Services |
| ACTIVITY UNIT: | Finance and Corporate Services |
| REPORTING OFFICER: | Manager Financial Services - Kim Dolzadelli |
| AUTHORISING OFFICER: | Director, Community and Commercial Services - Cliff Frewing |
| VOTING REQUIREMENT: | Absolute Majority |
| ATTACHMENTS: | Attachment A Draft Reserve Purposes 2018/19  |

This item was considered by the Finance Committee at its meeting on 21 June 2018, the recommendations from which have been included in this report.

PRÉCIS

This report seeks recommendation of the Finance Committee to Council for the endorsement of Reserve accounts and Reserve purposes for new and existing Reserves for inclusion in the Draft 2018/2019 Budget.

BACKGROUND

During the Long Term Financial Plan (LTFP) and Draft Budget workshops with Council, a number of changes to reserve accounts were identified. This item requests creation of new reserves and endorsement of the Purposes for new and existing Reserves in accordance with those discussions.

As there is a large number of Reserves these have been detail in attachment “A” to this report.

STATUTORY ENVIRONMENT

Section 6.11 of the Local Government Act 1995 the manner in which a local government may establish and maintain a reserve account.

“6.11. Reserve accounts

- (1) *Subject to subsection (5), where a local government wishes to set aside money for use for a purpose in a future financial year, it is to establish and maintain a reserve account for each such purpose.*
- (2) *Subject to subsection (3), before a local government —*
 - (a) *changes* the purpose of a reserve account; or*
 - (b) *uses* the money in a reserve account for another purpose,*

it must give one month’s local public notice of the proposed change of purpose or proposed use.

** Absolute majority required.*
- (3) *A local government is not required to give local public notice under subsection (2) —*
 - (a) *where the change of purpose or of proposed use of money has been disclosed in the annual budget of the local government for that financial year; or*
 - (b) *in such other circumstances as are prescribed.*

- (4) *A change of purpose of, or use of money in, a reserve account is to be disclosed in the annual financial report for the year in which the change occurs.*
- (5) *Regulations may prescribe the circumstances and the manner in which a local government may set aside money for use for a purpose in a future financial year without the requirement to establish and maintain a reserve account.”*

Section 6.8 of the Local Government Act refers to expenditure from the municipal fund that is not included in the annual budget. In the context of this report, where no budget allocation exists, expenditure is not to be incurred until such time as it is authorised in advance, by an absolute majority decision of the Council.

RELEVANT PLANS AND POLICIES

The LTFP has identified a number of Reserves that are required to be established to meet our current and ongoing needs.

FINANCIAL IMPLICATIONS

Nil. The proposed creation of Reserves and Purposes is in line with both the recently adopted LTFP and 2018/2019 Draft Budget Workshop outcomes.

Long Term Financial Plan Implications

The proposed creation of Reserves and Purposes is in line with the current LTFP.

STRATEGIC COMMUNITY OBJECTIVES

This matter principally aligns with Key Goal Area 6 – ‘Leadership’ and more specifically Community Objective 6.1 - ‘Governance systems, process and practices are responsible, ethical and transparent’.

RISK ASSESSMENT

This report outlines the potential establishment of reserve accounts. Reserve accounts are used to hold monies for future expenditure relating to a specific purpose. Therefore the proposed reserve accounts seek to ensure the risk associated with the future funding of specific obligations is reduced.

CONSULTATION

Consultation has occurred with the appropriate City of Busselton officers and during the LTFP and Draft Budget workshops with Council.

OFFICER COMMENT

The reserves and purposes as indicated within attachment A allow the City to plan its expenditure both now and into the future. It allows for the City to meet its asset management commitments and service provision.

CONCLUSION

The Officer recommends the endorsement of the new reserves and reserve purposes noting these are in line with both the recently adopted LTFP and 2018/2019 Draft Budget Workshop outcomes.

OPTIONS

The Council could decide not to go ahead with any or all of the proposed new reserves and endorsement of the Purposes for new and existing Reserves.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should the Officer Recommendation be endorsed, the associated Reserves and purposes will be incorporated in the Draft 2018/2019 Draft Budget.

