

Ordinary Council Meeting

13 February 2019

Minutes



Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

Agendas and Minutes are available on the City's website www.kwinana.wa.gov.au

Vision Statement

***Kwinana 2030
Rich in spirit, alive with opportunities,
surrounded by nature - it's all here!***

Mission

**Strengthen community spirit, lead
exciting growth, respect the environment
- create great places to live.**



We will do this by -

- providing strong leadership in the community;
- promoting an innovative and integrated approach;
- being accountable and transparent in our actions;
- being efficient and effective with our resources;
- using industry leading methods and technology wherever possible;
- making informed decisions, after considering all available information; and
- providing the best possible customer service.

Values

We will demonstrate and be defined by our core values, which are:

- Lead from where you stand - Leadership is within us all.
- Act with compassion - Show that you care.
- Make it fun - Seize the opportunity to have fun.
- Stand Strong, stand true - Have the courage to do what is right.
- Trust and be trusted - Value the message, value the messenger.
- Why not yes? - Ideas can grow with a yes.

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Present:

MAYOR CAROL ADAMS
DEPUTY MAYOR P FEASEY
CR W COOPER
CR M KEARNEY
CR S MILLS
CR M ROWSE
CR D WOOD

MS J ABBISS	-	Chief Executive Officer
MRS M COOKE	-	Director City Regulation
MS C MIHOVILOVICH	-	Director City Strategy
MRS B POWELL	-	Director City Engagement
MR D ELKINS	-	Director City Infrastructure
MS M BELL	-	Director City Legal
MR T HOSSEN	-	Lawyer
MR B MENTZ	-	Manager Essential Services
MR P LUCAS	-	City Assist Officer
MS A MCKENZIE	-	Council Administration Officer

Members of the Press	1
Members of the Public	3

1 Declaration of Opening:

Presiding Member declared the meeting open at 7:00pm and welcomed Councillors, City Officers and gallery in attendance and read the Welcome.

“IT GIVES ME GREAT PLEASURE TO WELCOME YOU ALL HERE AND BEFORE COMMENCING THE PROCEEDINGS, I WOULD LIKE TO ACKNOWLEDGE THAT WE COME TOGETHER TONIGHT ON THE TRADITIONAL LAND OF THE NOONGAR PEOPLE”

2 Prayer:

Councillor Wendy Cooper read the Prayer

“OH LORD WE PRAY FOR GUIDANCE IN OUR MEETING. PLEASE GRANT US WISDOM AND TOLERANCE IN DEBATE THAT WE MAY WORK TO THE BEST INTERESTS OF OUR PEOPLE AND TO THY WILL. AMEN”

3 Apologies/Leave(s) of Absence (previously approved)

Apologies

Nil

Leave(s) of Absence (previously approved):

Councillor Sandra Lee from 8 February 2019 to 22 February 2019.

4 Public Question Time:

Nil

5 Applications for Leave of Absence:

Nil

6 Declarations of Interest by Members and City Officers:

Councillor Dennis Wood declared an impartiality interest in item 21.1, Consideration by the City of Kwinana of an objection lodged under the Dog Act 1976 due to having been involved with the dogs before.

7 Community Submissions:

7.1 Mr Richard Owen regarding Behind Closed Doors item 21.1, Consideration by the City of Kwinana of an objection lodged under the Dog Act 1976:

Due to the confidential nature of Behind Closed Doors item 21.1, Consideration by the City of Kwinana of an objection lodged under the Dog Act 1976, the Community Submission has not been included in the Ordinary Council Meeting minutes.

8 Minutes to be Confirmed:

8.1 Ordinary Meeting of Council held on 23 January 2019:

COUNCIL DECISION

389

MOVED CR S MILLS

SECONDED CR D WOOD

That the Minutes of the Ordinary Meeting of Council held on 23 January 2019 be confirmed as a true and correct record of the meeting.

CARRIED
7/0

8.2 Electors General Meeting held on 23 January 2019:

COUNCIL DECISION

390

MOVED CR S MILLS

SECONDED CR D WOOD

That the Minutes of the Electors General Meeting held on 23 January 2019 be confirmed as a true and correct record of the meeting.

CARRIED
7/0

9 Referred Standing / Occasional / Management /Committee Meeting Reports:

Nil

10 Petitions:

Nil

11 Notices of Motion:

Nil

12 Reports - Community

Nil

13 Reports - Economic

Nil

14 Reports - Natural Environment

Nil

15 Reports - Built Infrastructure

15.1 Refusal of Retrospective Development Application for an Open Air Storage Yard – Lot 500 (202) Bertram Road, Wellard

DECLARATION OF INTEREST:

There were no declarations of interest declared.

SUMMARY:

An application has been received seeking retrospective planning approval for an Open Air Storage Yard at Lot 500 (202) Bertram Road, Wellard (Refer to the context map: Attachment A).

The proposal is for an Open Air Storage Yard whereby various equipment and materials are stored on an unsealed hardstand area (refer to Attachments B - D). The equipment and materials that are proposed to be stored within the hardstand area include three semi-trailers, a crane, five sea containers, unused scrap metal tanks and other various scrap metal. The site is for storage purposes only, with no customers or employees visiting the site. The applicant has also indicated vehicle movements are restricted to one semi-trailer leaving the premises at 7 am and returning at approximately 4.30 pm every day of the week, in addition to the crane exiting and entering the site up to three times per week (at different times).

