



# Bunbury City Council

## Minutes 12 February 2013

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## GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
1:100	Ratio of 'one in one hundred'
AD	Acceptable Development
ARI	Annual Recurrence Interval
AHD	Australian Height Datum
ALGA	Australian Local Government Association
ANEF	Australian Noise Exposure Forecast
AWARE	All West Australians Reducing Emergencies (grant funding)
BCA	Building Code of Australia
BCCI	Bunbury Chamber of Commerce & Industries
BCRAB	Bunbury Community Recreation Association Board
BEAC	Built Environment Advisory Committee
BESAC	Bunbury Environment and Sustainability Advisory Committee
BHRC	Bunbury Harvey Regional Council
BPA	Bunbury Port Authority
BRAG	Bunbury Regional Art Galleries
BRAMB	Bunbury Regional Arts Management Board
BREC	Bunbury Regional Entertainment Centre
BSSC	Big Swamp Steering Committee
BWEA	Bunbury Wellington Economic Alliance
CALM	Department of Conservation and Land Management
CBD	Central Business District
CCAFF	Community Cultural and Arts Facilities Fund
CERM	Centre of Environmental and Recreation Management
CPI	Consumer Price Index
CSRFF	Community Sport and Recreation Facilities Fund
DADAAWA	Disability in the Arts Disadvantage in the Arts Australia, Western Australia
DAP	Detailed Area Plan (required by WA Planning Commission)
DCU	Development Coordinating Unit
DEC	Department of Environment and Conservation (formerly CALM)
DEWCP	Department for Environment, Water and Catchment Protection
DLI	Department of Land Information
DoE	Department of Environment
DOLA	Department of Land Administration
DoPI	Department of Primary Industry
DoW	Department of Water
DPI	Department for Planning and Infrastructure
DSR	Department of Sport and Recreation
DUP	Dual-use Path
ECT	Enforcement Computer Technology
EDAC	Economic Development Advisory Committee
EDWA	Education Department of Western Australia
EIA	Environmental Impact Assessment
EPA	Environmental Protection Authority
ERMP	Environmental Review and Management Program
ESL	Emergency Services Levy
FESA	Fire and Emergency Services Authority
FFL	Finished Floor Level
GBPG	Greater Bunbury Progress Group
GBRP	Greater Bunbury Resource Plan report
GBRS	Greater Bunbury Region Scheme
GL	Gigalitres
GRV	Gross Rental Value
GST	Goods and Services Tax
HCWA	Heritage Council of Western Australia
ICLEI	International Council for Local Environmental Initiatives
ICT	Information and Communications Technology
IP	Internet Protocol
IT	Information Technology
ITC	In Town Centre
ITLC	Former In-Town Lunch Centre (now the "In Town Centre")

## GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
LAP	Local Action Plan
LCC	Leschenault Catchment Council
LEMC	Bunbury Local Emergency Management Committee
LIA	Light Industrial Area
LN (2000)	Liveable Neighbourhoods Policy (2000)
LSNA	Local Significant Natural Area
MHDG	Marlston Hill Design Guidelines
MRWA	Main Roads Western Australia
NDMP	National Disaster Mitigation Program
NEEDAC	Noongar Employment & Enterprise Development Aboriginal Corp.
NRM	Natural Resource Management
NRMO	Natural Resource Management Officer
ODP	Outline Development Plan
PAW	Public Access Way
PHCC	Peel-Harvey Catchment Council
PR	Plot Ratio
R-IC	Residential Inner City (Housing) - special density provisions
RDC	Residential Design Codes
RDG	Residential Design Guidelines
Residential R15	Town Planning Zone – up to 15 residential dwellings per hectare
Residential R20	Town Planning Zone – up to 20 residential dwellings per hectare
Residential R40	Town Planning Zone – up to 40 residential dwellings per hectare
Residential R60	Town Planning Zone – up to 60 residential dwellings per hectare
RFDS	Royal Flying Doctor Service
RMFFL	Recommended Minimum Finished Floor Levels
ROS	Regional Open Space
ROW	Right-of-Way
RSL	Returned Services League
SBCC	South Bunbury Cricket Club Inc.
SCADA	Supervisory Control and Data Acquisition
SGDC	Sportsgrounds Development Committee
SW	South West
SWACC	South Western Area Consultative Committee
SWAMS	South West Aboriginal Medical Service
SWBP	South West Biodiversity Project
SWCC	South West Catchments Council
SWDC	South West Development Commission
SWDRP	South West Dolphin Research Program
SWEL	South West Electronic Library
SWSC	South West Sports Centre
TME	Thompson McRobert Edgeloe
TPS	Town Planning Scheme
USBA	Union Bank of Switzerland Australia
VGO	Valuer General's Office
VOIP	Voice-Over Internet Protocol
WALGA	Western Australian Local Government Association
WAPC	Western Australian Planning Commission
WAPRES	Western Australian Plantation Resources
WAWA	Water Authority of Western Australia
WC	Water Corporation
WML	WML Consultants
WRC	Waters and Rivers Commission