COUNCIL DECISION/COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**C1806/133**

Moved Councillor P Carter, seconded Councillor C Tarbotton

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council endorse the Reserves and Reserve purposes for new and existing Reserves as contained in attachment "A" to this report for inclusion in the 2018/19 Annual Budget including suggested minor wording amendments.

CARRIED 9/0**BY ABSOLUTE MAJORITY**

15. COMMUNITY AND COMMERCIAL SERVICES REPORT**15.1 PROPOSED DUNSBOROUGH FORESHORE CAFE/KIOSK (A CLASS RESERVE R22965): LEASE OF LAND TO MARGARET RIVER HOSPITALITY GROUP FOR THE PURPOSES OF A CAFÉ DEVELOPMENT**

| | |
|-----------------------------|--|
| SUBJECT INDEX: | Tourism Development |
| STRATEGIC OBJECTIVE: | Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities. |
| BUSINESS UNIT: | Commercial Services |
| ACTIVITY UNIT: | Property and Business Development |
| REPORTING OFFICER: | Manager, Commercial Services - Jennifer May |
| AUTHORISING OFFICER: | Director, Community and Commercial Services - Cliff Frewing |
| VOTING REQUIREMENT: | Absolute Majority |
| ATTACHMENTS: | Attachment A Council report & Attachments - Item15.1 May 2018  Attachment B Proposed Plan of Site  |

PRÉCIS

This report presents an update on the Council resolution adopted at the meeting held on 9 May 2018. At that meeting Council considered report item 15.1 (Attachment A) and resolved as follows:

That the Council defers for a month so councillors can have a fully briefed onsite inspection.

The deferral was also to allow further information in relation to the proposed site (and its impact on the vegetation), operational issues (opening hours and number of afterhours events) and the extent of the contributions by the City and proponent towards public infrastructure costs.

The site inspection referred to in the resolution was held as part of the pre-budget tour of the district on Tuesday 22 May 2018. The general consensus of opinion of Councillors present was that the location of the proposed café development was satisfactory but could be the subject of minor adjustment.

Following the site inspection, a further on site visit was held with the proponent of the café development proposal when the following issues were discussed:

- The location of the proposed café as designated by the area that had been pegged; and
- The desire to retain as much of the vegetation on site as possible.

At this meeting it was agreed that a 'Feature Plan' would be provided which would show the location of the proposed building on the site. This plan has now been received and is shown at Attachment B.

This report addresses the issues identified above in relation to the deferral decision. Having regard for the information provided in this and previous reports, it is recommended that Council approve the development 'in principle' and authorise the CEO to take the necessary steps to proceed to finalise all legal requirements.

BACKGROUND

The proposal to develop a café on the Dunsborough foreshore has been the subject of numerous Council reports and briefings over a long period of time as follows:

2008 - The need for a waterfront café / restaurant was identified as part of master planning for redevelopment of the Dunsborough foreshore.

2010 - Master plan for the Dunsborough Foreshore Concept Plan was endorsed by Council.

2012 (June) - Council supported calling for expressions of Interest for two sites on the Dunsborough foreshore and adopted Design Guidelines for the development of a beach café.

2014 (March) - Council resolved, following extensive consultation to conduct further community consultation on a specific proposal for the development of a café and/or kiosk on the Dunsborough foreshore 'A Class' Reserve Number R22965 (the Reserve).

2014 (June) - Council resolved to acknowledge public submissions received on the proposed café/kiosk and to write to the Minister for Lands requesting an amendment to the management order to provide the City with the power to lease. Council also resolved to seek preliminary Registrations of Interest (Rol) from the private sector to lease a portion of the Reserve.

2014 (September) – Rol's closed and the three applicants were invited to submit a more detailed proposal by 20 February 2015.

2015 (April) - Council resolved to nominate the Margaret River Hospitality Group (MRHG) as the potential future lessee of a portion of the Reserve for the development of a café and kiosk and for staff to negotiate a non-binding Heads of Agreement.