The subject lot is zoned Development under the City's Local Planning Scheme No. 2 (LPS2). LPS2 outlines a number of objectives for the Development Zone including the provision for '*orderly planning of large areas of land for residential, commercial, industrial and associated purposes through a comprehensive structure planning process*'. As per this objective, a structure plan for Lots 500 (the subject lot) and 501 Bertram Road, was prepared and endorsed by the Western Australian Planning Commission (WAPC) in 2017 (Refer to Attachment E). The *Planning and Development (Local Planning Schemes) Regulations 2015* state that development applications in an area that is covered by an approved structure plan are to have due regard to the provisions of the structure plan. It is noted that the portion of Lot 500 that is proposed to be utilised for the Open Air Storage Yard is predominately designated as Residential R25 zoned land under the approved structure plan. In this regard, City Officers note that LPS2 stipulates an Open Air Storage Yard use to be an 'X' (not permitted) use within the Residential Zone. City Officers take the view that the proposal does not have due regard to the provisions of the approved structure plan and does not comply with the uses permissible within the zone outlined by LPS2.

Clause 2.4.2 of LPS2 also states that in determining development applications, the City is to have regard to the *orderly and proper planning of the locality and the preservation of the amenities of the locality*. Due to a number of factors, including its proximity to existing residential development and the lack of due regard to the approved structure plan, it is considered the proposed development does not adhere to ensuring the orderly and proper planning and preservation of the amenity of the locality.

15.1 REFUSAL OF RETROSPECTIVE DEVELOPMENT APPLICATION FOR AN OPEN AIR STORAGE YARD – LOT 500 (202) BERTRAM ROAD, WELLARD**OFFICER RECOMMENDATION:**

That Council refuse the application for an Open Air Storage Yard at Lot 500 (202) Bertram Road, Wellard on the following grounds:

- a) The proposed development does not have due regard to the approved structure plan for the subject lot as per the *Planning and Development (Local Planning Schemes) Regulations 2015*. The Open Air Storage Yard is predominately designated as Residential R25 zoned land under the approved Local Structure Plan for Lots 500 and 501 Bertram Road and an Open Air Storage Yard use is an 'X' (not permitted) use within the Residential Zone under Local Planning Scheme No 2 (LPS2).
- b) The proposed development is not considered to be consistent with the orderly and proper planning of the locality or the preservation of amenity of the locality as per LPS2.

Advice notes

- i. Should the applicant be aggrieved by the decision or any condition imposed, then a right of review may be lodged with the State Administrative Tribunal within 28 days of the date of this decision.
- ii. All equipment and buildings subject of this application are required to be removed and the site restored to its original condition within 30 days of the date of this decision. The continual use of the above property as an Open Air Storage Yard is unlawful and in contravention of the Scheme. The contravention represents an offence under Clause 8.2 of the Scheme and Section 218 of the *Planning and Development Act, 2005*.

DISCUSSION:**Land Status**

Local Planning Scheme No. 2: Development Zone
Metropolitan Region Scheme: Urban Zone

Background

The subject application has been received as a result of a compliance matter that was identified by City Assist in September 2018. A site inspection was undertaken by City Officers and it was noted that a portion of Lot 500 Bertram Road was being used as an Open Air Storage Yard by the lessee of the property, without prior approval of the City. Consequently, a letter was sent by the City requesting the lessee to address and remedy this contravention. The lessee opted to submit a retrospective application for Council's determination.

15.1 REFUSAL OF RETROSPECTIVE DEVELOPMENT APPLICATION FOR AN OPEN AIR STORAGE YARD – LOT 500 (202) BERTRAM ROAD, WELLARD

The Proposal

The proposed use of the site is classified as an Open Air Storage Yard under LPS2. Under LPS2, an Open Air Storage Yard is defined as: *'land and buildings used for the storage of materials in the open air'*. The proposal is seeking retrospective approval for an unsealed hardstand area of approximately 2,500 square metres (refer to Attachment D). The following buildings and equipment are proposed to be stored within the hardstand area:

- Three semi-trailers;
- One large crane;
- Five sea containers for storage of various materials and equipment;
- Unused scrap metal tanks; and
- Other various scrap metal.

It is considered that the storing and use of large vehicles (such as semi-trailers and a crane) is incidental to the predominant use of the land as an Open Air Storage Yard. As previously stated, an Open Air Storage yard is for the storage of materials and in this instance, the primary use of the site is for materials to be stored on the land and within buildings.

Attachments F – H depict the current condition of the site and materials and equipment that is currently being stored. The applicant stated in the application that the current quantity of materials and equipment stored on site is proposed to neither increase and/or decrease. No customers or employees are proposed to visit the site at any given time. The applicant has indicated vehicle movements are restricted to one semi-trailer leaving the premise at 7 am and returning at approximately 4.30 pm every day of the week. In addition, a crane will exit and enter the site up to three times per week (at different times). It should be reiterated that this application is retrospective and no element thereof has been approved by the City to date. Furthermore, the applicant has requested that, at a minimum, the City issue a 'temporary' approval for the land use under LPS2.

Planning Assessment

Orderly Planning

The subject lot is zoned Development under LPS2. Clause 6.15.1 of LPS2 states that *'the purpose of the Development Zone is to provide for the orderly planning and development of larger areas of land in an integrated manner within a regional context whilst retaining flexibility to review planning with changing circumstances'*. Furthermore, Clause 2.4.2 of LPS2 states that in determining development applications, the City is to have regard to the *'orderly and proper planning of the locality and the preservation of the amenities of the locality'*. The proposed Open Air Storage Yard is located in close proximity (less than 80 metres) to existing residential development to the north east and other sensitive land uses such as a school. The storing of various scrap metal, sea containers and other large equipment is considered to have an adverse impact on the amenity of the area, which is predominately made up of a school to the north-west, residential dwellings to the north east and wetland to the south west. The scale of the development, with a total area of 2,500 square metres, in addition to the materials and equipment being stored, is considered unsightly and has an adverse impact on the visual amenity of the area. The materials and equipment are also visible from Bertram Road. The proposed use is better suited for Industrial zoned land.