## **Bunbury City Council Minutes**

Minutes of an Ordinary meeting of the Bunbury City Council held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday 12 February 2013.

### **Minutes 12 February 2013**

**Note: These minutes are subject to confirmation at the next Ordinary Meeting of the Council.**

#### **1. Declaration of Opening / Announcements of Visitors**

His Worship the Mayor declared the meeting open at 5.58pm

The Mayor made mention of the attendance at the meeting of the Mayoress and the partner of Cr Cook.

Mr John Castrilli, Member for Bunbury, Minister for Local Government; Heritage; Citizenship and Multicultural Interests arrived at the meeting during public question time and was acknowledged by the Mayor.

#### **2. Disclaimer**

NOTE: WHERE A RECORDING OR LIVE STREAMING OF A MEETING IS TO TAKE PLACE, THE PRESIDING MEMBER WILL ADVISE THOSE PRESENT THAT SUCH ACTION WILL BE OCCURRING.

All persons present are advised that the proceedings of this meeting will be recorded for record keeping purposes and to ensure accuracy in the minute taking process. From time to time the proceedings of this meeting may also be streamed live via the internet to the public.

#### **3. Announcements from the Presiding Member**

Nil

## 4. Attendance

*Present:*

<b>Council Committee Members:</b>	
Presiding Member	His Worship the Mayor, Mr D Smith
Deputy Presiding Member	Deputy Mayor Cr S Craddock
Members	Councillor J Jones
	Councillor D Prosser
	Councillor A Leigh
	Councillor M Steck (arrived 6.12pm)
	Councillor R Slater
	Councillor K Steele
	Councillor B Kelly
	Councillor N McNeill
	Councillor M Cook
	Councillor S Morris
<b>Executive Leadership Team (Non-Voting):</b>	
Chief Executive Officer	Mr A Brien
Director Community and Customer Services	Ms S Addison-Brown
Director Planning and Development Services	Mr B Karaszewych
Director Strategic Integration	Mr G Klem
Director Works and Services	Mr P Harris
<b>Council Officers (Non-Voting):</b>	
Media and Communications Officer	Ms K Phillips
Administration Officer Corporate	Ms N Hribar
<b>Others (Non-Voting)</b>	
Members of the Public	5
Members of the Press	1

### 4.1 Apologies

Cr Steck arrived late to the meeting at 6.12pm.

### 4.2 Approved Leave of Absence

Nil

## 5. Declaration of Interest

Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences

Cr Cook declared a proximity interest in the item titled *'Renaming of Music Room at the Bunbury Regional Art Gallery'* as he is a member of the City of Bunbury Art Collection Management Committee. He has elected to remain in the chambers, participate in the discussion and vote on the matter.

Cr Cook declared an impartiality interest in the item titled *'Proposed Deed of Lease – Bunbury Harvey-Regional Council – Lease over Landfill Site, Lot 45 Stanley Road Leschenault'* as he is a member of the Bunbury-Harvey Regional Council. He has elected to remain in the chambers, participate in the discussion and vote on the matter.

The Mayor declared an impartiality interest in the confidential item titled *'Confidential – Proposed Discussions with Bunbury Regional Arts Management Board'* as his wife is the chairperson and member of the City of Bunbury Art Collection Management Committee and also a member of BRAMB. He has elected to vacate the chambers and not participate in the discussion or vote on the matter.

The Mayor declared an impartiality interest in the confidential item titled *'Appointments to Bunbury Regional Arts Management Board'* as his wife is a member of BRAMB. He has elected to vacate the chambers and not participate in the discussion or vote on the matter.

Cr Jones declared an impartiality interest in the item titled *'Proposed Deed of Lease – Bunbury-Harvey Regional Council – Lease over Landfill Site, Lot 45 Stanley Road Leschenault'* as she is the chairperson for the Bunbury-Harvey Regional Council. She has elected to remain in the chambers, participate in the discussion and vote on the matter.