2015 (October) - Officers wrote to the Department of Lands (DoL) advising that MRHG was the preferred proponent and requested the Management Order over the Reserve be amended to reflect a change in purpose from 'Camping and Recreation' to 'Recreation and Foreshore Management' and sought power to lease/licence a portion of the Reserve for a period of up to 30 years to facilitate the preferred proponent's proposal.

DoL advised that due to policy changes, the land would be required to be excised from the Reserve for a head lease between the State of WA and the City, and a sub-lease agreement prepared between the City and the proponent.

2016 (June) - DoL advertised its intention to amend the purpose of the Reserve and excise out the land for the café/kiosk and invited public comment. DoL received objections from several of the landowners on Geographe Bay Road and in the vicinity of the proposed site. DoL subsequently advised the City the advertising process it had conducted did not adequately address the statutory requirements, in that Ministerial approval to advertise had not been sought. Accordingly, DoL indicated they would need to readvertise.

2017 - MRHG advised the City it would be interested in reviewing the concept and functionality design as previously approved to try and resolve some of the community concerns, in particular visibility of the building from Geographe Bay Road, parking issues and the environmental sustainability of the building.

The revised design concept integrated a commercial development area with new public/community facilities and, while the new design resulted in a larger total building area of 400m², a commercial area of 200m² (as originally supported by Council) had been retained.

2017 (August) - Council endorsed inviting of community comment on the revised design concept.

2017 (November) - Results of the community consultation (undertaken in September and October) were presented to a Council briefing where Council requested Officers to work with MRHG regarding functions (weddings) as a key component of their business operations, as well as concerns regarding parking and removal of vegetation.

2018 (March) – Revised proposal submitted to Council briefing on 21 March 2018 which involved:

- Lease area (200m²) consisting of:
 - commercial space - kitchen/kiosk (50m²), dining space (80m²) and al-fresco (70m²)
- Licensed public deck area 100m²;
- Public amenity area to (123m²) consisting of:
 - community circle area (67m²), outdoor showers (20m²) and ablutions (36m²)
- Toilet facilities to be a shared responsibility
- Additional car parking area to be determined with no clearing of vegetation (formalisation of existing car park line marking to be addressed)
- Realignment / relocation of the cycle/footpath – up to 100m in length
- Existing public toilet block to be converted to store and leased to proponent
- Café/kiosk offering including breakfast, lunch & afternoon tea
- Other details
 - Opening hours reduced to day trade only (ie something like 7am – 3pm)
 - 12 ‘Business type’ Functions each year
 - No weddings, 21st or 18th birthday parties

At this briefing Councillors were of the general view that the hours of use should be increased up to 8pm and that the number of “business type” events be increased to 24 per year.

2018 May – As a result of a Council report being contained on the Council Agenda for the meeting to be held on 9 May, which reflected the revised conditions as referred to above, a further Council briefing was called for. This was held on 2 May.

At the meeting held on 9 May, the matter was deferred pending a site inspection (which was held on 22 May 2018).

In addition to those meetings listed above there have also been many other Councillor briefings over the life of this project.

STATUTORY ENVIRONMENT

The statutory requirements were detailed in the report item 15.1 (9 May Council meeting) as shown in Attachment A to this report.

RELEVANT PLANS AND POLICIES

The relevant Plans and Policies were detailed in the report item 15.1 (9 May Council meeting) as shown in Attachment A to this report.

FINANCIAL IMPLICATIONS

Given the lengthy statutory processes related to this proposal, which involve State government advertising and Parliamentary approval followed by local City advertising in accordance with S3.58 of the Local government Act, it is unlikely that, apart from minor costs such as surveying etc there will be any impact on the City’s 2018/19 budget.

The Officer recommendation includes authorising the CEO to enter into a Heads of Agreement (HoA) with the proponent for the café/kiosk. It is expected that a lease arrangement will be executed with MRHG in the future which will have positive financial result in that future revenue will be generated from this agreement.

Financial implications are therefore unlikely to be realised before the 2019/20 financial year and as a result are considered in the Long term Financial Plan section below.

Long-term Financial Plan Implications

The proposal includes expenditure on new public facilities (public toilets), relocation of existing infrastructure (footpath / cycleway) and upgrading of existing infrastructure (parking area).