15.1 REFUSAL OF RETROSPECTIVE DEVELOPMENT APPLICATION FOR AN OPEN AIR STORAGE YARD – LOT 500 (202) BERTRAM ROAD, WELLARD

Furthermore, City Officers note the proposed use of the land is also inconsistent with the provisions of LPS2 when considering the historic zoning of the site. Prior to being zoned Development, the subject lot was zoned Rural-A under LPS2. As per Table 1 (Zoning and Use Classes) of LPS2, the use of land for an Open Air Storage Yard is not permitted within the Rural-A Zone. Therefore, the proposed use of land as an Open Air Storage Yard is inconsistent with both the historical and current planning of the area and is ultimately considered contrary to providing for the orderly planning and development of the area.

The applicant has requested that in the event that Council does not approve a permanent use of the subject site for an Open Air Storage Yard, that Council approve a retrospective temporary approval of the use. In this regard, City Officers take the view that while a temporary approval of the use over a period of limited months or years may limit the longer term impact on orderly planning for the use (in so far as the development of the structure plan), the proximity of the use to existing residential uses and the amenity impacts as discussed above do not support a temporary approval.

Further, it is noted that the adopted Local Structure Plan comprises two separate landholdings and development timeframes are difficult to foresee and can change. City Officers take the view that the presence of an Open Air Storage Yard on Lot 500 (in particular, its immediate amenity impacts) would adversely affect the ability of Lot 501 to develop.

For these reasons, it is not recommended that Council grant 'temporary' retrospective approval for the Open Air Storage Yard.

Structure Planning

The *Planning and Development (Local Planning Schemes) Regulations 2015* state that development applications in an area that is covered by an approved structure plan are to have due regard to the provisions of the structure plan. In 2017, a structure plan for Lots 500 and 501 Bertram Road was approved by the WAPC (Refer to Attachment E). The portion of Lot 500 Bertram Road, that is proposed to be utilised for the Open Air Storage Yard, is predominately designated as Residential R25 zoned land under the local structure plan (refer to Attachments E and I). As can be seen in Attachment I, the structure plan also shows a future road to traverse the proposed Open Air Storage Yard.

Under LPS2, Table 1 (Zoning and Use Classes) stipulates an Open Air Storage Yard use as an 'X' (not permitted) use within the Residential Zone. Therefore, City Officers consider that the proposal does not have due regard to the approved structure plan over the site and the application is therefore recommended for refusal.

Conclusion

City Officers consider the proposal to be inconsistent with the planning provisions under the *Planning and Development (Local Planning Schemes) Regulations 2015* and LPS2.

The proposed use does not align with the intent and objectives of the Development Zone. The scale of the use and proposal to store heavy duty machinery and materials on the property is considered to be inconsistent with the objectives of LPS2 in having regard to the orderly and proper planning of the locality and the preservation of the amenity of the area.

15.1 REFUSAL OF RETROSPECTIVE DEVELOPMENT APPLICATION FOR AN OPEN AIR STORAGE YARD – LOT 500 (202) BERTRAM ROAD, WELLARD

The proposed development does not have regard to the approved structure plan over the site which designates the area that is proposed to be used for the Open Air Storage Yard predominantly as Residential R25 zoned land. Under LPS2, an Open Air Storage Yard is not permitted within the Residential R25 Zone.

City Officers consider it inappropriate to grant a 'temporary' approval for the subject application noting the outstanding non-compliance with all relevant provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* and LPS2. Therefore, City Officers consider the application should be refused.

LEGAL/POLICY IMPLICATIONS:

For the purpose of Councillors considering a financial or impartiality interest only, the landowner is Novena Land Pty Ltd and the applicant is Luke Dryburgh.

The following strategic and policy based documents were considered in assessing the application:

Legislation

Planning and Development Act 2005

Schemes

Metropolitan Region Scheme

City of Kwinana Local Planning Scheme No. 2

It should be noted that there is discretion available to Council to approve the subject application. Should Council resolve to approve the application however, there is the need to demonstrate that the proposal has due regard to the approved structure plan and that the proposal contributes to the orderly and proper planning for the locality and preserves the amenity of the area. As discussed in this report, City Officers do not consider this to be the case and recommend refusal.

It is considered appropriate that all equipment and buildings subject of this application are required to be removed and the site restored to its original condition within 30 days of the date of this decision. The continual use of the above property as an Open Air Storage Yard is unlawful and in contravention of LPS2.

The contravention represents an offence under Clause 8.2 of the Scheme and Section 218 of the *Planning and Development Act 2005*.

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial implications as a result of this report.

ASSET MANAGEMENT IMPLICATIONS:

There are no asset management implications as a result of this report.

15.1 REFUSAL OF RETROSPECTIVE DEVELOPMENT APPLICATION FOR AN OPEN AIR STORAGE YARD – LOT 500 (202) BERTRAM ROAD, WELLARD

ENVIRONMENTAL IMPLICATIONS:

Approval of this application has the potential to impact on the natural environment considering its proximity to wetlands (located to the south west) and other natural vegetation on the site.

STRATEGIC/SOCIAL IMPLICATIONS:

This recommendation will support the achievement of the following outcome and objective detailed in the Strategic Community Plan.

Plan	Outcome	Objective
Strategic Community Plan	A well planned City	4.4 Create diverse places and spaces where people can enjoy a variety of lifestyles with high levels of amenity.

COMMUNITY ENGAGEMENT:

There are no community engagement implications as a result of this report. Considering the proposal does not satisfy the provisions of LPS2 (as outlined in the planning assessment above) and refusal is recommended on this basis, it is deemed unnecessary to publicly advertise the application for comment.

PUBLIC HEALTH IMPLICATIONS

Approval of this application has the potential to negatively impact the following determinant of health:

- Built Environment – Sanitation; Environmental Quality; Neighbourhood Amenity; Disease Prevention.

