

MINUTES

Audit, Risk and Governance Committee Meeting

12 March 2024

Committee Members

Here within are the Minutes of the Audit, Risk and Governance Committee Meeting held Tuesday 12 March 2024 in the City of South Perth Council Chamber, corner Sandgate Street and South Terrace, South Perth.

As this Committee does not hold Delegated Powers or Duties in accordance with Section 5.23 of the Local Government Act 1995 the meeting was not open to the public.



MIKE BRADFORD
CHIEF EXECUTIVE OFFICER

15 March 2024

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Audit, Risk and Governance Committee Meeting - Minutes

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Chair declared the meeting open at 6.01pm and welcomed everyone in attendance.

2. ATTENDANCE

Elected Members

Mayor (Chair)	Greg Milner
Como Ward (Deputy Chair)	Councillor Bronwyn Waugh
Manning Ward	Councillor André Brender-A-Brandis

External Members

Ms Shona Zulsdorf

Officers

Chief Executive Officer	Mr Mike Bradford
Director Corporate Services	Mr Garry Adams
Director Development and Community Services	Ms Donna Shaw
Director Infrastructure Services	Ms Anita Amprimo
Manager Development Services	Ms Fiona Mullen
Manager Finance	Mr Abrie Lacock
Manager Governance	Ms Toni Fry
Governance Coordinator	Mr Morgan Hindle
Governance Officer	Ms Jane Robinson

Observer

Moresby Ward	Councillor Jennifer Nevard
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2.1 APOLOGIES

- Mr Warwick Gately

2.2 APPROVED LEAVE OF ABSENCE

Nil

3. DECLARATIONS OF INTEREST

Nil.

4. CONFIRMATION OF MINUTES

4.1 AUDIT, RISK AND GOVERNANCE COMMITTEE MEETING HELD: 13 November 2023

Officer Recommendation AND COMMITTEE RECOMMENDATION

Moved: Ms Shona Zulsdorf

Seconded: Councillor André Brender-A-Brandis

That the Minutes of the Audit, Risk and Governance Committee Meeting held 13 November 2023 be taken as read and confirmed as a true and correct record.

CARRIED (4/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis and Bronwyn Waugh, Ms Shona Zulsdorf.

Against: Nil.

5. PRESENTATIONS

Nil.

6. BUSINESS ARISING FROM PREVIOUS MEETING

Nil.

7. REPORTS

7.1 QUARTERLY ACTIVITY REPORT

File Ref: D-23-55124
Author(s): Christine Lovett, Senior Governance Officer
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report outlines the activities undertaken by the City of South Perth relating to Risk Management, Business Continuity and Workplace, Health and Safety in the third quarter of the 2023/2024 Financial Year and an overview of the activities planned for the fourth quarter.

Officer Recommendation AND COMMITTEE RECOMMENDATION

Moved: Ms Shona Zulsdorf
Seconded: Mayor Greg Milner

That the Audit, Risk and Governance Committee recommends to Council that it:

1. Notes the details of the Quarterly Activity Report as contained in the body of the report;
2. Notes the three Corporate Operational Risks being escalated as contained within the report;
3. Notes the details of the ISO 45001 Health and Safety Surveillance audit report as contained in the body of this report and **Confidential Attachment (b)**; and
4. Endorses the Strategic Risk Register as contained in **Confidential Attachment (a)**.

CARRIED (4/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis and Bronwyn Waugh, Ms Shona Zulsdorf.

Against: Nil.

Background

The Council is responsible for the strategic direction of the City. The City's Audit, Risk and Governance Committee (ARGC) is a Committee of Council in accordance with the *Local Government Act 1995* (the Act) and is responsible for providing guidance, assistance and oversight to the Council, in relation to matters which include the City's compliance with Regulation 17 of the Local Government (Audit) Regulations 1996.

7.1 Quarterly Activity Report

The responsibility of the Chief Executive Officer (CEO) in relation to Regulation 17 of the Local Government (Audit) Regulations 1996 (the audit regulations) includes reviewing the appropriateness and effectiveness of the City's systems and procedures in relation to:

- a) risk management;
- b) internal control; and
- c) legislative compliance.

This activity report will provide an update on the City's Risk Management, Business Continuity and Workplace Health and Safety activities undertaken for the previous quarter and identifies proposed activities for the upcoming quarter.

Information contained in this report will assist the Audit, Risk and Governance Committee in fulfilling their responsibilities as they relate to Regulation 17 of the audit regulations.

Comment

1) Strategic Risk Register

The Strategic Risk Register (register) has been developed in consultation with the City's Elected Members and external members of the Audit Risk and Governance Committee (the Committee). The register was last endorsed by Audit, Risk and Governance Committee at its meeting held 13 November 2023.

The Strategic Risk Register, as contained in **Confidential Attachment (a)**, has been reviewed and updated to reflect the City's current environment with all amendments being contained to existing controls and highlighted in red text.

This register is presented to ARGC for review and recommendation to Council for endorsement.

2) Operational Risk Register

The Internal Risk Management Committee (IRMC) met on 6 February 2024 at which time the Operational Risk Register was presented for review.

The following three risks having been reviewed and remain at a high risk rating. In accordance with the requirements of the Risk Management Framework 2021 these risks are presented to the Audit, Risk and Governance Committee for review.

i. Corp Risk 1.2 Physical security of City Officers and Assets

Outcome: Health/Injury

Due to the recent increase of hostile incidents related to the Animal Care Facility the residual likelihood of this risk event occurring has been reassessed from 1(Rare) to 3 (Possible).

This has resulted in the risk rating being increased from Moderate to High.

Controls

Established Corporate policies, management practices, procedures and strategies including:

- Communications on 'increased alert level' provided via email External provider engaged for building security
- Swipe card access to staff areas Additional security cameras installed at Animal Care Facility, GBLC and Civic Centre Customer Service
- Audio communication on CCTV at Waste Kiosk and thermographic camera to be installed at Recycling Centre 'battery storage area' Personal duress alarm for Animal Care Facility Officers working alone
- Training and awareness sessions provided Cashless operations at the Civic Centre

Further actions/comments

- Develop and review policies and management practices to address security access
- Further rollout/renew/upgrade of CCTV at all City buildings
- Replacement of security gate and fencing at Civic Centre staff carpark (currently in progress February 2024)
- Physical review of security at the Animal Care Facility, Rangers Office and Operations Centre reception area to be carried out.

ii. Corp Risk 5.0 Dependency on contractors to deliver key project/services.

Outcome: Service Interruption

Due to the current labour market the residual likelihood of this event occurring remains as Possible, with the risk rating remaining as High.

Controls

- Robust supplier selection • Use of WALGA preferred suppliers
- Procurement Management provided by the Finance Services Business Unit • Relationship management

Further Actions/Comments

- Review contracts
- Review public liability insurance levels (required by contractors)
- Consider the establishment of panel of contractors
- While the residual rating of this risk is high, it is considered that all available mitigation strategies are in place to reduce the outcome of this risk impacting the City's community. Where necessary, key communication methods are utilised to inform our community of any delays/interruption to the expected delivery of a project or service.

iii. **Corp Risk 5.4 Employee attraction and retention**Outcome: Service Interruption

Due to the current labour market the residual likelihood of this event occurring remains as Possible, with the risk rating remaining as High.

Controls

Established Corporate policies, management practices, procedures and strategies including:

- Flexible working arrangements and working from home arrangements
- Equal Opportunity Employer
- Health and Wellbeing Program for employees
- Superannuation benefits
- Annual performance reviews
- Workforce Plan
- Mentorship program and internal training to staff so they are interchangeable, as required.
- Learning and development opportunities
- Phased retirement
- Reward and Recognition Program
- Performance Management Framework
- Learning & Development Framework
- Secondment opportunities.
- Advertised positions to be reviewed against the current market, so that position description is aligned with the offered remuneration package, including market supplements.

Further Actions/Comments

- The Workforce Plan is reviewed annually by the Manager People and Performance and EMT in consultation with the Leadership Team.
- While the residual rating of this risk is high, it is considered that all available mitigation strategies are in place to reduce the outcome of this risk impacting the City's community. Where necessary, key communication methods are utilised to inform our community of any delays/interruption to the expected delivery of a project or service.

2. Business Continuity

A Business Continuity Management Framework (BCMF) has been developed and was presented and noted at the 12 September 2023 Audit, Risk and Governance Committee Meeting. City Officers continue to progress the implementation of this framework.

3. Workplace, Health and Safety

• ISO 45001 Health and Safety

The ISO 45001 Health and Safety Surveillance audit report as contained in **Confidential Attachment (b)** was completed on 11 December 2023. The purpose of this audit is to determine implementation of the City's management system; the capability and effectiveness of the management system in ensuring continual compliance with customer statutory and regulatory requirements in meeting our specified objectives, and conformity of the management system to stated criteria.

No major or minor non-conformance reports (NCR) as a result of this audit. ISO 45001 Health and Safety reaccreditation was subsequently successful.

4. Planned Activities

The following activities are planned (subject to the availability of organisational officers) for the fourth quarter of the 2023/24 financial year:

System/Procedure	Activity	Expected Outcome
Risk Management	Operational risks to be reviewed on a quarterly basis	The City's Corporate Operational Risk register to be as current as reasonably practicable.
Risk Management	Development of further fraud and corruption training	Increased knowledge within the City's business units in order to further protect resources and information and safeguard the integrity and reputation of the City.