Cr McNeill declared an impartiality interest in the item titled *'Proposed Deed of Lease – Bunbury-Harvey Regional Council – Lease over Landfill Site, Lot 45 Stanley Road Leschenault'* as he is a member of the Bunbury-Harvey Regional Council. He has elected to remain in the chambers, participate in the discussion and vote on the matter.

Cr Steck declared an impartiality interest in the item titled *'Renaming of Music Room at the Bunbury Regional Art Gallery'* as she is a member of the City of Bunbury Art Collection Management Committee. He has elected to remain in the chambers, participate in the discussion and vote on the matter.



## 6. Public Question Time

In accordance with Reg. 7(4)(a) of the Local Government (Administration) Regulations 1996, members of the public in attendance at the meeting may stand, state aloud their name and address, and ask a question in relation to any matter over which the municipality of Bunbury has jurisdiction or involvement.

In accordance with Standing Order 6.7(3)(a) a person wishing to ask a question, must complete a question form which is provided in the trays at the back of the public gallery and on the City's website. The completed form must include your name and address and contain no more than three (3) questions. If your question requires research or cannot be answered at the meeting, it will be taken on notice and you will receive a written response and a summary of your question (and any responses provided) will be printed in the minutes of the meeting.

### 6.1 Responses to Public Questions Taken 'On Notice'

At the Ordinary Council Meeting held 22 January 2013, a question was asked during Public Question Time that could not be answered during the meeting. A copy of the question and the response is provided below for public information:

#### **Mrs Nadya Bolderoff, 5 Roberts Crescent Bunbury**

*Question: Can you advise as to whether the investigation was completed at the time of revoking the approval?*

*Response: CEO – An approval was originally given on the condition that no further noise complaints were received about the peacock. Upon receiving a complaint, the Manager Health attended the property and confirmed that the peacock was still residing in Picton Crescent. This was during the mating season, at a time when peacocks are frequently making the mating call. Based on the receipt of the complaint, the approval was revoked. Throughout the period which followed this action, complaints continued to be received by the City of Bunbury from one resident who lived in very close proximity to the peacock.*

*Question: Was an investigation held in regards to the complaint laid?*

*Response: This is answered above – yes, and the investigation revealed that the peacock was still residing in Picton Crescent, close to the home of the complainant.*

### 6.2 Public Question Time

#### **Mr Mike Fenton, 25 Acacia Street Bunbury**

*Question: In regards to the Regional Capitals 2.0 Conference in Geelong: Why is it costing \$1,000 per head? Why isn't the meeting conducted economically via existing video conferencing technology, linking Geelong City Council Chambers with other conference participants including City of Bunbury?*

*Response: CEO – The cost of the conference is set by Regional Capitals Australia and is determined much the same way that any conference is – based on venue, equipment hire and catering, along with any costs associated with it, in the*

same way as the Local Government Week Conference and the Australian Local Government Associations National General Assembly have costs.

This technology is not available for this event nor is it common practice for conferences. If the City of Bunbury were to participate via video or telephone link, we could potentially miss out on valuable opportunities to discuss our projects with key policy and decision makers on a federal level. Opportunities such as this are quite difficult to achieve – we regularly request meetings with State and Federal politicians and more often we are taking the opportunity to meeting with key decision makers at these sorts of events. The opportunity to discuss Bunbury-specific projects, as well as major policy changes which could affect all WA Councils is one that Council considers worth the associated costs.

*Question: Regarding Storm Water Hazards: Brisbane Council's failure to install promised backflow devices to prevent river water running back up stormwater drains resulted in unnecessary flooding in last month's flood. Have any back flow-valve devices been installed in Bunbury to prevent similar flooding of the CBD especially around the Tourist Bureau?*

*Response:* Director Works and Services – The City has a number of stormwater outlets into the Leschenault inlet. Currently only a small number of those are fitted with flaps that act as non-return valves (typically smaller diameter). The primary reason that there is a limited number of City owned storm protection devices is that there is tidal protection installed at the 'Plug', managed by Department of Transport to ensure storm surge and high water levels do not enter and inundate the Leschenault inlet.

There are a number of pump stations in close proximity to the inlet and each of these sites has both nominal onsite storage and pumping capacity to clear each sub-catchment.