Public toilets

The proponent requires the use of the existing public ablution block as a storage area. New public toilets will be built as part of this proposal within the new building. While the specific details have not been agreed, a major refurbishment of the public ablution block is scheduled for 2022/23 at a value of \$200,000; an amount up to this allocation could be included as the City's contribution to the project. This is considered a reasonable contribution and is consistent with other contributions the City has made in the past such as to Busselton foreshore businesses toilet facilities and the proposed contribution to the microbrewery toilet facilities.

Footpath / Cycleway

The plan proposes the construction of re-aligned footpath / cycleway at an estimated length of 220 metres. The existing footpath / cycleway conflicts with the driveway to the existing car park and this would be an opportune time to resolve this conflict. The proposed plan shows the footpath / cycleway relocated closer to the beach to provide a safer environment and also easier access to the café / kiosk.

The cost of a new footpath / cycleway is estimated at \$57,000. The City's contribution will need to be budgeted in the 2019/20 financial year when the café / kiosk is expected to be completed. The proponent is willing to contribute towards the cost of relocation of the footpath / cycleway when final costs are known following design and location issues being finalised.

Parking areas

The proponent has agreed to provide additional car bays necessary to comply with the planning assessment to support a net lettable area of 150m² (dining room and alfresco area). The bays would need to be provided at a location to be determined by the City.

The existing car park has a capacity of 15 bays but needs to be re-surfaced and re-marked. The estimated cost of this work is \$18,000. There are no funds for this work identified in the Long term Financial Plan but in the ordinary course of business, the City would normally bear the cost of this work.

It should be noted that the above cost estimates have been provided from a desk top analysis and will need to be verified as the proposal is progressed. The figures should therefore be viewed as indicative and not actual. The details of the proposed financial contribution towards car park provision would also be negotiated whilst the statutory processes were being progressed.

STRATEGIC COMMUNITY OBJECTIVES

This report aligns with the following City of Busselton Key Goal Areas identified in the City's 2017 Strategic Community Plan:

Key Goal Area 2: Places and Spaces

- 2.2 Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities.

Key Goal Area 4: Economy

- 4.1 An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.
- 4.2 A community where local business is supported and in turn drives our economy.
- 4.3 Events and unique tourism experiences that attract visitors and investment.

RISK ASSESSMENT

The Risk Assessment was detailed in the report item 15.1 (9 May Council meeting) as shown in Attachment A to this report.

CONSULTATION

A detailed schedule of consultation conducted was detailed in the report item 15.1 (9 May Council meeting) as shown in Attachment A to this report.

OFFICER COMMENT

Following the decision of Council to defer consideration of the recommendation to progress the development of the café on the Reserve, a site inspection was conducted on 22 May 2018. Subsequent to this inspection, a further meeting was held on site with the proponent and it was agreed that a 'Feature Plan' would be prepared. This Plan is shown on Attachment B.

The Plan shows that the location of the proposed development has changed slightly from the information provided in the 9 May 2018 report to reflect Council's concerns in relation to the vegetation on the site. The impact of the development as shown on the Plan on mature growth is minimal.

The environmentally sustainable design of the building is sympathetic to the environment and its curved shape takes advantage of Geographe Bay to allow maximum exposure.

Coastal issues

The City has previously commissioned a Coastal Engineering Assessment of the Dunsborough foreshore for an earlier version of this proposal. The assessment report considered the location proposed for the cafe/kiosk is unlikely to be affected by erosion over the 30 year lease term, however may be subject to inundation in a severe weather event. Risk from such an event is proposed to be mitigated by the proponent by elevating the building 1m above ground level using dry screw piles.

A new report has been commissioned and if the assessment is different, the report will be made available when received.

Use and operating hours

As mentioned in the 9 May 2018 report, community concerns were raised over the original proposed uses of the building which included wedding functions as a core component of the proponents business. The proponent has since agreed to exclude weddings, 18th and 21st birthday functions with a small number of business related functions to be held during the year. The opening hours were also reduced from the initial proposal.

The hours of use (open to 8pm) and the number of 'business type' events were increased (to 24) by Councillors at the briefing session in March (from what was contained in the proponents submission) to reflect expected popularity of a café on the Dunsborough foreshore.