RISK IMPLICATIONS:

The risk implications in relation to this proposal are as follows:

Risk Event	Negative impact on amenity of the area.
Risk Theme	Failure to fulfil statutory regulations or compliance requirements and potential to adversely impact on the future development of the site.
Risk Effect/Impact	Reputation Compliance
Risk Assessment Context	Strategic

15.1 REFUSAL OF RETROSPECTIVE DEVELOPMENT APPLICATION FOR AN OPEN AIR STORAGE YARD – LOT 500 (202) BERTRAM ROAD, WELLARD

Consequence	Minor
Likelihood	Possible
Rating (before treatment)	Low
Risk Treatment in place	Reduce - mitigate risk
Response to risk treatment required/in place	<ul style="list-style-type: none"> • Work instructions in place and checklists used when assessing the application. • Consideration of the application within the statutory timeframes. • Compliance of the proposal with <i>Local Planning Scheme No.2</i>, local laws and relevant Policies.
Rating (after treatment)	Low

COUNCIL DECISION

391

MOVED CR W COOPER

SECONDED CR S MILLS

That Council refuse the application for an Open Air Storage Yard at Lot 500 (202) Bertram Road, Wellard on the following grounds:

- a) The proposed development does not have due regard to the approved structure plan for the subject lot as per the *Planning and Development (Local Planning Schemes) Regulations 2015*. The Open Air Storage Yard is predominately designated as Residential R25 zoned land under the approved Local Structure Plan for Lots 500 and 501 Bertram Road and an Open Air Storage Yard use is an 'X' (not permitted) use within the Residential Zone under Local Planning Scheme No 2 (LPS2).
- b) The proposed development is not considered to be consistent with the orderly and proper planning of the locality or the preservation of amenity of the locality as per LPS2.

Advice notes

- i. Should the applicant be aggrieved by the decision or any condition imposed, then a right of review may be lodged with the State Administrative Tribunal within 28 days of the date of this decision.
- ii. All equipment and buildings subject of this application are required to be removed and the site restored to its original condition within 30 days of the date of this decision. The continual use of the above property as an Open Air Storage Yard is unlawful and in contravention of the Scheme. The contravention represents an offence under Clause 8.2 of the Scheme and Section 218 of the *Planning and Development Act, 2005*.

CARRIED
7/0

16 Reports - Civic Leadership

16.1 Review of Commemorative Plaques for Official Openings and Events Policy

DECLARATION OF INTEREST:

There were no declarations of interest declared.

SUMMARY:

Commemorative Plaques for Official Openings and Events are managed and installed in accordance with the Commemorative Plaques for Official Openings and Events Council Policy (the Policy) (Attachment A). The Policy was last reviewed by Council at its Ordinary Council Meeting held on 22 March 2017.

While the intention of the Policy remains the same, some minor amendments have been made to section nine with reference to the City's Strategic Community Plan and a revised example of the commemorative plaque design, which is an attachment within the Policy, to reflect a more modern type font and design layout.

It is recommended that the reviewed policy be adopted as detailed in Attachment B.

OFFICER RECOMMENDATION:

That Council adopt the amended Commemorative Plaques for Official Openings and Events Council Policy, as outlined in Attachment B.

DISCUSSION:

The Commemorative Plaques for Official Openings and Events Council Policy was created to ensure consistency between the commemorative plaques being installed around the City and ensure that the City's brand was being appropriately represented.

The Council Policy also provides some criteria around what constitutes an event or opening that warrants or justifies a commemorate plaque being installed.

The minor changes recommended to Council include:

- Section nine of the Council Policy includes the reference to the City's Strategic Community Plan; and
- A revised example of the commemorative plaque design, which is an attachment within the Council Policy, reflects a more modern type font including font sizing guidelines and the design layout.

LEGAL/POLICY IMPLICATIONS:

There are no legal implications as a result of this report.

16.1 REVIEW OF COMMEMORATIVE PLAQUES FOR OFFICIAL OPENINGS AND EVENTS POLICY**FINANCIAL/BUDGET IMPLICATIONS:**

There are no additional financial implications as a result of this report.

ASSET MANAGEMENT IMPLICATIONS:

There are no asset management implications as a result of this report.

ENVIRONMENTAL IMPLICATIONS:

There are no environmental implications as a result of this report.

STRATEGIC/SOCIAL IMPLICATIONS:

This proposal will support the achievement of the following outcome and objective detailed in the Strategic Community Plan:

Plan	Outcome	Objective
Strategic Community Plan	A unique identity	1.1 Develop and strengthen community identity to create a sense of belonging.

COMMUNITY ENGAGEMENT:

There are no community engagement implications as a result of this report.

PUBLIC HEALTH IMPLICATIONS

There are no implications on any determinants of health as a result of this report.

RISK IMPLICATIONS:

The risk implications in relation to this proposal are as follows:

Risk Event	Plaques are installed that are not in line with the design guidelines outlined in the Council Policy
Risk Theme	Inconsistent brand application
Risk Effect/Impact	Reputation
Risk Assessment Context	Operational
Consequence	Negligible
Likelihood	Unlikely
Rating (before treatment)	Low

16.1 REVIEW OF COMMEMORATIVE PLAQUES FOR OFFICIAL OPENINGS AND EVENTS POLICY

Risk Treatment in place	Accept - do nothing, accept its full impact
Response to risk treatment required/in place	The design process that is in place ensures that design concepts are developed through Marketing.
Rating (after treatment)	Low

COUNCIL DECISION**392****MOVED CR D WOOD****SECONDED CR M ROWSE**

That Council adopt the amended Commemorative Plaques for Official Openings and Events Council Policy, as outlined in Attachment B.

**CARRIED
7/0**

16.2 Monthly Financial Report December 2018

DECLARATION OF INTEREST:

There were no declarations of interest declared.