In 1985 a report was prepared by Wood and Grieve Consulting Engineers of the Central Business District Stormwater Drainage Study. The brief at that time was "*Council expects to receive, as a minimum, a report which clearly details the various methods by which flooding i.e. inundation of business premises, can be reduced to acceptable levels. The question of 'acceptable levels' is to be addressed with cost estimates shown for system modifications to cope with various storm recurrence levels...*" It is the City's intention to continue upgrading and protecting vulnerable lower lying zones over time.

Late in 2012 a new flood map was installed in the gravity main discharging from Meredith Creek into the estuary. This type of work continuing into the future will help mitigate potential flood risks.

*Question: In regards to the subscription payments made to WALGA and ALGA: Could Council please advise the latest annual subscription paid to WALGA to allow City of Bunbury to be a member of this state, local-government peak body? Is a separate subscription fee paid to ALGA, if so how much is that per annum? Why does the City intend to spend an extra \$46,238 in addition to WALGA's subscription on projects associated with the West Australian and Australian Regional Capitals Alliance, both non-entities established to duplicate the roles of WALGA and ALGA?*

*Response:* CEO – Payments made to WALGA this financial year are as follows:

1.	Association Membership	\$27,338.22
2.	Annual Subs ROMAN	\$8,723.00
3.	Annual Subs Tax Service	\$1,919.50
4.	Annual Subs Local Law Service	\$572.00
5.	Annual Subs Procurement	<u>\$2,024.00</u>
	TOTAL	<u>\$40,576.72</u>

The services provided by WALGA are vastly different to the opportunities provided by the Regional Capitals Alliance.

While WALGA's role is primarily to provide advice to Local Government on its operations and responsibilities, RCA aim to influence the decision makers on major policy matters, which are specific to regional capitals. RCA were convened to influence those at the federal level. As you can see, these two groups are distinctly different.

The payment to the Regional Capitals group incorporates funding towards specific research commissioned in partnership with UWA plus additional project funding.

## **7. Confirmation of Previous Minutes and Tabling of Notes of Briefings and other Meetings under Clause 19.1**

### **7.1 Minutes**

#### **7.1.1 Council Meetings**

The minutes of the Ordinary meeting of the Bunbury City Council held 22 January 2013 have been circulated.

#### **Recommendation**

The minutes of the ordinary meeting of the Bunbury City Council held 22 January 2013 be confirmed as a true and accurate record.

#### **Outcome – Council Meeting 12 February 2013**

The recommendation (as printed) was moved Cr Kelly, seconded Cr Cook.

The Mayor put the motion to the vote and was adopted to become the Council's decision on the matter.

#### **Council Decision 32/13**

***The minutes of the ordinary meeting of the Bunbury City Council held 22 January 2013 be confirmed as a true and accurate record.***

CARRIED

12 votes "for" / nil votes "against"

### 7.1.2 Council Advisory Committees and Working/Project Groups

<b>File Ref:</b>	Various
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Various
<b>Executive:</b>	Various
<b>Attachments:</b>	Appendix <a href="#">MTBN-1</a> , <a href="#">MTBN-2</a>

#### **Council Committee Recommendation**

The following Advisory Committee Meeting Minutes listed in the report, be accepted and noted:

1. Title: Minutes – Bunbury-Setagaya Sister Cities Committee Meeting (29/11/2012)  
Author: Jenni Brown, Administration Officer Setagaya  
File: A05259  
Appendix: [MTBN-1](#)
2. Title: Minutes – Community Environmental Reference Group Meeting (12/12/2012)  
Author: Ben Deeley, Team Leader Sustainability and Integrated Land Use Planning  
File: A05656  
Appendix: [MTBN-2](#)

#### **Outcome – Council Committee Meeting 5 February 2013**

The recommendation (as printed) was moved Cr Leigh, seconded Cr Cook.

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

#### **Outcome – Council Meeting 12 February 2013**

The Council Committee recommendation (as printed) was moved Deputy Mayor Cr Craddock, seconded Cr Leigh.

The Mayor put the motion to the vote and was adopted to become the Council's decision on the matter.