Infrastructure / financial issues

Financial arrangements relating to the provision and/or upgrading of infrastructure have been included in the Long Term Financial Plan section of this report. The arrangements identified are considered equitable and in line with other contributions made by developers on the Busselton foreshore.

Should Council adopt the Officer recommendation, Officers will commence the lengthy statutory process to excise the land from the Reserve and negotiate a draft Heads of Agreement that is mutually acceptable to both Council and the proponent.

The revised concept potentially provides the following benefits to the local area:

- Community: Improved facilities and amenity; upgraded public ablutions; strengthens the sense of place; enjoyment of the beach year round; positive local economic/tourism benefits and the development of community pride in sustainability;
- Environment: Touches the earth lightly (uses screw piles with no concrete pads) and is elevated off the ground to protect vegetation and prevent inundation in a major storm event; 100% sustainable energy production is proposed with a 200 panel solar array on the roof; renewable construction materials; pre-fabricated modular construction to reduce on-site impact; simple decommissioning of structure at the end of the life; all existing trees to remain with reintroduction of native vegetation;
- Public facility upgrades: Relocation of public ablutions within the proposed development; re-direction of existing bicycle path to improve cyclists, car and pedestrian flow;
- Eliminates car / pedestrian / cyclist clash points on-site; car-park redesign to improve traffic flow onto Geographe Bay Road.

CONCLUSION

Council is requested to consider the revised concept and operating terms for the Dunsborough foreshore Café/kiosk proposal submitted by MRHG following further community consultation in late 2017. The concept and building plan for a commercial café/kiosk combined with community facilities (community seating; outdoor showers; new public ablutions; public viewing deck) on the Dunsborough foreshore has been recently revised in an effort to improve social, economic and environmental outcomes and incorporate both community and Council concerns.

Two separate areas will be required to be excised from the Reserve at Dunsborough foreshore:

- The proposed new building; and
- The existing toilet block which will be renovated to become a storeroom for the commercial space.

A Lease will be required to be entered into for that part of the building that contains the Café / kiosk, kitchen, dining room and alfresco areas totalling 200m² and the existing toilet block. A Licence will be required to be entered into for the common area which occupies an area of 100m².

It will be desirable to excise an area from Reserve greater than the building footprint to allow some flexibility from a lease definition point of view. This does not alter the leased area footprint of the commercial area of 200m².

OPTIONS

Council may elect to:

- Not support the revised design concept (Attachments A - D contained in the 9 May 2018 report attached) as modified by the Feature Plan (Attachment B);
- Modify any of the proposed terms or funding arrangements; or
- Discontinue facilitating the development of a café/kiosk on the Dunsborough foreshore.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Following Council adoption of the Officer Recommendation, Officers will finalise negotiations with MRHG for a mutually acceptable draft Heads of Agreement, which will inform the development of a future sub-lease (including funding of community facilities). The Heads of Agreement will address matters relating to lease term, ground rent and private/public contributions to infrastructure improvements such as parking, public toilets and other public facilities.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1806/134

Moved Councillor P Carter, seconded Councillor C Tarbotton

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Endorses the draft concept designs (as shown in Attachments A - D to the 9 May 2018 report as modified by the Feature Plan shown at Attachment B) as the guide for further design development of the proposed commercial café/kiosk;
2. Delegates authority for the CEO to enter into a Heads of Agreement with Margaret River Hospitality Group Pty Ltd containing the following features:
 - Lease for a period of 30 years
 - Opening hours be approved from 7am to 8pm and the number of "Business type after hours events" be set at no more than 24 each year;
 - No weddings, 21st or 18th birthday parties
 - Additional parking bays required to be provided in accordance with normal planning assessment
 - City infrastructure contributions to the project being :
 - \$200,000 towards the cost of provision of new public toilet facilities;
 - \$18,000 for upgrading the existing car park; and
 - An agreed contribution towards the cost of re-location of the footpath / cycleway when the design and location has been completed