SUMMARY:

The Monthly Financial Report, which includes the Monthly Statement of Financial Activity and explanation of material variances, for the period ended 31 December 2018 has been prepared for Council acceptance.

OFFICER RECOMMENDATION:

That Council:

1. Accepts the Monthly Statements of Financial Activity for the period ended 31 December 2018, contained within Attachment A; and
2. Accepts the explanations for material variances for the period ended 31 December 2018, contained within Attachment A.

DISCUSSION:

The purpose of this report is to provide a monthly financial report, which includes rating, investment, reserve, debtor, and general financial information to Elected Members in accordance with Section 6.4 of the *Local Government Act 1995*.

The period of review is December 2018. The municipal surplus for this period is \$27,712,793 compared to a budget position of \$23,832,312. This is considered a satisfactory result for the City as the City is maintaining a healthy budget surplus position.

Income for the December 2018 period year to date is \$54,818,801. This is made up of \$51,778,094 in operating revenues and \$3,040,707 in non-operating grants, contributions and subsidies received. The budget estimated \$54,172,635 would be received for the same period. The variance to budget is \$646,166. Details of all significant variances are provided in the notes to the Monthly Financial Report contained within Attachment A.

Expenditure for the December 2018 period year to date is \$36,142,683. This is made up of \$33,936,859 in operating expenditure and \$2,205,824 in capital expenditure. The budget estimated \$39,607,379 would be spent for the same period. The variance to budget is \$3,464,696. Details of all significant variances are provided in the notes to the Monthly Financial Report contained within Attachment A.

LEGAL/POLICY IMPLICATIONS:

Section 6.4 of the *Local Government Act 1995* requires a local government to prepare an annual financial statement for the preceding year and other financial reports as are prescribed.

16.2 MONTHLY FINANCIAL REPORT DECEMBER 2018

Regulation 34 (1) of the *Local Government (Financial Management) Regulations 1996* as amended requires the local government to prepare monthly financial statements and report on actual performance against what was set out in the annual budget.

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial implications relating to the preparation of the report. Any material variances that have an impact on the outcome of the budgeted closing surplus position are detailed in the Monthly Financial Report contained within Attachment A.

ASSET MANAGEMENT IMPLICATIONS:

There are no asset management implications associated with this report.

ENVIRONMENTAL IMPLICATIONS:

There are no environment implications associated with this report.

STRATEGIC/SOCIAL IMPLICATIONS:

This proposal will support the achievement of the following outcome and objective detailed in the Corporate Business Plan.

Plan	Outcome	Objective
Corporate Business Plan	Business Performance	5.4 Ensure the financial sustainability of the City of Kwinana into the future

COMMUNITY ENGAGEMENT:

There are no community engagement implications as a result of this report.

PUBLIC HEALTH IMPLICATIONS

There are no public health implications as a result of this report.

RISK IMPLICATIONS:

The risk implications in relation to this proposal are as follows:

Risk Event	Inadequate management of the City's provisions, revenues and expenditures.
Risk Theme	Failure to fulfil statutory regulations or compliance Providing inaccurate advice/information

16.2 MONTHLY FINANCIAL REPORT DECEMBER 2018

Risk Effect/Impact	Financial Reputation Compliance
Risk Assessment Context	Operational
Consequence	Minor
Likelihood	Unlikely
Rating (before treatment)	Low
Risk Treatment in place	Reduce (mitigate the risk)
Response to risk treatment required/in place	Annual adoption of variance tolerances for reporting purposes.
Rating (after treatment)	Low

COUNCIL DECISION

393

MOVED CR S MILLS**SECONDED CR M ROWSE****That Council:**

1. **Accepts the Monthly Statements of Financial Activity for the period ended 31 December 2018, contained within Attachment A; and**
2. **Accepts the explanations for material variances for the period ended 31 December 2018, contained within Attachment A.**

CARRIED
7/0

16.3 Budget Variations

DECLARATION OF INTEREST:

There were no declarations of interest declared.

SUMMARY:

To amend the 2018/2019 budget to reflect various adjustments to the General Ledger with nil effect to the overall budget as detailed below. Due to the nature of these variations, they fall outside the annual budget review.

OFFICER RECOMMENDATION:

That Council approves the required budget variations to the Adopted Budget for 2018/2019 as outlined in the report.

NOTE: AN ABSOLUTE MAJORITY OF COUNCIL IS REQUIRED

DISCUSSION:

ITEM #	DESCRIPTION	CURRENT BUDGET	INCREASE/ DECREASE	REVISED BUDGET
1	Capital Expense - Small Scale Technology Certificates	0	(\$18,102)	(\$18,802)
	Capital Revenue – Grants and Contributions	0	\$18,102	\$18,102
	Proceeds from Disposal	0	\$18,102	\$18,102
	Property, Plant & Equipment (Small Scale Technology Certificates)	0	(\$18,102)	(\$18,102)
	To recognise the City's rights to 560 Small Scale Technology Certificates as a result of the installation of 30kW solar system at the John Wellard Community Centre and the subsequent transfer to the installer at the market price as part of the contracted price for installation.			

LEGAL/POLICY IMPLICATIONS:

The *Local Government Act 1995* Part 6 Division 4 s 6.8 (1) requires the local government not to incur expenditure from its municipal fund for an additional purpose except where the expenditure-

(b) is authorised in advance by resolution*

“additional purpose” means a purpose for which no expenditure estimate is included in the local government’s annual budget.

*requires an absolute majority of Council.

16.3 BUDGET VARIATIONS

Register of Delegated Authority Local Government to Chief Executive Officer, Officers and Committees 2018

2.7 Disposing of property

Function to be performed:

Dispose of property by public auction, public tender or in accordance with other methods deemed acceptable under the *Local Government Act 1995* and *Local Government (Functions and General) Regulations 1996*.