Business Continuity	Business Continuity Plans to be reviewed in accordance with the requirements of the Business Continuity Management Framework	The City's Business Continuity Plans to be as current as reasonably practicable.
Risk Management	Updated Management Practice M695 Risk Management to be rolled out across all Business Units	Sound risk management practices and procedures to be further integrated into the City's strategic and operational planning process and day to day business practices.
Risk Management	Implement training program for identified officers	Provide support and guidance to officers ensuring they have familiarity with the City's risk management practices.
Risk Management	Review Risk Management Framework	Risk Management Framework to be reviewed and presented to the June Audit, Risk and Governance Committee.
Workplace, Health and Safety	Continue to implement the annual Targets & Objectives	Targets are achieved by end of 2023/24.

Consultation

Nil.

Policy and Legislative Implications

- Reg 17 (1) (a) (b) and (c) of the Local Government (Audit) Regulations 1996
 17. CEO to review certain systems and procedures
 - (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to –
 - (a) risk management;
 - (b) internal control; and
 - (c) Legislative compliance
- *Work Health and Safety Act 2020*

Financial Implications

Nil.

Key Risks and Considerations

Risk Event Outcome	<p>Legislative Breach</p> <p>Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation</p>
Risk rating	Low
Mitigation and actions	Continuous review and improvement in relation to all Risk Management, Business Continuity and Workplace Health and Safety activities.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council’s [Strategic Community Plan 2021-2031](#):

- Strategic Direction: Leadership
- Aspiration: A local government that is receptive and proactive in meeting the needs of our community
- Outcome: 4.3 Good governance
- Strategy: 4.3.4 Maintain a culture of continuous improvement

Attachments

- 7.1 (a):** Strategic Risk Register (*Confidential*)
- 7.1 (b):** ISO 45001 Health and Safety Surveillance Audit Report (*Confidential*)

7.2 COUNCIL POLICY P210 - STREET VERGES

File Ref: D-23-56018
Author(s): Donna Shaw, Director Development and Community Services
Reporting Officer(s): Mike Bradford, Chief Executive Officer

Summary

This report recommends amendments to Council Policy P210 – Street Verges to restrict the use of the verge for constructed residential and visitors car parking bays associated with development applications.

Officer Recommendation AND COMMITTEE RECOMMENDATION

Moved: Ms Shona Zulsdorf
Seconded: Mayor Greg Milner

That the Audit, Risk and Governance Committee recommends to Council that it adopts amended Council Policy P210 – Street Verges as contained in **Attachment (a)**.

CARRIED (3/1).

For: Mayor Greg Milner, Councillor André Brender-A-Brandis, Ms Shona Zulsdorf.

Against: Councillor Bronwyn Waugh.

Background

At its meeting held 18 April 2023, Council considered a response to a Notice of Motion from former Councillor Carl Celedin at the September 2022 Ordinary Council Meeting in relation to the impact on traffic and parking within the Canning Bridge Activity Centre Plan Area (CBACP) as a result of recent development approvals and resolved as follows:

- 1. Notes Policy P210 will be reviewed with respect to the use of the City's street verges for visitor parking bays for developments throughout the district; and*
- 2. Notes a further report will be presented to Council on this matter.*

In considering the above, the City had previously recommended that the Policy be amended to exclude the use of the City's verges to accommodate visitor or other parking provision associated with development within the CBACP area only, with other areas within the City considered on their individual merits.

CommentCanning Bridge Activity Centre Plan

Element 18 of the CBACP addresses parking and specifically states:

“Parking should be provided to ensure that the CBACP area can provide for its residents and guests but should balance this need with a need to discourage private vehicle travel generally. Alternative transport is encouraged by way of providing for bicycle parking and storage, and motorcycle and scooter parking.”

In September 2020 modifications were made to the CBACP area that related to parking requirements within each quarter (sub-precinct) as follows:

Dwelling type	Q1 & Q2	Q3, Q4 & Q5
Studio or single bedroom dwelling	Min: 0.75 Max 1.0	Min: 0.75
Two or three bedroom dwellings	Min: 0.75 Max 1.5	Min: 1.0
Four or greater bedroom dwellings	Min: 1.25 Max 2.0	Min: 1.25
Residential visitor	N/A	1 bay per eight dwellings for developments greater than 12 dwellings.
Motorcycle/Scooter parking	N/A	1 motorcycle/scooter space for every 10 car bays for developments greater than 20 dwellings

Since September 2020, 14 developments have been approved within the CBACP area as detailed below.

Development	Bays Required	Bays Provided	On Street Bays	Supply	Decision Maker
3 Davilak St & 135 Robert St, Como	Resident: 101 Visitor: 14	Resident: 163 Visitor: 8 (on-site), 5 on-street)	5	Resident: 62 Visitor: -1	JDAP
117-119 Lockhart Street (Form 2), Como	Resident: 78 Visitor: 9	Resident: 117 Visitor: 3	0	Resident: 39 Visitor: - 6	JDAP
73 Lockhart St, Como	Resident: 14 Visitor: 2	Resident: 14 Visitor: 2	0	Resident: 0 Visitor: 0	JDAP

31 Baldwin St, Como	Resident: 14 Visitor: 2	Resident: 23 Visitor: 0 (Approved with condition requiring 2 visitor bays on site)	0	Resident: 9 Visitor: 0	JDAP
150 Robert St, Como	Resident: 21 Visitor: 3	Resident: 22 Visitor: 2	0	Resident: 1 Visitor: -1	JDAP
63-65 Ley St, Como	Resident: 107 Visitor: 16	Resident: 122 Visitor: 16	0	Resident: 15 Visitor: 0	JDAP
110 Lockhart St, Como	Resident: 18 Visitor: 3	Resident: 22 Visitor: 2	0	Resident: 4 Visitor: -1	JDAP
124 Lockhart St & 33 Edgecumbe St, Como	Resident: 13 Visitor: 0	Resident: 20 Visitor: 0	0	Resident: 7 Visitor: 0	JDAP
39 Clydesdale St, Como	Resident: 18 Visitor: 3	Resident: 26 Visitor: 0	2	Resident: 8 Visitor: -3	JDAP
154 & 156A Robert St & 1 Wooltana St, Como	Resident: 18 Visitor: 3	Resident: 26 Visitor: 1	0	Resident: 8 Visitor: -2	JDAP
109-113 Robert St, Como	Resident: 296 Visitor: 37	Resident: 258 Visitor: 20	0	Resident: - 38 Visitor: - 17	SDAU

202, 203 & 204 Melville Parade, Como	Resident: 109 Visitor: 16	Resident: 134 Visitor: 16 (5 on-site, 11 verge bays proposed) Approved with condition requiring 16 bays provided on site.	0	Resident: 25 Visitor: 0	JDAP
116 Mary Street, Como	Resident: 13 Visitor: 2	Resident: 25 Visitor: 2	0	Resident: 12 Visitor: 0	JDAP
16 Philp Avenue, 37 & 39 Ley Street, Como	Resident: 12 Visitor: 1	Resident: 22 Visitor: 1	0	Resident: 10 Visitor: 0	JDAP
Total	Resident: 832 Visitor: 113	Resident: 968 Visitor: 73	7	Resident: 162 Visitor: -30	

As detailed above, developers have been seeking an over provision of resident car parking bays on site beyond what is otherwise required by the CBACP/ State Planning Policy 7.3 – Residential Design Codes (R-Codes), which is subsequently being approved by the JDAP.

Whilst developers are also requesting the required visitor car parking bays be located within the verge as opposed to on the development site to ensure space is available on site for the additional resident bays, instances of this being approved is minimal and it is more likely that a shortfall of visitor bays is approved.

Council Policy P210 - Street Verges Proposed Amendment

It is recommended that the Policy be amended to insert the following for the reasons further outlined in this report:

“The use of the verge for constructed residential and visitors car parking bays associated with development applications within the Canning Bridge Activity Centre Plan is not supported”.

Relationship to State Planning Policy 7.3 – Residential Design Codes (R-Codes)

The CBACP requires applications to be assessed against the R-Codes - Volume 2 – Apartments, which does not explicitly specify that car parking must be located on site. Rather, car parking is required to be designed to be safe and accessible, the provision appropriate to the location having regard to public transport and cycling networks and to reduce negative impacts on amenity and the streetscape. Amendments to the Policy to specify that parking will not be supported in the verge will address this issue.

It is noted that a reduction in resident and visitor parking can be considered where the development is in proximity to high frequency public transport and where there is adequate on-street parking in the vicinity of the development.

The R-Codes - Volume 1 is largely applicable to other areas of the City, as well as the type of development proposed (single houses in areas coded less than R50 and grouped dwellings and multiple dwellings in areas coded less than R30).