3. Delegates to the CEO authority to progress statutory advertising and parliamentary approvals for the excision of portions of parts of the 'A' Class Reserve R22965 within '*Centennial Park*' to accommodate the café/kiosk development and store proposed in this report;
4. Once the excision of the areas referred to above at Recommendation 3 has occurred authorises the CEO to advertise an intended disposition of the two parcels of land identified in this report being portions of Reserve R22965, by leasehold in accordance with Section 3.58 of the Local Government Act 1995 and presents a further report to Council following the closure for public submissions;






CARRIED 9/0

BY ABSOLUTE MAJORITY

ITEMS FOR DEBATE

14. ENGINEERING AND WORKS SERVICES REPORT

14.1 CHIEFTAIN CRESCENT/CHESTER WAY INTERSECTION

| | |
|-----------------------------|--|
| SUBJECT INDEX: | Roads |
| STRATEGIC OBJECTIVE: | Road networks that provide for a growing population and the safe movement of all users through the District. |
| BUSINESS UNIT: | Engineering and Facilities Services |
| ACTIVITY UNIT: | Design and Survey |
| REPORTING OFFICER: | Design and Survey Coordinator - Justin Smith |
| AUTHORISING OFFICER: | Director, Engineering and Works Services - Oliver Darby |
| VOTING REQUIREMENT: | Simple Majority |
| ATTACHMENTS: | Attachment A Properties Received Consultation Letter  |
| | Attachment B Properties Received Consultation Letter  |
| | Attachment C Townscape - Option 1  |
| | Attachment D Townscape - Option 2  |
| | Attachment E Dunsborough Townscape Conceptual Plan  |

PRÉCIS

The purpose of this report is to seek resolution from Council for the retention of the road to remain open at the Chieftain Crescent and Chester Way intersection, Dunsborough.

BACKGROUND

The Dunsborough Town Centre Conceptual Plan (Attachment E) and streetscape improvement program was developed over a number of years as a holistic approach to achieve the following within the Dunsborough Central Business District:

- upgrade the road network;
- improve pedestrian flow;
- provide additional greenspace and improve aesthetics; and
- increase the overall parking supply for both timed bays and all-day users.

Comprehensive public consultation was undertaken between 2013 and 2015 as part of developing the Conceptual Plan and streetscape program.

The plan first advertised included, as part of the reconfiguration of Seymour Boulevard and Chieftain Crescent, the opening of Chieftain Crescent to allow access to the town centre from residential areas to the east. This reflected the preferred outcome of City planning officers, as it allowed for the expansion of low-key commercial land uses (facilitated by rezoning) and improved vehicle access and permeability in the local street network.

After receiving feedback and submissions from residents in Chieftain Crescent and Chester Way in opposition, the Conceptual Plan adopted by the Council included cul-de-sac heads to allow limited access to Chieftain Crescent from the town centre and removed through-access to surrounding streets.

The Seymour Boulevard/Chieftain Crescent realignment works were part of Stage 3 of the Dunsborough Town Centre upgrade, delivered during the 2016/17 period. The roadway realignment was completed prior to Leavers in 2016 however due to the duration of the works the road closure components were only partially implemented through use of traffic control devices.

As a result, through-access from Chieftain Crescent to Chester Way and Lorna Street was available for approximately six weeks during the 2016/17 peak summer visitation period.

As a further result, residents / landowners to the east of the town centre presented a petition to Council seeking retention of the through-access. In response, the Council agreed to undertake a trial to assess the impacts of traffic flow and community response over a minimum six month period.

The purpose of this report is to gain a final Council decision on whether through-access from Chieftain Crescent to Chester Way is retained or closed as adopted in the Dunsborough Town Centre Conceptual Plan with the construction of a 'hammer-head' cul-de-sac.

STATUTORY ENVIRONMENT

The managing of the roads by the City is undertaken through:

- Land Administration Act 1997:
Section 55 states *"(2) Subject to the Main Roads Act 1930 and the Public Works Act 1902, the local government within the district of which a road is situated has the care, control and management of the road."*

RELEVANT PLANS AND POLICIES

The Dunsborough Town Centre Conceptual Plan is of relevance, as outlined in this report. There are no other applicable plans or policies.