Conditions:

1. The disposal is included in the City's Annual Budget or by Council Resolution.
2. The disposal must be in accordance with section 3.58 of the *Local Government Act 1995*.
3. The disposal must be in accordance with regulation 30 of the *Local Government (Functions and General) Regulations 1996*.

Local Government Act 1995

3.58. Disposing of property

- (1) *In this section —*
dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
property includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) *Except as stated in this section, a local government can only dispose of property to —*
 - (a) *the highest bidder at public auction; or*
 - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (5) *This section does not apply to —*
 - (d) *any other disposition that is excluded by regulations from the application of this section.*

Local Government (Functions and General) Regulations 1996

30. *Dispositions of property excluded from Act s. 3.58*
 - (3) *A disposition of property other than land is an exempt disposition if —*
 - (a) *its market value is less than \$20 000; or*
 - (b) *the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75 000.*

FINANCIAL/BUDGET IMPLICATIONS:

The financial implications are detailed in this report.

16.3 BUDGET VARIATIONS**ASSET MANAGEMENT IMPLICATIONS:**

The allocation of funds towards the upgrading and renewal of existing City assets in the capital expenditure items is in line with the Asset Management Strategy and will reduce the current asset management gap.

ENVIRONMENTAL IMPLICATIONS:

No environmental implications have been identified as a result of this report or recommendation.

STRATEGIC/SOCIAL IMPLICATIONS:

This proposal will support the achievement of the following outcome and objective detailed in the Corporate Business Plan.

Plan	Outcome	Objective
Corporate Business Plan	Business Performance	5.4 Ensure the financial sustainability of the City of Kwinana into the future

COMMUNITY ENGAGEMENT:

There are no community engagement implications as a result of this report

PUBLIC HEALTH IMPLICATIONS

There are no public health implications as a result of this report.

RISK IMPLICATIONS:

The risk implications in relation to this proposal are as follows:

Risk Event	The City does not manage its finances adequately and allows budget expenditure to exceed allocation and the City then finds itself unable to fund its services that have been approved through the budget process
Risk Theme	Failure to fulfil statutory regulations or compliance Providing inaccurate advice/information
Risk Effect/Impact	Financial Reputation Compliance

16.3 BUDGET VARIATIONS

Risk Assessment Context	Operational
Consequence	Minor
Likelihood	Rare
Rating (before treatment)	Low
Risk Treatment in place	Reduce (mitigate risk)
Response to risk treatment required/in place	Submit budget variation requests to Council as they arise, identifying financial implications and ensuring there is nil effect on the budget adopted
Rating (after treatment)	Low

COUNCIL DECISION

394

MOVED CR W COOPER**SECONDED CR M ROWSE**

That Council approves the required budget variations to the Adopted Budget for 2018/2019 as outlined in the report.

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

7/0

16.4 City of Kwinana Submission - Draft Position Statement: Container Deposit Scheme Infrastructure

DECLARATION OF INTEREST:

There were no declarations of interest declared.

SUMMARY:

The Western Australian Government is implementing a Container Deposit Scheme (CDS) to complement existing kerbside recycling services. The CDS provides for a refund to be paid to any person who returns an eligible beverage container through the scheme. The CDS operates by the return of containers via various container return points. In the context of the position statement, the return points are referred to as CDS infrastructure. The scheme is not intended to collect normal household waste.

The Western Australian Planning Commission has invited the City to make comment on the Draft Position Statement: Container Deposit Scheme Infrastructure document (Attachment B). Comments are invited to be submitted to the Department of Planning, Lands and Heritage by 5pm on Tuesday, 19 February 2019.

The draft position statement outlines how infrastructure associated with the CDS should be considered and assessed in the Western Australian planning system. It discusses the application of exemptions for proposed infrastructure using the provisions of Clause 61(1)(i) and (2)(e) of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The position statement includes a draft Model Local Planning Policy (LPP) and provides policy provisions to exempt certain CDS infrastructure from the need to submit a development application.

Eliminating the need to seek local government development approvals for exempt categories of CDS infrastructure aims to streamline the state-wide implementation of the CDS. However, the policy provisions for exemption need to be appropriately considered to ensure that CDS infrastructure is suitably located and it does not have an adverse impact on the land that it is located on, the neighbouring properties and the users of the facilities associated with the land.

A City of Kwinana submission on the draft Position Statement has been provided as Attachment A for Council consideration and endorsement.

OFFICER RECOMMENDATION:

That Council endorse the City of Kwinana Submission - Draft Position Statement: Container Deposit Scheme Infrastructure, as at Attachment A.

DISCUSSION:

The Container Deposit Scheme (CDS) is scheduled to be implemented between August 2019 and March 2020. The Department of Water and Environmental Regulation (DWER) estimates that 200 container return points would be set up throughout the State with at least 75% of those installed within 6 months of the commencement of the CDS implementation. The objective of the Model LPP is to establish minimum development requirements to exempt certain categories of CDS infrastructure from requiring planning approval to streamline the CDS infrastructure set up.

16.4 CITY OF KWINANA SUBMISSION - DRAFT POSITION STATEMENT: CONTAINER DEPOSIT SCHEME INFRASTRUCTURE

The number of CDS refund points required is based on the ratio of one refund point per 20,000 residents. In the City of Kwinana, it is estimated that at least two refund points are required. However, various stakeholders may wish to set up additional refund points in Kwinana to cater to demand.

The CDS will provide a number of benefits to local governments and communities throughout the State. The State Government in its Consultation Regulation Impact statement for the Container Deposit Scheme estimate that the CDS will divert up to 23.4 million containers per year from littering the environment to reprocessing end points. This represents up to 30% of all beverage containers that are littered in the State.