The deemed-to-comply criteria of the R-Codes Volume 1 requires car parking to be located on-site, however, where this is not achieved, the 'design principles' provide for consideration of some or all of the required car parking spaces to be located off-site, provided that these spaces meet the following:

- The off-site car parking area is sufficiently close to the development and convenient for use by residents and/or visitors;
- Any increase in the number of dwellings or possible plot ratio being matched by a corresponding increase in the aggregate number of car parking spaces;
- Permanent legal right of access being established for all users and occupiers of dwellings for which the respective car parking space is to be provided; and
- Where off-site car parking is shared with other uses, the total aggregate parking requirement for all such uses, as required by the R-Codes and the Scheme being provided. The number of required spaces may only be reduced by up to 15 per cent where the non-residential parking occurs substantially between 9 am and 5 pm on weekdays.

Whilst approval of the City is required to construct bays within the verge area, the approval process for applications assessed under the R-Codes Volume 1 provides the ability for the above design principle assessment and use of the verge for parking bays associated with the development where the deemed-to-comply criteria has not been achieved. As such, it is recommended that any modification to the Policy to restrict the use of the verge for parking is provided in the CBACP only and not elsewhere for this reason.

Relationship to Payment in Lieu of Parking Plan

At its meeting held 31 October 2023, Council adopted the Payment in Lieu of Parking Plan (PILP). The PILP includes a reasonable estimate of costs for the City to provide parking and other infrastructure in lieu of providing parking on the development site, and is applicable to non-residential development only in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015.

Items in the PILP include at-grade on-street car parking bays and other transport infrastructure such as upgrades to bicycle networks, electric charging facilities, technology to increase efficiency and turnover of bays and shade trees.

Where a shortfall of parking is proposed and cash in lieu conditioned on a development approval, the City will investigate the delivery of parking infrastructure in the vicinity of the development (which may include at-grade embayed parking), having regard to Council's priority to maintain verge areas for street trees.

It is noted that whilst money collected under the PILP can only be used for the items contained within the PILP, there is no requirement for expenditure to be apportioned amongst all items. For example, Council could choose to only spend funds collected on electric charging facilities or street trees, despite at-grade car parking being provided in the PILP.

Verge Treatments

Whilst this report addresses the use of the City’s verges to accommodate visitor or other parking provision associated with development within the CBACP area only, the City intends to schedule a workshop with Elected Members to discuss verge treatments more broadly, including the use of artificial turf and appropriate plant species.

Further amendments to the Policy can occur if required following the outcomes of this workshop.

Consultation

Nil.

Policy and Legislative Implications

Local Government Act 1995

Planning and Development (Local Planning Schemes) Regulations 2015

Canning Bridge Activity Centre Plan

City of South Perth Integrated Transport Plan 2021-2031

Council Policy P210 Street Verges

Financial Implications

Nil.

Key Risks and Considerations

Risk Event Outcome	N/A
Risk rating	Not Applicable
Mitigation and actions	N/A

Strategic Implications

This matter relates to the following Strategic Direction identified within Council’s [Strategic Community Plan 2021-2031](#):

- Strategic Direction: Environment (Built and Natural)
- Aspiration: Sustainable, liveable, diverse and welcoming neighbourhoods that respect and value the natural and built environment
- Outcome: 3.3 Enhanced environment and open spaces
- Strategy: 3.3.3 Improve the amenity value and sustainable uses of our streetscapes, public open spaces and foreshores

Attachments

- 7.2 (a): Draft Council Policy P210 - Street Verges

7.3 COUNCIL POLICY P402 - ALFRESCO DINING

File Ref: D-24-3019
Author(s): Fiona Mullen, Manager Development Services
Reporting Officer(s): Donna Shaw, Director Development and Community Services

Summary

This report recommends amendments to Council Policy P402 – Alfresco Dining to provide detailed requirements for the use and management of alfresco dining, as well as inclusion of criteria for parklets.

Officer Recommendation AND COMMITTEE RECOMMENDATION

Moved: Ms Shona Zulsdorf
Seconded: Councillor Bronwyn Waugh

That the Audit, Risk and Governance Committee recommends to Council that it adopts amended Policy P402 – Alfresco Dining and Parklets as contained in **Attachment (b)**.

CARRIED (4/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis and Bronwyn Waugh, Ms Shona Zulsdorf.

Against: Nil.

Background

Policy P402 – Alfresco Dining (P402) was adopted by Council in December 2003 and last reviewed in September 2022. A copy of the existing Policy is contained as **Attachment (a)**.

The Economic Development Plan (EDP) was adopted by Council in September 2021, and includes actions to review the City’s Alfresco Dining Policy, Alfresco Dining Trading Licence and associated fees, as well as to develop a policy and guidelines for the implementation of parklets.

At its meeting held 12 December 2023, Council authorised the Chief Executive Officer to issue a licence in accordance with Clause 8.2 (1) of the City of South Perth Public Places and Local Government Property Local Law 2011 for a proposed parklet within the Angelo Street Road Reserve abutting No. 79 Angelo Street, South Perth.

In considering the above, it was noted that whilst Council has an existing Policy relating to Alfresco Dining (Policy P402), it does not relate specifically to ‘parklets’ and that the City was in the process of reviewing Policy P402 to provide a framework to guide the assessment of parklets.

Given the above, the City has prepared amendments to P402 which incorporates revised criteria for alfresco dining and the inclusion of criteria for parklets as outlined in this report. A copy of the revised Policy is contained in **Attachment (b)**.

Comment

Alfresco Dining

The following outlines the proposed modifications to P402 in relation to alfresco dining:

- Providing technical specifications for furniture, signage and outdoor heating devices;
- Addressing matters related to public health, such as light nuisance, smoking and the need to ensure compliance with liquor licencing requirements;
- Requiring the trader to ensure the alfresco dining area and surrounds are in a neat and tidy condition at all times;
- Requiring the trader to ensure access to the footpath is maintained to ensure the thoroughfare is not obstructed; and
- Specifying the public liability insurance required.

Parklets

Parklets are temporary moveable structures placed in car parking bays, providing publicly accessible seating and amenities for the community and local businesses. They effectively repurpose part of the street, providing a space for people to linger within the street environment.

Draft amendments to P402 include locational requirements, specifically that parklets shall be located:

- In existing on-street car parking bays (not loading, taxi, or bus or accessible car parking bays) on a local distributor road with a speed limit of no greater than 50km/h;
- So as to cause no damage or obstruction to a manhole, inspection pit, fire hydrant, water, gas, electrical or communications infrastructure drainage or other service within the location of a parklet;
- At least one car parking space (or a minimum of 6.0m) from a corner and at least 0.3m from the edge of the traffic lane; and
- So as to not have a detrimental impact on the functionality or amenity of the existing streetscape, including the availability of on-street car parking bays.

In addition, proposed requirements establish construction and design standards.

Draft amended P402 also includes provision for a minimum 14 day public consultation period with advertisement to landowners and occupants within a 100m radius of a proposed parklet.

Whilst the EDP recommended creation of associated guidelines, the draft amended P402 is considered to provide sufficient detail for guidance to prospective applicants.

The draft amended P402 is considered to provide more specific guidance for traders as to the acceptability of alfresco dining, as well as incorporate provisions to guide applications for parklets. It is therefore recommended that Council adopt the draft amended P402.

Parklet, Alfresco Dining Trading Licence and Associated Fees

An action within the EDP includes a review of Alfresco Dining Trading Licence and associated fees. The 2023/24 adopted budget provides fees for new alfresco dining licences (\$172.00) and fees per seat (\$69.00).

In considering the proposed parklet for Nextdoor and Olsen Butchers at its meeting held 12 December 2023, in accordance with section 6.12 (1)(b) of the *Local Government Act 1995*, Council resolved to waive licence fees and alfresco dining fees for the parklet for the duration of the licence period.

There is currently no fee prescribed for parklets.

Matters related to fees are appropriately determined when setting the annual budget and as such, have not been included in the draft amended P402. Council will be required to consider whether it introduces a fee for parklets, as well as the existing fees for alfresco dining through this process.

Consultation

Nil.

Policy and Legislative Implications

Section 2.7(2)(b) of the *Local Government Act 1995* provides Council with the power to determine policies.

City of South Perth Public Places and Local Government Property Local Law 2011

Council Policy P402 – Alfresco Dining

City of South Perth Economic Development Plan

Financial Implications

Nil.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation.
Risk rating	Low
Mitigation and actions	Review of all City policies on a regular basis.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable, liveable, diverse and welcoming neighbourhoods that respect and value the natural and built environment
Outcome:	3.3 Enhanced environment and open spaces
Strategy:	3.3.3 Improve the amenity value and sustainable uses of our streetscapes, public open spaces and foreshores

Attachments

7.3 (a):	Existing Policy P402 - Alfresco Dining
7.3 (b):	Proposed Policy P402 - Alfresco Dining and Parklets

7.4 DELEGATION DC690 TOWN PLANNING SCHEME 6

File Ref: D-23-54676
Author(s): Donna Shaw, Director Development and Community Services
Reporting Officer(s): Mike Bradford, Chief Executive Officer

Summary

This report presents new delegations in response to State Government planning reform and to support implantation of Local Planning Scheme No.7, which was granted final approval by the Minister for Planning. It also presents a proposed new delegation for matters pertaining to illegal development under the *Planning and Development Act 2005*.