FINANCIAL IMPLICATIONS

On the basis that the Council endorses the Officers recommendation and resolves not to close Chieftain Crescent, there are no immediate financial implications to keep the road open. The current intersections work appropriately. Officers would however budget in the future for minor improvements as noted in the attached drawing (Attachment D – Townscape Option 2). These works are estimated at approximately \$8,000.

Should the Council resolve to close Chieftain Crescent the cost to construct the turnaround would be approximately \$20,000, see the attached drawing (Attachment C – Townscape Option 1). This would need to be included in the 18/19 budget as part of its adoption.

Concerns have been raised as to how pedestrians and cyclists are to safely access the Central Business District as there is no shared path along Chester Way. The construction of a footpath along Chester Way will cost in the region of \$90,000 and will be considered as part of the forward capital works plan to be prioritised in conjunction with other projects in the bike plan.

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

The Officer's recommendation aligns with the following Key goal areas and community Objective of the Strategic Community Plan 2017.

Key Goal Area 2 –Places and Spaces: vibrant, attractive, affordable

2.3: Creative urban design that produces vibrant, mixed-use town centres and public spaces.

Key Goal Area 5 – Transport; smart, connective, accessible

5.2: Road networks that provide for a growing population and the safe movement of all users through the District.

5.3: Cycleways that connect our communities and provide alternative transport choices.

RISK ASSESSMENT

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

CONSULTATION

The Dunsborough Town Centre Conceptual Plan and streetscape improvement program was developed over several years and involved comprehensive consultation with town centre landowners and the broader Dunsborough community. This included several public events, multiple mail-outs to landowners and residents, presentations to business and residents groups, and newspaper and internet posts.

Throughout there has been both support for and objections against the reconfiguration of Seymour Boulevard and Chieftain Crescent and/or the opening of access via Chieftain Crescent.

In 2015 Councillors were briefed on this matter following an individual landowner submission to move the proposed northern cul-de-sac to adjoin Seymour Boulevard. Officers did not recommend making this change as it did not accord with adopted rezoning, and Councillors supported no changes to the proposed streetscape designs.

In January 2017, prior to the completion of works to close the remaining partial access, a petition by 98 residents was presented to the Council in support of retaining Chieftain Crescent (north) open to through-access. In February a trial was commenced, with temporary improvements made to support the retention of through-access.

In follow-up to the trial the City undertook consultation with all affected property owners, being all localised properties within the western area of the estate bounded by Chieftain Crescent/Peron Avenue/Chester Way. This bisect of the estate was considered the point at which all previous traffic vented through Chester Way onto Geographe Bay Road. Traffic to the east of this bisect and the broader Dunsborough community generally only access the western area to attend medical appointments or to utilise the informal parking on the edge of the Central Business District.

The City also engaged with all residents that had previously expressed an interest either through the petition or individual correspondence. Written submissions were sought to determine the level of interest in the proposal to retain the intersection of Chieftain Crescent and Chester Way open to through traffic.

The submissions were completed over two periods, as follows:

Consultation of 14th February 2017. A total of 48 letters were issued to residents as shown on Attachment A. Of the 48 letters issued the City received 11 responses, see details below:

| Total Submissions 11 | |
|-----------------------------|--------|
| Open | Closed |
| 10 | 1 |

Consultation of 6th September 2017. A total of 160 letters were issued to residents as shown on Attachment "B". Of the 160 letters issued the City received 130 responses, see details below:

| Total Submissions 130 | |
|------------------------------|--------|
| Open | Closed |
| 114 | 16 |

The outcomes of the consultation indicate support to retain the road link through the Chieftain Crescent and Chester Way intersection. There was strong feedback however from owners in the immediate area wanting the road closed, as per the adopted town centre conceptual plan.

OFFICER COMMENT

There are two options available - to open or close the through-access. The retention of the road open received significantly more support during the subsequent post trial submission.

The opportunity for a compromise, being for example, retaining the road open in one direction is not considered achievable. For a period immediately after the main section of the streetscape was completed, the road was retained open in a one-way easterly direction. During this period however the City received numerous reports of non-compliance with vehicles travelling contra-flow or removing the physical barriers to gain additional access.