The economic benefits that arise from the CDS and its contribution to the sustainable “circular economy” is estimated to result in \$1.37 gained for every \$1 spent on the CDS.

The draft Position Statement defines four categories of CDS infrastructure as:

1. Container collection cages generally located in association with schools, sporting and other clubs, or not for profit organisations. These are generally donation points for containers rather than refund points.
2. In shop/over the counter/bag drop return points that are incorporated into new or existing retail outlets.
3. Reverse vending machines which are typically located permanently in existing commercial areas on an unattended basis. Reverse vending machines can range in size similar to traditional food and drink vending machines or as large as a sea container.
4. Large-scale facilities, typically resource recovery centres, waste storage facilities and other industrial uses as defined under the *Planning and Development (Local Planning Scheme) Regulations 2015*.

Whilst exemption of proposed CDS infrastructure from the planning requirement to lodge a development application to local government may exist pursuant to *Planning and Development (Local Planning Scheme) Regulations 2015* (the Regulations) as outlined in the Position Statement, there are considerations when assessing the CDS infrastructure proposed that may require development approval.

In shop/over the counter/bag drop return points CDS infrastructure would be covered by existing planning approvals for a shop, subject to collection and storage activities taking place within operational boundaries of an existing building approved as a shop.

Large-scale facilities, including resource recovery centres, waste storage facilities and other industrial uses that are defined under the *Regulations*, require development approval.

Container collection cages and reverse vending machines, may also vary in size and consequently the potential impacts on existing land use and amenity may vary. Depending on the significance of the impacts that result from these types of installations, development approvals may be required.

It is on this basis that the draft Position Statement encourages Local Government to adopt a Local Planning Policy as per the Model LPP. The set of criteria established in the Model LPP aim to ensure the location, design, and siting of CDS infrastructure is complementary to the character, functionality and amenity of urban localities.

16.4 CITY OF KWINANA SUBMISSION - DRAFT POSITION STATEMENT: CONTAINER DEPOSIT SCHEME INFRASTRUCTURE

The adoption of the Model LPP enables any development that meets the specified provisions to be exempt from the requirement to obtain development approval. Development applications for larger collection cages or reverse vending machines not exempted by the provisions of the Model LPP would be subject to standard planning assessment.

City officers have reviewed the provisions of the Model LPP and whilst supportive of the overall objectives, have requested variations in relation to the following concerns:

- Impacts on food hygiene standards for food businesses engaged in CDS infrastructure without adequate management and consultation with local government environmental health services.
- Noise impacts on residents, especially at night, from CDS infrastructure machinery, vehicles, patron noise and handling of containers at CDS infrastructure in car parks due to inadequate separation distances and excessive hours of operation.
- One of the policy provisions of the draft Model LPP specifies the installation of reverse vending machines within existing car parks and limits the development footprint to a maximum of four parking bays or 60 square metres. Another policy provision, allows for the easing of existing planning conditions to reduce the number of car parking bays by up to 10 percent to a maximum of 16 bays, without a development application. The City considers that this development footprint allowance is excessive and would result in negative impacts on developments with limited car parking bays. Further, the installation of large reverse vending machines in car parks has the potential to negatively impact on traffic access.
- The management of litter at CDS infrastructure sites is not determined in the provisions of the Model LPP.
- The planning classifications for land use of a 'community facility' is not a classification that is currently contained in the City of Kwinana Local Planning Scheme No 2.
- The draft Model LPP does not specify the need to locate the container collection cages after careful consideration of road safety sight lines, visual amenity and the site context.
- The draft Model LPP requires a setback of a minimum of two (2) metres from any street or right of way. This provision does not provide a sufficient separation distance when considering the installation of large CDS infrastructure. This needs to be clarified so as to ensure that the setback is from the property boundary and not the edge of the bitumen. In addition, setback requirements need to have regard to carpark standards.
- The draft Model LPP does not specify a method for handling complaints, compliance or nuisance issues and prompt resolution of these matters that could arise as a result of CDS infrastructure being installed without a development application in accordance with the policy provisions of the LPP.
- The minimum separation distance of '5 metres between the adjoining lot boundary that accommodates a residential use' has not been explained and is considered insufficient to prevent noise, odour and litter nuisance issues.
- The draft Model LPP has provisions that specifically address the protection of pedestrian and vehicular movements, however it does not address the issue of protecting disability access routes. There are a range of very specific requirements associated with disability access determined by Australian Standards that must be considered when installing CDS infrastructure.
- Nuisance issues in the form of odour, graffiti and litter that could arise as a result of the CDS infrastructure installation and use have not been addressed in the draft Model LPP.

16.4 CITY OF KWINANA SUBMISSION - DRAFT POSITION STATEMENT: CONTAINER DEPOSIT SCHEME INFRASTRUCTURE

The City should benefit from the CDS and the installation of container return points. The diversion of beverage containers from household kerbside collections to CDS return points will reduce some of the costs for disposal or reprocessing of household wastes. It is anticipated that the average weight of household waste and recycle bins will be reduced by the diversion to CDS. Based on experience in South Australia, a CDS also has the potential to reduce litter. In South Australia, which has had a CDS in place for 40 years, 17 per cent of litter by volume was beverage containers in 2016, while in Western Australia, beverage containers typically make up 35% of litter by volume. It is predicted that implementation of a CDS will reduce the number of beverage containers littering the City.

The Model LPP is a resource for local governments to adopt to help facilitate consistent and rapid up take of CDS infrastructure. It is considered that the draft Position Statement and draft Model LPP are a positive initiative, however the Model LPP could provide greater protection of community amenity if the submissions made by the City are adopted.

The City's submission provided for endorsement by Council in Attachment A, primarily seeks amendments to the Model LPP to ensure greater protection of community amenity.