Officer Recommendation

Moved: Ms Shona Zulsdorf
Seconded: Mayor Greg Milner

That the Audit, Risk and Governance Committee recommends to Council that:

1. On the date of gazettal of Local Planning Scheme No. 7 and in accordance with Section 5.46(2) of the *Local Government Act 1995*
 - a. Revoke Council Delegation DC690 Town Planning Scheme 6 as contained in **Attachment (a)**.
 - b. Adopt Council Delegation DC690 Local Planning Scheme No.7 as contained in **Attachment (b)**.
2. In accordance with Section 5.46(2) of the *Local Government Act 1995*, adopt Council Delegation DC692 Enforcement and Legal Proceedings – Illegal Development as contained in **Attachment (d)**.

Amendment**Moved:** Councillor Bronwyn Waugh**Seconded:** Councillor André Brender-A-Brandis

That Council Delegation DC690 Local Planning Scheme No.7 (**Attachment b**) is amended as follows:

1. At Schedule 1 (f), delete the words ‘where objections are received during advertising.’
2. At Schedule 1(j), delete the words ‘where no objection is received from adjoining landowners during advertising.’
3. Delete the insertion at condition 4. Development where advertising is required and 5. Applications previously considered by Council.
4. Retain the current wording at 6. Amenity Impact.

Reasons for Change

I largely support a lot of the amendments that have been made. I am concerned about those particular ones for two reasons:

1. I am concerned about having a satisfactory planning policy framework in place which Council can have the comfort in the knowledge that their concerns are going to be properly addressed in that. Because this is obviously dealing with amenity impact and I do think that the Councillors are acutely aware of the amenity of the neighbourhood.
2. I also hold some concerns to the consistent application of the current framework as it is at the moment, and the lack of enforcement, in terms of the current scheme requirements.

Effectively the proposed delegation seeks to broaden the delegated authority of those delegated officers, and it is my view that a priority ought to be to ensure that the policy framework and broader planning framework is reviewed and consistently applied and enforced, prior to extending that delegation.

The amendment was put and declared LOST (1/3).

For: Councillor Bronwyn Waugh.**Against:** Mayor Greg Milner, Councillor André Brender-A-Brandis, Ms Shona Zulsdorf.

Officer Recommendation AND COMMITTEE RECOMMENDATION**Moved:** Ms Shona Zulsdorf**Seconded:** Mayor Greg Milner

That the Audit, Risk and Governance Committee recommends to Council that:

1. On the date of gazettal of Local Planning Scheme No. 7 and in accordance with Section 5.46(2) of the *Local Government Act 1995*
 - a. Revoke Council Delegation DC690 Town Planning Scheme 6 as contained in **Attachment (a)**.
 - b. Adopt Council Delegation DC690 Local Planning Scheme No.7 as contained in **Attachment (b)**.
2. In accordance with Section 5.46(2) of the *Local Government Act 1995*, adopt Council Delegation DC692 Enforcement and Legal Proceedings – Illegal Development as contained in **Attachment (d)**.

CARRIED (3/1)**For:** Mayor Greg Milner, Councillor André Brender-A-Brandis, Ms Shona Zulsdorf.**Against:** Councillor Bronwyn Waugh.**Background**

The *Local Government Act 1995* (the Act) recognises the importance of the demarcation between the Administration and the Council, with Council deciding what should be done for the community as a whole, and the Administration implementing those decisions.

Essential to good governance is a set of clearly defined, understood and accepted rules for governing the local government. If the rules are properly understood and adhered to, the scope for ignoring or breaching them is reduced.

Separation of the Administration and Council is critical. The employees in the Administration should not try to usurp the decision-making role of the Council, and council members should not interfere in the day-to-day work of the Administration. This ensures that good governance is applied to the functioning of both the Council and the Administration.

Delegations play an integral role in this separation of functions, as it clearly delineates responsibility for determining applications.

Delegations

Delegated authority refers to the giving or assigning authority to someone to carry out specific activities. Section 5.42 of the Act provides for Council to delegate to the Chief Executive Officer (CEO) the exercise of any of its powers or the discharge of any of its duties under the Act, other than a small number of functions which may not be delegated.

There are several related Acts which authorise the CEO and designated officers to perform specific enforcement functions including those under the *Planning and Development Act 2005* (PD Act). As it relates to planning, the activities typically permitted under delegated authority enable the City to carry out day to day statutory planning functions, such as determining development applications.

Whilst Council has a strategic oversight role, where there is ineffective delegation, this may result in:

- Additional costs associated with administrative resources (e.g. preparing reports to Council);
- Slower decision making and associated holding costs for applicants;
- Risk of not meeting statutory timeframes for determinations prescribed in the Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations);
- Agendas predominantly comprising of individual development applications, as opposed to items related to the strategic vision and aspirations of the local government; and
- Risk that decisions made by Council may not adhere to the requirements of quasi-judicial decision making, which is a requirement in planning decision making.

Notwithstanding, a balance of delegation is required to ensure that Council fulfills its oversight role under Act and therefore it is recommended that Council retains decision making powers for specific types of planning proposals which are deemed to be of significance to the community.

Delegations related to planning matters are currently contained under Delegation DC690 Town Planning Scheme 6 (TPS 6) (DC690) contained as **Attachment (a)**. It is proposed to retain these delegations until such time Local Planning Scheme No. 7 is gazetted, following which Town Planning Scheme No. 6 will be revoked. Draft delegations for LPS 7 are contained as **Attachment (b)**, which are recommended for adoption by Council to come into effect on the date of gazettal of LPS 7. Details of the draft delegation are further discussed in this report.

Recent Modifications to DC690

At its meeting held 27 June 2023, Council resolved to include the following amendments to Schedule 1, Conditions of Delegation, to Delegation DC690 Town Planning Scheme 6 (DC690):

“3. Developments involving the exercise of a discretionary power

This power of delegation does not extend to approving development applications involving the exercise of a discretionary power in the following categories:

- e) Applications for Heritage Listed properties or within a Heritage Area except, in the opinion of the delegated officer, the proposal is minor in nature.*
- f) Applications on City owned or managed land by a private entity; and*
- g) Applications for illuminated signage opposite (directly or diagonally) to or adjoining a residential zone.”*

Delegation (e) and (g) are proposed to be retained under the draft delegations for LPS 7 as further outlined in this report.

Legislative Changes

The *Planning and Development Amendment Bill 2023* (Bill) received Royal Assent on 11 December 2023 and will come into effect from 1 July 2024. The Bill includes various changes to the PD Act focused on streamlining processes, reducing red tape and improving efficiencies in planning processes and decision-making to support the delivery of housing and other critical infrastructure.

Part 4 – Performance of development approval functions of the Bill inserted a head of power into the PD Act to make regulations governing the performance of certain development approval functions pertaining to single houses and related development.

The Regulations were amended to empower the CEO of each local government, or an authorised local government employee, to determine most development applications for single houses and ancillary development (e.g. carports, patios, fences etc.), except where heritage is involved.

Definitions of the related terms were inserted into the PD Act as follows:

- development approval function, which is intended to cover the various functions involved in accepting, assessing, and determining a development application for a single house development.
- single house, which is further defined by reference to:
 - building type – broadly understood, as defined in the LPS Regulations and Residential Design Codes, as meaning a building or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not compromise a single family; and
 - land tenure – with that dwelling being found on land tenure that would be widely recognised as supporting a single house, usually by way of a freehold (green title) lot or survey-strata lot, and not land that instead typically supports apartments or units, such as a strata scheme or community titles (building) scheme.
- single house development, which is intended to cover:
 - any initial wholesale construction activities, as well as any subsequent renovations by way of additions or alterations; and
 - not merely the primary building that comprises the single house itself, but ancillary structures one would normally associate with being part-and-parcel of owning a home (e.g. carports, patios, fences etc).

Given this authorisation will occur, the draft delegations for LPS 7 do not include delegations that relates to single houses, as these will now be required to be determined by the Administration as further discussed below.

Local Planning Scheme No. 7

LPS 7 has been approved and will be gazetted in the near future, which has the effect of revoking TPS 6.

Given DC690 Town Planning Scheme 6 provides delegations under TPS 6, adoption of delegations for LPS 7 is appropriate to enable the City to determine planning applications under delegated authority. A new delegation has been created given the clauses referenced in DC690 are not contained in LPS 7.

Given the date of gazettal is unknown at this point in time, it is recommended that Council retain DC690 Town Planning Scheme 6 until gazettal, to enable the City to continue to determine applications under delegation authority until this Scheme is revoked.

Comment

Legislative Context

In addition to Section 5.42 of the Act further provides for the CEO to sub-delegate some of its powers to another employee, which must be in writing. The CEO may place conditions on any sub-delegations, if required.

Delegations assist local governments to efficiently deal with a wide range of operational matters that are minor and/ or administrative in nature. By incorporating conditions into delegations, such as limiting the use of when a delegation can be exercised, Council can set parameters to the extent in which its decision-making powers can be exercised by its delegates and sub-delegates.

As it relates to planning, section 5.42 of the Act only applies to the delegation of section 214 – Illegal development provisions of the *Planning and Development Act 2005*. Other matters are dealt with via the Regulations. Regulation 82 of the Regulations provides the power to discharge any of the local government’s duties under the Regulations other than the power of delegation.

The amendments to the PD Act provide that regulations made under the PD Act may prescribe that the performance of certain development approval functions of local governments under local planning schemes, relating to single house development, must be performed by the CEO or authorised local government employees, on behalf of the local government, and not by the Council or a Council committee.