#### **Council Decision 33/13**

***The following Advisory Committee Meeting Minutes listed in the report, be accepted and noted:***

1. Title: ***Minutes – Bunbury-Setagaya Sister Cities Committee Meeting (29/11/2012)***  
Author: ***Jenni Brown, Administration Officer Setagaya***  
File: ***A05259***

- 2. Title: Minutes – Community Environmental Reference Group Meeting (12/12/2012)**  
**Author: Ben Deeley, Team Leader Sustainability and Integrated Land Use Planning**  
**File: A05656**

CARRIED

12 votes “for” / nil votes “against”

## **8. Presentations**

### **8.1 *Petitions***

Nil

### **8.2 *Presentations***

Nil

### **8.3 *Deputations***

Nil

### **8.4 *Council Delegates' Reports***

Nil

### **8.5 *Conference Delegates' Reports***

Nil

## **9. Method of Dealing with Agenda Business**

Standing Order 5.5 permits the Council to adopt the recommendations “by exception” (en bloc). The Mayor put the matters listed in section 10 to be “adopted by exception” to the vote and the recommendations were adopted to become the Council’s decision on those matters.

Pursuant to Standing Order 5.5, the Council “*adopted by exception*” (i.e. without discussion) those recommendations listed for items 10.1.2, 10.2.1, 10.2.2, 10.3.1 and 10.3.2.

Items 10.1.1, 10.4.1 and 10.4.2 of the meeting agenda were then discussed and voted on separately and in the order that they appeared on the agenda. The items voted “by exception” are listed first.

## 10. Reports

### 10.1 **Renaming of Music Room at the Bunbury Regional Art Gallery** (was listed as item 10.1.2 on the meeting agenda)

<b>File Ref:</b>	A00168
<b>Applicant/Proponent:</b>	Art Collection Management Committee
<b>Author:</b>	Caroline Lunel, Arts Registrar/Curator
<b>Executive:</b>	Stephanie Addison-Brown, Director Community and Customer Services
<b>Attachments:</b>	Nil

#### **Summary**

The City of Bunbury Art Collection Management Committee would like to recognise the contributions made by Ron Middleton, who used to be a member of the Art Collection Management Committee by renaming the Bunbury Regional Art Galleries Music Room to the Ron Middleton Gallery.

#### **Council Committee Recommendation**

That Council support the renaming of the Music Room to the Ron Middleton Gallery.

#### **Background**

Ron Middleton was a member of the City of Bunbury Art Collection Management Committee for many years and as a volunteer and honorary treasurer he has made a large contribution to the Committee.

Mr Middleton is a long time Bunbury resident and has been named Bunbury Citizen of the year. His dedication and longstanding support has helped shape and enhance the City of Bunbury Art Collection.

Mr Middleton resigned from the Committee due to an illness later in life. The City of Bunbury Art Collection Management Committee has agreed and recommends renaming the Music Room gallery to the Ron Middleton Gallery to honour his services as a volunteer.

The City of Bunbury Heritage Officer has been consulted and there are no heritage issues in regards to the renaming.

#### **Council Policy Compliance**

There is no Council policy relevant to this item.

#### **Legislative Compliance**

There is no Legislative compliance relevant to this item.

#### **Officer Comments**

As the Arts Registrar/Curator for the City of Bunbury Art Collection and a member of the Art Collection Management Committee, I support the decision to rename the Music Room.



### **Councillor/Officer Consultation**

Consultation was undertaken with the Councillor Representatives of the Art Collection Management Committee at their meeting on 12 Dec 2012 who voted to support the above changes to rename the Music Room to the Ron Middleton Gallery.

### **Outcome – Council Committee Meeting 5 February 2013**

Cr's Cook and Steck declared an interest in this item (see section 5). They remained in the chambers, took part in the discussion and voted on the item.

The recommendation (as printed) from the Advisory Committee was moved Deputy Mayor Cr Craddock, seconded Cr Leigh.

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

### **Outcome – Council Meeting 12 February 2013**

Pursuant to Standing Order 5.5 the recommendation (as printed) from the Council (Standing) Committee or Executive was moved Cr Leigh, seconded Cr Cook and adopted ('en bloc') to become the Council's decision on the matter.

### **Council Decision 34/13**

***That Council support the renaming of the Music Room to the Ron Middleton Gallery.***

CARRIED

12 votes "for" / nil votes "against"

## 10.2 Financial Management Report for the Period Ending 31 December 2012 (was listed as item 10.2.1 on the meeting agenda)

<b>File Ref:</b>	A02838
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Ransom, Manager Finance
<b>Director:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix <a href="#">DCS-1</a> , <a href="#">DCS-2</a> , <a href="#">DCS-3</a> , <a href="#">DCS-4</a> , <a href="#">DCS-5</a>

### Summary

The following comments are provided on the key elements of Council's financial performance.