LEGAL/POLICY IMPLICATIONS:

The current submission has no legal implications unless the City adopts a Local Planning Policy for CDS infrastructure. The adoption of the proposed Model Local Planning Policy will exempt categories of Container Deposit Scheme Infrastructure from the requirement to submit development applications under the provisions of the *Planning and Development (Local Planning Scheme) Regulations 2015, clause 61(1)(i) and (2)(e)*.

Temporary CDS infrastructure, is defined as temporary works that are in existence for less than 48 hours (or a longer period agreed by the local government) in any 12 month period and are exempt from development approval process under the provisions of the *Planning and Development (Local Planning Scheme) Regulations 2015, clause 61(1)(f) and (2)(d)*.

FINANCIAL/BUDGET IMPLICATIONS:

There are no budget implications directly related to this report and submission.

ASSET MANAGEMENT IMPLICATIONS:

No asset management implications have been identified as a result of this report or recommendations.

ENVIRONMENTAL IMPLICATIONS:

Facilitating the CDS will ensure significant benefits to the environment in the form of reduced littering of beverage containers and increased recycling.

16.4 CITY OF KWINANA SUBMISSION - DRAFT POSITION STATEMENT: CONTAINER DEPOSIT SCHEME INFRASTRUCTURE

STRATEGIC/SOCIAL IMPLICATIONS:

This proposal will support the achievement of the following outcome and objective detailed in the Corporate Business Plan.

Plan	Outcome	Objective
Corporate Business Plan	Community Services	6.1 Encourage waste minimisation, recovery and recycling as well as ensure appropriate disposal and reuse.

COMMUNITY ENGAGEMENT:

Community engagement was not required for this report.

PUBLIC HEALTH IMPLICATIONS

The request for variations to draft Position Statement: Container Deposit Scheme Infrastructure, seeks to ensure the maintenance of the following determinant of health factors:

Built Environment – Sanitation and Neighbourhood Amenity.

RISK IMPLICATIONS:

The risk implications in relation to this proposal are as follows:

Risk Event	Implementation of Container Deposit Scheme infrastructure and Model LPP in the City may impact on the amenity of the community
Risk Theme	Inadequate change management
Risk Effect/Impact	Compliance
Risk Assessment Context	Strategic
Consequence	Moderate
Likelihood	Possible
Rating (before treatment)	Moderate
Risk Treatment In Place	Reduce - mitigate risk
Response to risk treatment required/in place	Request variations to the Model Local Planning Policy to ensure impacts to the environment and community are minimised.
Rating (after treatment)	Low

16.4 CITY OF KWINANA SUBMISSION - DRAFT POSITION STATEMENT: CONTAINER DEPOSIT SCHEME INFRASTRUCTURE

COUNCIL DECISION

395

MOVED CR W COOPER

SECONDED CR D WOOD

That Council endorse the City of Kwinana Submission - Draft Position Statement: Container Deposit Scheme Infrastructure, as at Attachment A.

**CARRIED
7/0**

17 Urgent Business

Nil

18 Councillor Reports

18.1 Deputy Mayor Peter Feasey

Deputy Mayor Peter Feasey reported that he had attended the City of Kwinana Australia Day Ceremony and passed on his congratulations to the 2019 City of Kwinana Citizen of the Year, Chris Artemis, 2019 City of Kwinana Citizen of the Year – Senior, Mike Metcalf and 2019 City of Kwinana Citizen of the Year – Youth, Michellie Jones.

19 Response to Previous Questions

Nil

20 Mayoral Announcements (without discussion)

Mayor Carol Adams reported that she had attended the City of Kwinana Australia Day Ceremony.

The Mayor advised that she had attended the State-wide Local Government Act Forum.

The Mayor mentioned that she had attended the Special Meeting of Western Australian Local Government State Executive.

The Mayor reported that she had attended a meeting with the Education Minister's Chief of Staff, Liz Carey, to discuss Wellard Village Primary School and potential Second Public High School.

The Mayor advised that she had attended the Gilmore College Independent School Board induction for new members.

The Mayor mentioned that she had attended a meeting with Cedar Woods in relation to Amendment 132 of the Developer Contribution Scheme.

The Mayor reported that she had attended a meeting with Health Minister, Roger Cook, along with Cockburn Mayor Logan Howlett, KEYS Chief Executive Officer Annette Harwood and Jane Miller the Partnership Director of Connecting Communities for Children. The meeting objective was to seek government support for an early intervention ear health project targeting two year olds across the Cockburn and Kwinana area. The funding would be used to train early learning educators in four centres to conduct ear and hearing assessments for 100 children who have turned two years old.

21 Matters Behind Closed Doors

COUNCIL DECISION

396

MOVED CR W COOPER

SECONDED CR P FEASEY

That in accordance with Sections 5.23(2)(b),(d),(e)(iii) and (f)(i) of the *Local Government Act 1995*, Council move behind closed doors to allow discussion of the Matters Behind Closed Doors items.

CARRIED
7/0

The press exited and the Council Chambers doors were closed at 7:31pm.

21.1 Consideration by the City of Kwinana of an objection lodged under the Dog Act 1976

Declaration of interest

Councillor Dennis Wood declared an impartiality interest due to having been involved with the dogs before and exited the Council Chambers at 7:31pm and returned to the Council Chambers at 7:58pm.

COUNCIL DECISION

397

MOVED CR P FEASEY

SECONDED CR S MILLS

That Council adopt Option A within the Confidential Report.

CARRIED
5/1

COUNCIL DECISION

398

MOVED CR P FEASEY

SECONDED CR W COOPER

That Council return from Behind Closed Doors.

CARRIED
6/0

The Council Chambers doors were reopened at 7:58pm.

22 Meeting Closure

The Mayor declared the meeting closed at 7:59pm.

Chairperson: _____

27 February 2019