The changes are new authorisations, not delegations, and therefore the decision-making power will not be available to Council after 1 July 2024. Draft delegations for LPS 7 are by exclusion, and as such, ‘single house’ and ‘single house development’ will only require Council determination where it relates to heritage places.

It should be noted that whilst the legislative changes provide the ability for Council to consider ‘single house development’ for heritage places, Council has already delegated development proposals for heritage listed places or within heritage areas which in the opinion of the delegated officer are minor in nature. Whilst it is intended for single houses where heritage is involved to still be determined by Council under draft delegations for LPS 7, it is proposed to retain this delegation for proposals that are minor in nature.

Amendments to the PD Act provide that any regulations made under the relevant subsection have effect despite any provisions of the PD Act. Regulations made pursuant to this section are intended to take precedence over any arrangements made under the PD Act.

Modifications to Delegation

Whilst delegations to LPS 7 are proposed to be a new delegation, with DC690 Town Planning Scheme 6 retained until LPS 7 is gazetted, the following table provides a comparison between the existing and proposed delegation. A tracked version of the changes is also contained as **Attachment (c)**.

Administrative	Rationale
Rename to Local Planning Scheme No. 7.	To reflect the new scheme to which the delegations apply.
Delete reference to Manager Strategic Planning and Urban Planner and rename Urban Planning Coordinator.	The Manager Strategic Planning Position no longer exists, as statutory and strategic planning services report to the Manager Development Services. Urban Planning Coordinator was renamed Coordinator Urban Planning. Delegations are proposed to be removed for Urban Planner(s) to ensure all decisions are reviewed by a higher-level position.
Delegations	Rationale
<p>Modify 1 - Specific Uses as follows:</p> <ul style="list-style-type: none"> - (a) 'Child Day Care Centres' to 'Child Care Premises' - (b) 'High Level Residential Aged Care Facilities' to ' New Residential Aged Care Facility'. - (c)'Residential Buildings' to 'Residential building'. - Delete (d) 'Student Housing' - Replace (f) 'Tourist Accommodation' with 'Holiday house' and 'Holiday accommodation' 	To reflect revised land use terminology or land uses that no longer exist under LPS 7.
Amend 1 – High Level Residential Aged Care Facilities, or substantive additions to High Level Residential Aged Care Facilities (b) to 'New Residential Aged Care Facilities'.	The modification to 'new' residential aged care facility is to enable additions to an existing residential aged care facility to be determined under delegated authority.
Amend 1 – Tourist Accommodation (f) to 'Holiday house and Holiday accommodation' where objections are received during advertising.	<p>The land use terminology has been updated to reflect new land use definitions under LPS 7 as outlined above.</p> <p>Development approval may only be granted for a discretionary land use the local government exercises its discretion.</p> <p>Clause 67 of the Regulations require the City to assess amenity impacts associated with all development applications.</p>

	All holiday house and holiday accommodation applications will be advertised in accordance with Local Planning Policy – Advertising of Planning Proposals and the Regulations given there may be amenity impacts. If objection(s) are received, the application will be required to be referred to Council for determination.
Amend 1 - Specific Uses (g) ‘Non-residential “DC” uses within the Residential zone, except Family Day Care, where the City does not receive objections during consultation’ to ‘non-residential ‘A’ uses within the Residential zone, where objections are received during advertising.’	‘DC’ (discretionary subject to consultation) permissibility has been replaced with ‘A’ (means that the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions) consistent with the Regulations under LPS 7. Family Day Care is a permitted use in the Residential Zone under LPS 7.
Amend 1 - Specific Uses (h) ‘Uses not listed in Table I of the Scheme being considered under Clause 3.3(7) of the Scheme, except Display Homes where the City does not receive objections during advertising’ to ‘use not listed’.	All applications for uses not specifically listed in the zoning table are to be considered by Council. Display Homes are no longer a land use under LPS 7 and would be treated as a use not listed.
Delete Amend 1 - Specific Uses (i) ‘Temporary Uses being considered under Schedule A (Part 9) Clause 72. (1) of the Scheme, except where the City does not receive objections during advertising.’	Temporary works are exempt from requiring development approval under the Regulations where the works are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period. A longer period would require a development application and be assessed against the appropriate land use or use not listed accordingly.
Amend 1 - Specific Uses (j) Change of Non-Conforming Use to ‘a non-conforming use where objections are received from adjoining landowners during advertising’.	To reflect LPS 7 provisions in accordance with the Regulations. Council determination will be required where objections are received from adjoining landowners for a proposed change to an existing non-conforming use.

Delete 2 – Major Development (a) ‘Non-residential development which, in the opinion of the delegated officer, is likely to have a significant impact on the City’.	This is proposed to be removed as it is covered within other delegations proposed. It is likely that applicants will opt to use the Joint Development Assessment Panel (JDAP) or significant development pathway for significant development proposals.
Delete 2 – Major Development (b) ‘Residential development which is 9.0 metres or higher, or comprises 10 or more dwellings’ to ‘Residential development which comprises 10 or more dwellings.’	State Planning Policy 7.3 – Residential Design Codes (R-Codes) were amended in 2021 to permit residential development up to 10 metres for gable, skillion and concealed roofs and 12 metres under the deemed-to-comply provisions. All residential development is required to be assessed in accordance with the R-Codes.
Delete 2 – Major Development (c) ‘Development of the kind referred to in items (a) and (b) above, comprising a mixture of non-residential and residential components’.	This is proposed to be removed as it is covered elsewhere in the delegation. It is likely that applicants will opt to use the JDAP or significant development pathway for significant development proposals.
Delete 2 - Major Development (d) ‘Development not of the kind referred to in items (a) to (c) above, which, in the opinion of the delegated officer, is contentious and is the subject of significant community interest.’	This is proposed to be removed as it is covered elsewhere in the delegation. It is likely that applicants will opt to use the JDAP or significant development pathway for significant development proposals. All applications that require advertising and where objections are received would require Council determination unless the condition contained within the draft delegation have been met.
Amend 3 –Developments involving the exercise of a discretionary power (a) to reflect the name of the relevant Local Planning Policy only and deleting the detail relating to various heights as this is contained within the Policy.	To reflect LPS 7 to which the delegations apply - Precinct 13 -Salter Point Escarpment will become ASR12- Salter Point Escarpment, Salter Point in LPS 7. Local Planning Policy P320 Assessment of Significant Obstruction of Views in Precinct 13 – Salter Point was revoked by Council at the 27 February Ordinary Council Meeting and replaced with Local Planning Policy - Salter Point Escarpment.

<p>Amend 3 – Developments involving the exercise of a discretionary power (b) Applications which, in the opinion of the delegated officer, represent a significant departure from the Scheme, the R-Codes or relevant Local Planning Policies to replace ‘R-Codes’ with State Planning Policy.</p>	<p>State Planning Policy 7.3 – Residential Design Codes (R-Codes) are a State Planning Policy. This change will capture any future naming changes to the R-Codes and all other applicable State Planning Policies.</p>
<p>Delete 3 – Developments involving the exercise of a discretionary power (d) Applications involving the exercise of discretion under Clauses 6.2A or Schedule A (Part 3) clause 7A & 12. (4) of the Scheme.</p>	<p>These clauses refer to pre-scheme developments and supplemental provisions to the deemed provisions of the Regulations which are not replicated in LPS 7.</p>
<p>Amend 3 – Developments involving the exercise of a discretionary power (f) ‘Applications on City owned or managed land by a private entity;’ to ‘Applications on City owned or managed land by a private entity which propose significant works or a change of land use’</p>	<p>It is considered that these developments which generally originate from community groups and the City itself are insignificant and do not warrant the consideration of Council unless the application does not meet the other delegation criteria.</p>
<p>Insert New Clause 4– Development where advertising is required. ‘This power of delegation does not extend to approving development applications where advertising of the application is required unless:</p> <ul style="list-style-type: none"> - consent, no objection or no response is received from those consulted; or - in the opinion of the delegated officer, the proposal is consistent with the objectives and intent of the Local Planning Scheme and any Policy, as well as the principles of orderly and proper planning; or - in the opinion of the delegated officer, the proposal is consistent with the objectives and intent of the Local Planning Scheme and any Policy; or 	<p>For development applications that require advertising, the proposed amendments provide planning related parameters to consider whether Council determination is required.</p>

<ul style="list-style-type: none"> - any objection received can be addressed by imposing a condition(s) on the development approval granted, or modifying the design of the development; or - in the opinion of a delegated officer the objection does not relate to valid planning considerations. 	
<p>Amend 4 and replace with new Clause 5 – Applications previously considered by Council from ‘this power of delegation does not extend to applications for development approval previously considered by Council, where drawings supporting a current application have been significantly modified from those previously considered by Council at an earlier stage of the development process, including at an earlier rezoning stage, or as a previous application for development approval’ to ‘this delegation does not extend to development applications previously determined by Council. All subsequent applications relating to the same proposal are to be presented to Council for determination unless in the opinion of a delegated officer, it is of a minor nature or satisfies the requirements of the planning framework.’</p>	<p>Remove reference to ‘an earlier rezoning stage’ as development applications are quasi-judicial decisions treated independently of any legislative rezoning decisions. Any rezoning of the land would provide for the proposed land use unless the use was not listed in which case Council determination is required in any instance.</p>
<p>Delete 5 – Amenity impact from ‘In considering any application for development approval, the delegated officer shall take into consideration the impact of the proposal on the general amenity of the area. If, in the opinion of the delegated officer, any significant doubt exists, the application shall be referred to Council for determination’.</p>	<p>Clause 67 of the Regulations require the City to assess amenity impacts associated with all development applications.</p> <p>Applications that are likely to result in amenity impacts require advertising. Proposed amendments to 3 – Developments involving the exercise of a discretionary power will capture amenity where this matter is raised during consultation.</p>

Enforcement Provisions

There is currently no delegation to enable the City to issue a directions notice under Section 214 of the *Planning and Development Act 2005*. When investigating compliance matters, the City takes an education first approach, liaising with landowners requesting compliance with regulatory requirements (such as lodging a development application or ceasing use) however, these are not formal directions under the PD Act.