1. Statement of Comprehensive Income (**attached** at Appendix [DCS-1](#))  
Actual Financial Performance to 31 December 2012
  - Actual income of \$39.6M is \$201K less than the year-to-date budgeted income of \$39.8M. (refer explanation on next page).
  - Actual expenditure of \$18.8M is \$746K less than the year-to-date budgeted expenditure of \$19.6M, (refer explanation on next page).
  - Actual operating surplus of \$20.7M is \$545K more than the year-to-date budgeted operating surplus of \$20.2M.
2. Balance Sheet (**attached** at Appendix [DCS-3](#))  
Council's Year-to-date and Forecast balances are as follows:

	<u>Year-to-date</u>	<u>Forecast</u>
- Current Assets of \$46.7M includes:		
* Cash and Investments	\$36.5M	\$14.4M
* Rates	\$ 9.4M	\$0.6M
* Other Current Assets	\$0.8M	\$1.2M
- Current Liabilities of \$5.9M includes:		
* Trade and Other Payables	\$2.3M	\$4.7M
* Annual Leave and LSL Provisions	\$2.5M	\$2.9M
- Working Capital (Current Assets less Current Liabilities)	\$40.8M	\$7.0M
- Equity (Total Assets less Total Liabilities)	\$247.6M	\$229.3M
3. Capital Works (**attached** at Appendix [DCS-5](#))
  - Actual capital works of \$9.1M is \$5.3M less than the year-to-date budgeted capital works of \$14.4M, (refer explanation on next page).

### **Council Committee Recommendation**

The Financial Management Report for the period ending 31 December 2012 be received.

### **Background**

In accordance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996, a

Local Government is to prepare each month a Statement of Financial Activity (**attached** at Appendix [DCS-2](#)) reporting on the revenue and expenditure as set out in the annual budget under Regulations 22 (1) (d) for this month.

Councillors have also been provided with the following summaries in addition to the Statement of Financial Activity required under the Regulations:

- Statement of Comprehensive Income (**attached** at Appendix [DCS-1](#))
- Balance Sheet (**attached** at Appendix [DCS-3](#))
- Statement of Net Current Assets (**attached** at Appendix [DCS-4](#))
- Capital Works Expenditure Summary (**attached** at Appendix [DCS-5](#))

Summaries include end-of-year forecasts based on a monthly review of year-to-date income and expenditure for all accounts.

The following is an explanation of significant Operating and Capital variances:

	Actual to Budget Variance
<b>Operating Income</b>	
Grants and Subsidies – Budget year-to-date variation due to timing of receipt of grant revenue for the following projects: \$56,000 Plan and Deliver Club Development Program \$48,675 Deliver Natural Disaster Resilience Program \$100,000 Upgrade Street Lighting – Picton Road \$26,667 Upgrade Street Lighting - Blair Street	(\$242,963)
<b>Operating Expenditure</b>	
Materials and Contracts – Favourable variance mainly due to timing of receipt of invoices.	\$764,043
Other Expense - Favourable variance mainly due to timing of receipt of invoices.	\$186,115
<b>Capital Income</b>	
Grants and Contributions for the Development of Assets – Project milestones yet to be reached to enable claiming of grant funds: \$200,000 Renew Sykes Boat Ramp and Jetty \$120,000 Reconstruct Section of Parade Road \$120,000 Upgrade Parade Road \$240,000 Construct Median Separation and Turning Lanes Picton Road \$708,414 Construct Hay Park South Multisports Pavilion	(\$1,387,537)
Interest Received on Capital Grants – Favourable variance due to higher than expected investment funds held as at 31 December 2012.	\$42,354
Proceeds on Disposal of Assets – Favourable variance due to timing of vehicle disposals.	\$143,700
<b>Capital Expenditure</b>	
Acquisition of Assets – Variance due to timing variances of commencement and the progress of	\$5,253,149

capital works projects than was originally forecast. To be adjusted as part of the February budget review.	
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**Outcome – Council Committee Meeting 5 February 2013**

The Executive recommendation (as printed) was moved Deputy Mayor Cr Craddock, seconded Cr Cook.

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

**Outcome – Council Meeting 12 February 2013**

Pursuant to Standing Order 5.5 the recommendation (as printed) from the Council (Standing) Committee or Executive was moved Cr Leigh, seconded Cr Cook and adopted ('en bloc') to become the Council's decision on the matter.