The main change to the expected traffic flow (as compared to the adopted town centre conceptual plan) would be the impact on a section of Chieftain Crescent and a section of Chester Way which are fronted by 21 properties. Additional traffic flow could also be expected on Lorna Street. The residents in these road sections, although mostly aggrieved by the potential permanent change, have been patient in their approach by allowing the City to complete the trial period and undertake further traffic counts.

The City does not have pre-works traffic data for either Chieftain Crescent (Seymour Boulevard to Chester) or Chester Way (Peron Avenue to Chieftain Crescent) however traffic counts have been taken in these 2 locations during April 2017 and April 2018. These counts were taken outside of school holiday periods to minimise the potential distortion caused by holiday makers, therefore reflecting a base line traffic volume.

The data below is a summary of the traffic flow changes during this period however we do not have the ability to compare with pre-works traffic flows.

| Chieftain Crescent | Vehicles per Day | % Heavy | 85 th % speed (km/h) |
|---------------------------|---------------------|---------|------------------------------------|
| April 2017 | 215.3** | 1.7 | 37.8 |
| April 2018 | 864.4 | 4.1 | 41.8 |
| Change | + 649.1 (301.4%) | + 2.4 | + 4.0 |
| Chester Way | | | |
| April 2017 | 476.1 | 4.0 | 49.7 |
| April 2018 | 685.1 | 4.3 | 47.9 |
| Change | + 209 (43.9%) | + 0.3 | - 1.8 |

- ** There is no evidence that this data was corrupted however it does appear 'low' when compared to Chester Way.

The following works proposals are considered to be appropriate for the permanent treatment, dependant on the option resolved by Council:

Option 1 - Closure

- Construct a suitable cul-de-sac head at the Chieftain Crescent/Chester Way intersection;
- Provide signage and line marking delineation at the Chester Way/Peron Avenue/Chester Way intersection;
- Include the provision of a Shared Path in the Forward Capital Works Plan.

Option 2 - Open

- Construct a median island and deflector island Chieftain Crescent/Chester Way intersection to reinforce the give way controls and reduce the potential for vehicle speed and/or corner cutting;
- Provide signage and line marking delineation at the Chester Way/Peron Avenue/Chester Way intersection;
- Include the provision of a Shared Path in the Forward Capital Works Plan.

During the consultation, concerns were raised by both sides that the change of traffic flow would impact on how pedestrians and cyclists are to safely access the Central Business District as there is no shared path along Chester Way. Additionally the intersection of Chester Way/Peron Avenue/Chester Way is unclear as to the priority legs; this uncertainty has been exacerbated further with the change in traffic flow patterns. City staff have assessed this intersection and believe that the provision of line marking and signage would greatly assist in reducing confusion. A final determination of this however this should be made post deliberation of this report as it will need to be developed to be consistent with the final traffic movements.

CONCLUSION

The majority of submissions received from the broader community through the consultation sought to retain the Chieftain Crescent and Chester Way open to traffic. Several property owners that front both Chieftain Crescent and Chester Way and who sought its closure through their submissions have expressed strong disappointment in the potential variation to the original Conceptual Plan.

With either recommendation there is likely to be a level of disappointment from the community and/or residents. Retaining Chieftain Crescent open to traffic flow is considered however to have broad community benefit and as such it is recommended by officers.

OPTIONS

Council may elect not to support the Officer's recommendation and instead close Chieftain Crescent to traffic.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation requires no immediate physical works to enable the retention of the road open.

OFFICER RECOMMENDATION

That the Council endorses the retention of the road open at the Chieftain Crescent and Chester Way junction, Dunsborough.

COUNCIL DECISION AND AMENDED OFFICER RECOMMENDATION

C1806/135 Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council endorses that the road remain open at the Chieftain Crescent and Chester Way Junction in Dunsborough.

CARRIED 9/0

Reason:

To provide a clarified recommendation.

16. FINANCE AND CORPORATE SERVICES REPORT

Nil

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. URGENT BUSINESS

Nil

20. CONFIDENTIAL REPORTS

Nil

21. CLOSURE

The meeting closed at 6.18pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 64 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 25 JULY 2018.

DATE: _____

PRESIDING MEMBER: _____