Whilst this approach has been successful to date, there may be instances where it is necessary to issue a formal directions notice to enforce development compliance. As compliance matters can include matters of which there are urgent public safety and amenity considerations, it is recommended that a new delegation be created for Section 214 Illegal development, responsible authority's powers as to section 214(2), 214(3) and 214(5) of the Act, being:

1. Give a written direction to the owner or any other person undertaking an unauthorised development to stop, and not recommence, the development or that part of the development that is undertaken in contravention of the planning scheme, interim development order or planning control area requirements;
2. Give a written direction to the owner or any other person who undertook an unauthorised development to (i) remove, pull down, take up, or alter the development; and (ii) to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority; and
3. Give a written direction to the person whose duty it is to execute work to execute that work where it appears that delay in the execution of the work to be executed under a planning scheme or interim development order would prejudice the effective operation of the planning scheme or interim development order.

A copy of this proposed delegation is contained as **Attachment (d)**.

Consultation

Nil.

Policy and Legislative Implications

Section 5.46(2) of the *Local Government Act 1995* requires all delegations to be reviewed at least once each financial year.

Financial Implications

Nil.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation.
Risk rating	Low
Mitigation and actions	Annual reviews are in place.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.3 Good governance
Strategy:	4.3.1 Foster effective governance with honesty and integrity and quality decision making to deliver community priorities

Attachments

7.4 (a):	Delegation DC690 Town Planning Scheme 6
7.4 (b):	Draft Delegation DC690 Local Planning Scheme 7 (track changes)
7.4 (c):	Draft Delegation DC690 Local Planning Scheme No. 7 (final)
7.4 (d):	Draft Delegation DC692 - Enforcement and Legal Proceedings - Illegal Development

7.5 2023/24 CORPORATE BUSINESS PLAN - 2ND QUARTER UPDATE

File Ref: D-24-5371
Author(s): Fleur Wilkinson, Coordinator Organisational Planning & Performance
Pele McDonald, Manager People and Performance
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report provides an update on the progress of the Corporate Projects and Measures of Success identified in the Corporate Business Plan 2023/24-2026/27.

It is recommended the Audit, Risk and Governance Committee notes the progress recorded against each Corporate Project/Activity contained within the 2023/24 Corporate Business Plan Quarter 2 Report and notes the results for all Measures of Success (key performance indicators) contained within the Corporate Business Plan Measures of Success Report.

Officer Recommendation AND COMMITTEE RECOMMENDATION

Moved: Ms Shona Zulsdorf
Seconded: Mayor Greg Milner

That the Audit, Risk and Governance Committee:

1. Notes the progress recorded against each project/activity within the Corporate Business Plan as described in the report contained within **Attachment (a)**; and
2. Notes the results recorded against each Measure of Success within the Corporate Business Plan as described in the Key Performance Indicator report contained within **Attachment (b)**.

CARRIED (4/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis and Bronwyn Waugh, Ms Shona Zulsdorf.

Against: Nil

Background

In 2020, the City completed a major review of the Strategic Community Plan (SCP) to produce the SCP 2021-2031 which was endorsed by Council at its meeting held 14 December 2021.

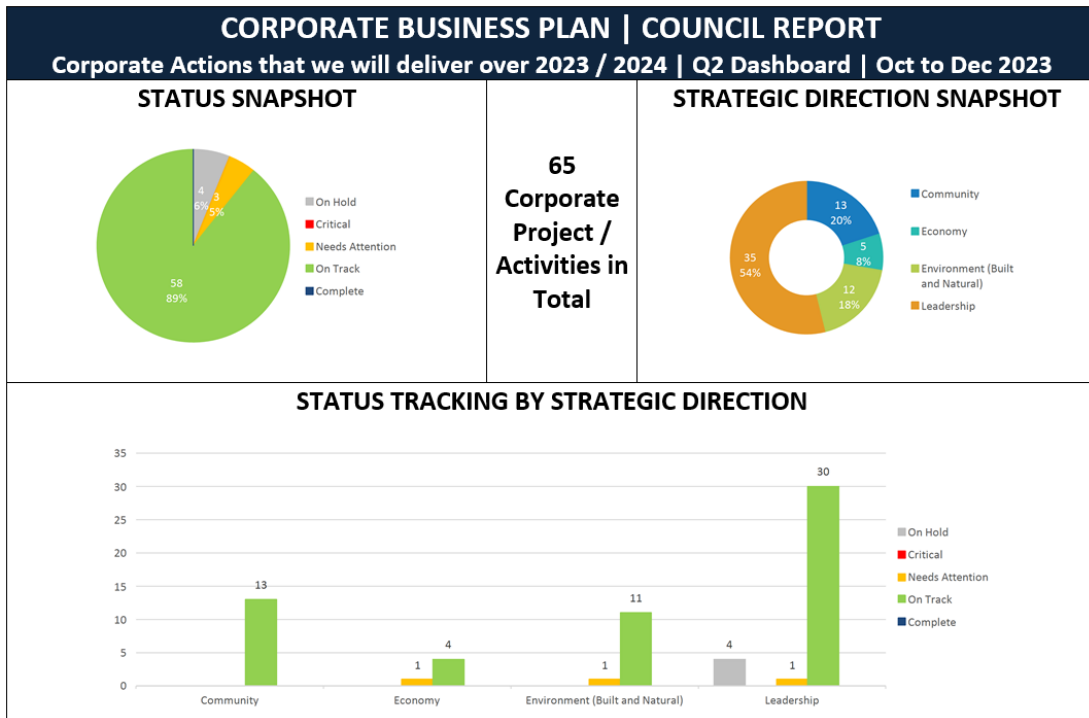
The Corporate Business Plan (CBP) is an important part of the City's Integrated Planning and Reporting (IPR) Framework. The CBP translates the aspirations and strategies of the SCP into operational priorities and indicates how they will be resourced over a four-year period, outlining in detail the services, projects, actions, operations and performance measures required to ensure delivery of the SCP.

The CBP for the period 2023/24 to 2026/27 was endorsed by Council at its meeting held 27 June 2023.

Comment

This is the progress report for quarter 2 of the 2023/24 planning year. The dashboard (shown in the screenshot below) has been designed within the “My Performance Planning” 1System module. This module is used by the City to record and report on all annual planned actions and measures of success within the CBP.

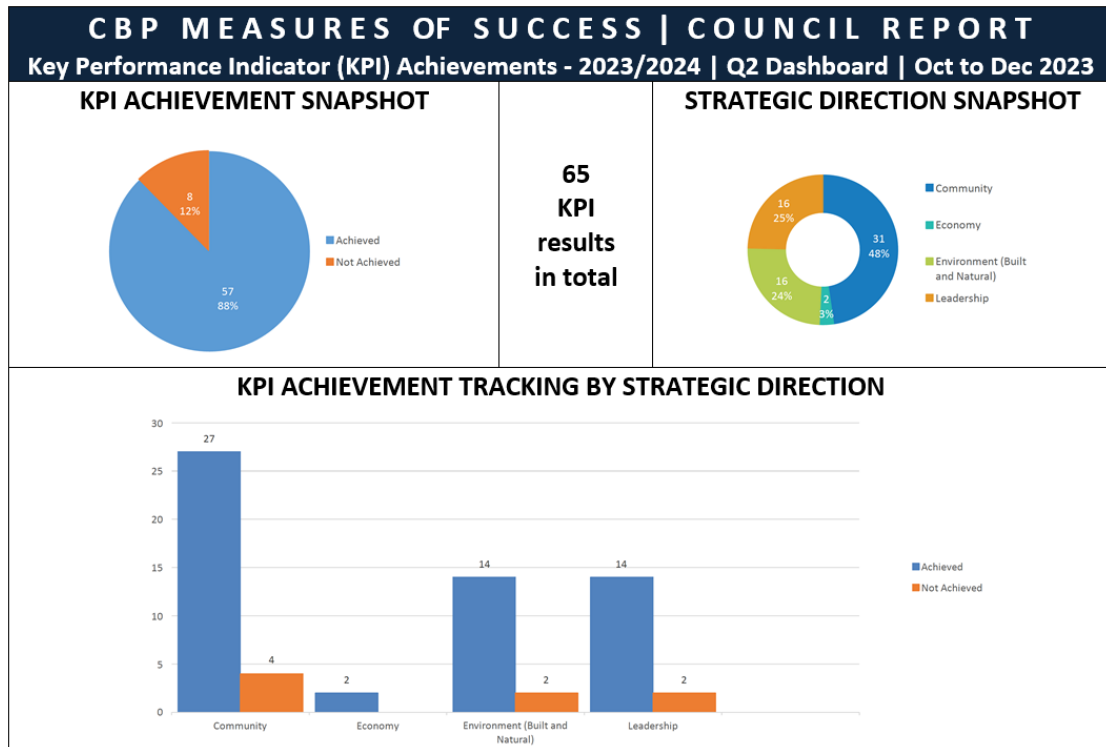
The City of South Perth’s Corporate Business Plan Report - Quarter 2 Dashboard



The attached CBP report is presented for information, with a comment by the officer in the Quarterly Updates column.