**Council Decision 35/13**

***The Financial Management Report for the period ending 31 December 2012 be received.***

CARRIED

12 votes "for" / nil votes "against"

**10.3 Proposed Deed of Lease – Bunbury-Harvey Regional Council – Lease over Landfill Site, Lot 45 Stanley Road, Leschenault** (was listed as item 10.2.2 on the meeting agenda)

<b>File Ref:</b>	F00075
<b>Applicant/Proponent:</b>	Bunbury-Harvey Regional Council
<b>Author:</b>	Jane Porter, Senior Property Officer
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix <a href="#">DCS-6</a>

**Summary**

The Bunbury-Harvey Regional Council (“BHRC”) seeks approval from the City of Bunbury and Shire of Harvey, for a new Lease over the Stanley Road Landfill Facility located at Lot 45 Stanley Road in Leschenault. The lease over the land expired on 30 November 2012. A location plan is **attached** at Appendix [DCS-6](#).

**Council Committee Recommendation**

Council agrees to grant a new Deed of Lease to Bunbury-Harvey Regional Council over Lot 45 Stanley Road, Leschenault for use as a Landfill site for a period of five (5) years, subject to the terms and conditions as specified in the report, and the following:

1. Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995.

**Background**

The Bunbury-Harvey Regional Council has requested a five (5) year extension on Lot 45 Stanley Road with the condition of payment based rebates to member councils of \$10 per tonne of waste delivered to the landfill site.

The payment model works well as long as the member Councils are able to bring waste to site, this could however come into debate when the current licence to landfill at Stanley Road expires in December 2013. The BHRC are currently seeking an extension to the landfill licence through the Department of Conservation (“DEC”) for a further two (2) to three (3) years. The approval process is protracted and may take some time to finalise.

Given the timing and uncertainty of the Department of Conservation decision the proposal is to extend the lease on the current arrangements until December 2013 and then review the lease with a view of a further extension based on tonnage rebate given that the DEC have extended the landfill licence. If no landfill licence is granted then the BHRC will look at a mandatory figure to cover the lease as a waste transfer station only.

The lease site at Lot 45 Stanley Road is jointly owned by the City of Bunbury (90%) and the Shire of Harvey (10%). The land is Lot 45 on Plan 17161 as contained in Certificate of Title Volume 1850 Folio 63. All domestic and commercial waste collected within the City of Bunbury and Shire of Harvey is delivered to the landfill facility on the site for processing and disposal. The land is leased by the Bunbury-Harvey Regional Council (“BHRC”) which was formed in 1990 and receives funding from the City of Bunbury and Shire of Harvey.

The objectives of the BHRC are:

- The orderly and efficient treatment, storage and disposal of waste.

- The provision and maintenance of machinery & equipment for the above purpose.
- Charge fees in regard to the above.
- Provide representation to the WA Waste Disposal Advisory Council.

The BHRC comprises representatives from both member municipalities together with a Chief Executive Officer. The City holds the right to chair the BHRC.

### **Council Policy Compliance**

There are no Council Policies applicable to the proposal.

### **Legislative Compliance**

In accordance with Regulation 30(1)(c)(iii) of the Local Government (Functions and General) Regulations 1996, the Council is exempt from the requirements of Section 3.58 of the Local Government Act 1995 as the land is disposed to the BHRC.

### **Officer Comments**

The Lease will be subject to the Department of Environment and Conservation granting an extension of Licence for Landfill on 12 December 2013.

Should a new Licence not be granted by the Department of Environment and Conservation the Landfill will cease and by Default the current rent will no longer be applicable. A new rent payable will be discussed and agreed to by the City of Bunbury, Shire of Harvey and the Bunbury-Harvey Regional Council.

### **Analysis of Financial and Budget Implications**

On 5 November 2003, the (then) Office of the Valuer General advised that a fair market rental for the site would be \$45,000 per annum excluding GST.

New information received from the Valuation Services Section of the Department for Planning and Infrastructure, now advises that a fair market rental value for the site would be \$56,000 per annum (excluding GST).

Council has not previously levied a lease fee for the lease of the land to the BHRC.

### **Economic, Social, Environmental and Heritage Issues**

There are no economic, social or heritage issues to consider.

### **Environmental Issues**

The waste disposal site is managed in accordance with a DEC Licence and associated statutory requirements that protect the local environment.