At the end of quarter 2 for the 2023/24 financial year, 58 (89%) of the 65 Corporate Actions are on track and there are no Corporate Actions with a critical status.

The City of South Perth's CBP Measures of Success Report – Quarter 2 KPI Dashboard



At the end of quarter 2 for the 2023/24 financial year 57 (88%) of the 65 KPIs were achieved, and 8 (12%) not achieved.

Six KPIs have been moved to an annual reporting status instead of a quarterly reporting basis. The data for these KPIs does not change each quarter and/or is not calculated until the end of the financial year and hence quarterly reporting is unnecessary. These include:

1. Current Ratio
2. Financial Health Indicator
3. Reduction in Greenhouse Gas Emissions
4. Asset Sustainability Ratio
5. Health and Wellbeing Program Satisfaction
6. Asset Renewal Funding Ratio

The attached KPI report is presented for information, with a description by the officer in the Result Comment column when a KPI is not achieved.

Consultation

Nil.

Policy and Legislative Implications

Local Government (Administration) Regulations 1996.

Financial Implications

All projects and activities listed in the CBP Quarter 2 Update are fully funded within the 2023/24 Annual Budget.

Key Risks and Considerations

Risk Event Outcome	Reputational Damage Deals with adverse impact upon the professional reputation and integrity of the City and its representatives whether those persons be appointed or elected to represent the City. The outcome can range from a letter of complaint through to a sustained and co-ordinated representation against the City and or sustained adverse comment in the media.
Risk rating	Medium
Mitigation and actions	Performance management by: <ol style="list-style-type: none"> 1. Annual business planning with business units to identify new actions for the financial year. (Failing to plan is planning to fail); 2. Monitor progress of the Strategic Community Plan (SCP) through <ol style="list-style-type: none"> a. Quarterly reporting of the Corporate Business Plan (CBP) Corporate Actions; b. Quarterly Key Performance Indicator reporting of CBP measures of success; and 3. Implementation of Audit findings in accordance with the Audit Register Progress Report.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.3 Good governance
Strategy:	4.3.4 Maintain a culture of continuous improvement

Attachments

7.5 (a):	Q2 2023-24 CBP Project Status Updates
7.5 (b):	Q2 2023-24 CBP KPI Updates

7.6 AUDIT REGISTER PROGRESS REPORT - 2ND QUARTER UPDATE

File Ref: D-24-5811
Author(s): Christine Lovett, Senior Governance Officer
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report provides an update on the progress of actions included in the Audit Register. The Audit Register includes all open audit findings that have previously been accepted by the Audit, Risk and Governance Committee and Council.

Officer Recommendation AND COMMITTEE RECOMMENDATION

Moved: Ms Shona Zulsdorf
Seconded: Mayor Greg Milner

That Audit, Risk and Governance Committee recommends to Council that it:

1. Notes the progress recorded against each item within the Audit Register in **Confidential Attachment (a)**;
2. Approves the findings marked as Complete (100%) in the Audit Register, to be registered as closed and no longer reported to the Committee.

CARRIED (4/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis and Bronwyn Waugh, Ms Shona Zulsdorf.

Against: Nil.

Background

The confidential Audit Register lists internal and external audit findings and describes the progress of implementing improvements and the percentage completion. This report is prepared for noting the progress and completion of findings since the last meeting.

Comment

The Audit Register contained in **Confidential Attachment (a)** presents audit outcomes by 'Finding' numbers. Any given Finding may have more than one 'Recommendation' and associated 'Agreed Management Action.'

Only when all Agreed Management Actions related to a Finding are marked as 100% complete, will the report be presented to the Audit, Risk and Governance Committee (ARGC), with a recommendation that the Finding be closed.

The Audit Register has been formatted to ensure clarity as detailed below:

1. Each Finding which has more than one Agreed Management Action is represented with double lines around that entire Finding.
Example:
Finding number FIND149 has three Agreed Management Actions.
2. Updates in relation to each Finding are displayed in chronological order i.e. latest update appears at the bottom of each Finding.
3. Each Finding that is to be closed (i.e. 100% complete for all Agreed Management Actions) is represented by a purple 'Closed Tally' column on the right and numbered; and
4. All Findings that are being recommended for closure by the ARGC are filtered to the end of the register.

The November 2023 Audit Register Progress Report included 18 open information systems audit findings. As detailed in the Information Systems Audit (External) Report, which was presented to the November 2023 ARGC, these 18 findings have now been closed and are incorporated in the 20 new Information Systems Audit findings identified in the 2022/23 external audit, carried out by the Office of Auditor General.

The ARGC is requested to recommend that Council note the progress and officer comments. In addition, it is recommended all Findings marked as complete (100%) in the Audit Register be registered as closed. All closed items will not form part of the Audit Register report for future meetings.

It is requested to note the Audit Register in **Confidential Attachment (a)**.

Strategic Internal Audit Plan

Work has been progressing with scheduled audits which were identified in the Strategic Internal Audit Plan which was presented to the 13 March 2023 ARGC meeting.

Reports with associated findings, recommendations and actions in relation to Procurement & Contract Management and 2023 Compliance Audit Return have been presented to March 2024 ARGC.

Work has commenced on the internal audit for Asset Management and Project & Program Management with reports to be presented following receipt by the City.

Consultation

Nil.

Policy and Legislative Implications

The Internal Audit function is considered a business improvement process that will assist in compliance with Regulation 5 of the Local Government (Financial Management) Regulation 1996 (CEO's duties as to financial management) and Regulation 17 of the Local Government (Audit) Regulations 1996 (CEO to review certain systems and procedures).

Financial Implications

The Internal Audit function (Paxon) has a budget of \$40,000 for the 2023/24 financial year, and it is anticipated that a budget of a similar amount is to be adopted for future years. Officers' effort to undertake the improvements and report on progress has not been estimated.

The fee for finalising the External Audit for the 2022/23 Annual Financial Statements is estimated at around \$85,000 (excl GST) an amount of \$73,000 was included in the budget, however a budget adjustment of \$12,000 will be required in due course.

Officers' ongoing effort to undertake the improvements and report on progress has not been estimated.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation
Risk rating	Medium
Mitigation and actions	Quarterly reporting of progress on the Audit Register to the Audit, Risk and Governance Committee and Council. In the report, Officer comments on actions taken and progressive completion of Actions are noted. Actions which are 100% complete are closed out and reported to the Audit, Risk and Governance Committee. There is no future reported on closed out actions.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.3 Good governance
Strategy:	4.3.1 Foster effective governance with honesty and integrity and quality decision making to deliver community priorities

Attachments

7.6 (a): Audit Report (*Confidential*)

7.7 INTERNAL AUDIT REPORT - 2023 COMPLIANCE AUDIT RETURN

File Ref: D-24-8358
Author(s): Garry Adams, Director Corporate Services
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report tables the Internal Audit Report – 2023 Compliance Audit Return in accordance with the City’s Strategic Internal Audit Plan 2022/2023 to 2026/2027.

The report identified that the process followed by the City in compiling the 2023 Compliance Audit Return was appropriate and in line with the requirements set by regulations, therefore no audit findings were identified.

Officer Recommendation AND COMMITTEE RECOMMENDATION

Moved: Ms Shona Zulsdorf
Seconded: Councillor André Brender-A-Brandis

That the Audit, Risk and Governance Committee recommends to Council that it:

1. Notes the Internal Audit Report – 2023 Compliance Audit Return contained in **Attachment (a)**; and
2. Notes that no audit findings were identified.

CARRIED (4/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis and Bronwyn Waugh, Ms Shona Zulsdorf.

Against: Nil.

Background

For each Internal Audit completed, the reports are presented to the Audit Risk and Governance Committee (ARGC) and then Council for acceptance of the recommendations. Paxon attend the relevant ARGC meeting to respond to questions relating to the report. Management responds to Paxon’s recommendations, in relation to their findings, and these are listed in the Audit Register if findings are identified.

Comment

The Internal Audit Report – 2023 Compliance Audit Return is a confidential report to be used for internal purposes to assist in improving business processes and systems. The report includes the strengths, weaknesses, rating, issues, risk ratings, recommendations and management comments.

Internal Audit is an essential component of the City’s continuous improvement process and findings are welcome. As many areas have never been audited before, it is likely that each Internal Audit may contain many findings.

The 2023 Compliance Audit Return report identified that the process followed by the City in compiling the 2023 Compliance Audit Return was appropriate and in line with the requirements set by regulation 13 of the Local Government (Audit) Regulations 1996 and *Local Government Act 1995*. The review noted that the 2023 Compliance Audit Return has been completed by the City and does not require any adjustments, therefore no audit findings were identified.

Consultation

Nil.

Policy and Legislative Implications

The Internal Audit function is considered a business improvement process that will assist in compliance with the Local Government (Financial Management) Regulations 5 (CEO's duties as to financial management) and the Local Government (Audit) Regulations 17 (CEO to review certain systems and procedures).

Financial Implications

The Internal Audit function (Paxon) has a budget of \$40,000 for the 2023/24 financial year, and it is anticipated that a budget of a similar amount is to be adopted for future years. Officers' effort to undertake the improvements and report on progress has not been estimated.

Key Risks and Considerations

Risk Event Outcome	<p>Legislative Breach</p> <p>Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation</p>
Risk rating	Medium
Mitigation and actions	<p>Quarterly reporting of progress on the Audit Register to the ARGC and Council. In the report, Officer comments on action taken and progressive completion of Actions are noted. Actions which are 100% complete are closed out and reported back to the ARGC. There is no future reporting on closed out actions.</p>

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.3 Good governance
Strategy:	4.3.4 Maintain a culture of continuous improvement

Attachments

7.7 (a):	Internal Audit Report - 2023 Compliance Audit Return
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7.8 COMPLIANCE AUDIT RETURN

File Ref: D-24-6595
Author(s): Toni Fry, Manager Governance
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report provides the City's response to the Department of Local Government, Sport and Cultural Industries 2023 Compliance Audit Return.

Officer Recommendation AND COMMITTEE RECOMMENDATION

Moved: Ms Shona Zulsdorf
Seconded: Councillor André Brender-A-Brandis

That the Audit, Risk and Governance Committee recommends to Council that it:

1. Adopts the Department of Local Government, Sport and Cultural Industries Compliance Audit Return for the period 1 January 2023 to 31 December 2023 as contained in **Attachment (a)**;
2. Authorises the certification to be jointly completed by the Mayor and Chief Executive Officer in accordance with Regulation 15 of the Local Government (Audit) Regulations 1996; and
3. Instruct the Chief Executive Officer to provide the Compliance Audit Return and Council's Resolution to the Department of Local Government, Sport and Cultural Industries by 31 March 2024.

CARRIED (4/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis and Bronwyn Waugh, Ms Shona Zulsdorf.

Against: Nil.

Background

The City is required to carry out an annual audit of statutory compliance in accordance with Regulation 14 of the Local Government (Audit) Regulations 1996. The Department of Local Government, Sport and Cultural Industries distributed a Compliance Audit Return for the period 1 January 2023 to 31 December 2023 which focused on those areas considered high risk in accordance with the *Local Government Act 1995* and associated regulations.

Comment

The 2023 Compliance Audit Return contained the following compliance categories:

- Commercial Enterprises by Local Governments;
- Delegation of Power/Duty;
- Disclosure of Interest;
- Disposal of Property;
- Elections;
- Finance;
- Integrated Planning and Reporting;
- Local Government Employees;
- Official Conduct;
- Optional Questions; and
- Tenders for Providing Goods and Services.

Each section of the 2023 Compliance Audit Return was completed by the relevant business unit.

Consultation

Nil.

Policy and Legislative Implications

In accordance with Regulation 14 of the Local Government (Audit) Regulations 1996 the completed 2023 Compliance Audit Return is to be reviewed and the results presented to Council. Following Council's adoption, the 2023 Compliance Audit Return must be submitted to the Department of Local Government, Sport and Cultural Industries by 31 March 2024.

Financial Implications

Nil.

Key Risks and Considerations

Risk Event Outcome	<p>Reputational Damage</p> <p>Deals with adverse impact upon the professional reputation and integrity of the City and its representatives whether those persons be appointed or elected to represent the City. The outcome can range from a letter of complaint through to a sustained and co-ordinated representation against the City and or sustained adverse comment in the media.</p>
Risk rating	Low
Mitigation and actions	The City has strong controls in place for the Compliance Audit Return.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.3 Good governance
Strategy:	4.3.4 Maintain a culture of continuous improvement

Attachments

7.8 (a): Compliance Audit Return 2023

7.9 INTERNAL AUDIT REPORT- PROCUREMENT & CONTRACT MANAGEMENT

File Ref: D-24-6271
Author(s): Garry Adams, Director Corporate Services
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report tables the Internal Audit Report – Procurement & Contract Management in accordance with the City’s Strategic Internal Audit Plan 2022/2023 to 2026/2027.

The report contains three detailed audit findings, with a number of notations and observations. The audit includes strengths, weaknesses, rating, issues, risk ratings, recommendations and management comments.

Officer Recommendation AND COMMITTEE RECOMMENDATION

Moved: Ms Shona Zulsdorf
Seconded: Mayor Greg Milner

That the Audit, Risk and Governance Committee recommends to Council that it:

1. Notes the Internal Audit Report - Procurement & Contract Management contained in **Confidential Attachment (a)**; and
2. Accepts the three recommendations contained in Section 5 of the Internal Audit – Procurement & Contract Management report be added to the Audit Register.

CARRIED (4/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis and Bronwyn Waugh, Ms Shona Zulsdorf.

Against: Nil.

Background

For each Internal Audit completed, the reports are presented to the Audit Risk and Governance Committee (ARGC) and then Council for acceptance of the recommendations. Paxon attend the relevant ARGC meeting to respond to questions relating to the report. Management responds to Paxon’s recommendations, in relation to their findings, and these are listed in the Audit Register.

Comment

The Internal Audit Report – Procurement & Contract Management is a confidential report to be used for internal purposes to assist in improving business processes and systems. The report includes the strengths, weaknesses, rating, issues, risk ratings, recommendations and management comments.

Internal Audit is an essential component of the City's continuous improvement process and findings are welcome. As many areas have never been audited before, it is likely that each Internal Audit may contain many findings. The Procurement & Contract Management report resulted in three findings to be included in the Audit Register.

Consultation

Nil.

Policy and Legislative Implications

The Internal Audit function is considered a business improvement process that will assist in compliance with the Local Government (Financial Management) Regulations 5 (CEO's duties as to financial management) and the Local Government (Audit) Regulations 17 (CEO to review certain systems and procedures).

Financial Implications

The Internal Audit function (Paxon) has a budget of \$40,000 for the 2023/24 financial year, and it is anticipated that a budget of a similar amount is to be adopted for future years. Officers' effort to undertake the improvements and report on progress has not been estimated.

Key Risks and Considerations

Risk Event Outcome	<p>Legislative Breach</p> <p>Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation</p>
Risk rating	Medium
Mitigation and actions	<p>Quarterly reporting of progress on the Audit Register to the ARGC and Council. In the report, Officer comments on action taken and progressive completion of Actions are noted. Actions which are 100% complete are closed out and reported back to the ARGC. There is no future reporting on closed out actions.</p>

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.3 Good governance
Strategy:	4.3.4 Maintain a culture of continuous improvement

Attachments

7.9 (a): Procurement & Contract Management (*Confidential*)

7.10 1SYSTEM PROJECT UPDATE

*This item is considered **confidential** in accordance with section 5.23(2)(c) of the Local Government Act 1995 as it contains information relating to "a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting"*

File Ref: D-24-8915
 Author(s): Jeff Jones, 1System Project Manager
 Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This is the 22nd report to the Audit, Risk and Governance Committee (ARGC) providing an update on the 1System Project.

This report describes delivery of the final phase (3C), of the 1System implementation project, the City's Rating module.

The City went live with rating in 1System in December 2023 in time for the payment of the third installment as planned, we still have a small project of works happening in the second half of the financial year in both data migration and product fixes that will have us in a position to strike the 24/25 Rates in 1System and fully decommission the old Authority System.

The City is currently collecting the fourth installment which is due on the 3 March 2024, for this installment we have enabled our community to pay with their credit card via our website through our Bank gateway and the 1System DXP Gateway.

The Pool module went live in Quarter 2, Health is progressing on target to Go-live this financial year.

Testing of the Bonds module has identified a significant issue that we have raised with Technology One, this has been raised with Technology One and are waiting for a response from them. This issue will probably see the Bonds Module being delayed until next financial year.

Officer Recommendation AND COMMITTEE RECOMMENDATION

Moved: Ms Shona Zulsdorf
Seconded: Councillor André Brender-A-Brandis

That the Audit, Risk and Governance Committee notes the progress of the 1System Project and the adjustment to timelines and budget.

CARRIED (4/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis and Bronwyn Waugh, Ms Shona Zulsdorf.

Against: Nil.

8. OTHER RELATED BUSINESS

Director Corporate Services Garry Adams provided an update on the process undertaken during the 2023 audit facilitated by the Office of the Auditor General. Committee members asked questions of the administration in relation to this topic.

9. CLOSURE

The Presiding Member declared the meeting closed at 7.40pm.

These Minutes were confirmed at the next Audit, Risk and Governance
Committee Meeting yet to be determined.

Signed: _____
Presiding Member at the meeting at which the Minutes were confirmed.