BSD Consultants prepared a "Future Directions" strategy for the Stanley Road site in June 2003. This report outlines a strategy to fill and cap the existing landfill pits (or cells) which will take some years to complete. In the meantime, Council Officers have requested that no new cells be commenced without the City Council's consent first being received. Discussions are also about to commence with local governments abutting the City of Bunbury, to explore the possibility of establishing a new regional council that will provide waste management services for the entire region.

### **Community Consultation**

Regulation 30(1)(c)(iii) of the Local Government (Functions and General) Regulations 1996 exempts the City of Bunbury from the requirements of Section 3.58 of the Local Government Act 1995, as the land is disposed to the BHRC.

### **Councillor/Officer Consultation**

The BHRC supports the extension of the lease to 31 January 2016 and has mutually agreed to the market rental value proposed.

### **Strategic Relevance**

The draft Community Strategic Plan Goal 3: Sustainable Natural and Built Environment objective 3.5 refers:

*'We will ensure that economic development and growth does not come at a cost to the environment and lifestyle that our community values.'*

*'Effective waste collection, recycling and disposal services will continue to be priority and Council will actively seek innovative solutions to manage waste.'*

### **Life-cycle Maintenance Costs (Capital Works Projects Only)**

Not Applicable.

### **Delegation of Authority**

The Chief Executive Officer has the delegated authority of the Council to negotiate the terms and conditions of leases and licences over Council property subject to the terms and conditions being presented to Council for endorsement before documentation is finalised.

It is proposed that the Chief Executive Officer proceed with preparation of the Deed document.

### **Relevant Precedents**

Council has previously agreed to extend the lease to 30 November 2012.

### **Outcome – Council Committee Meeting 5 February 2012**

Cr's Cook, Jones and McNeill declared an interest in this item (see section 5). They remained in the chambers, participated in the discussion and voted on the item.

The Executive recommendation (as printed) was moved Cr Jones, seconded Cr Steck.

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

### **Outcome – Council Meeting 12 February 2013**

Pursuant to Standing Order 5.5 the recommendation (as printed) from the Council (Standing) Committee or Executive was moved Cr Leigh, seconded Cr Cook and adopted ('en bloc') to become the Council's decision on the matter.

**Council Decision 36/13**

***Council agrees to grant a new Deed of Lease to Bunbury-Harvey Regional Council over Lot 45 Stanley Road, Leschenault for use as a Landfill site for a period of five (5) years, subject to the terms and conditions as specified in the report, and the following:***

- 1. Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995.***

CARRIED

12 votes "for" / nil votes "against"



**10.4 Development Assessment Panels – Local Government Nominations** (was listed as item 10.3.1 on the meeting agenda)

<b>File Ref:</b>	A04208
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Thor Farnworth, Manager Sustainability and Integrated Land Use Planning
<b>Executive:</b>	Thor Farnworth, Acting Director Planning and Development Services
<b>Attachments:</b>	Appendix <a href="#">DPDS-1</a>

**Summary**

Under regulation 26 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, the City of Bunbury is requested by the Director General, Development Assessment Panels, to nominate four (4) elected members of the Council, comprising two (2) local government members and two (2) alternate local government members to sit on the local Development Assessment Panel (DAP) as and when required. Nominations are required to be put forward by no later than 15 February 2013, using the **attached** DAP Nomination Form (at Appendix [DPDS-1](#)).

It should be noted that nominations for the four (4) local governments DAP nominees must be supported by a curriculum vitae in addition to the following mandatory information of: name; address; email; mobile and land line telephone numbers; date of birth; employer(s); position(s).

The Mayor has indicated that he wishes to remain as a member of the DAP.

**Council Committee Recommendation**

That Council nominates the following four (4) Councillors as its nominees for local government members on the South West Joint Development Assessment Panel as determined accordingly:

- (a) Mayor David Smith (member);
- (b) Cr Murray Cook (member);
- (c) Cr Neville McNeill (alternate member); and
- (d) Cr Michelle Steck (alternate member).

**Background**

On 1 July 2011, fifteen DAPs came into operation in order to determine development applications that meet set type and value thresholds (e.g. is of a class prescribed under section 171A(2)(a) of the *Planning and Development Act 2005* and has an estimated cost of \$3 million or more but less than \$7 million for optional DAP applications, or \$7 million and greater for mandatory DAP applications).

Under the *Planning and Development Act 2005*, development applications of a prescribed class or kind must be determined by a DAP as if the DAP were the responsible authority under the relevant planning instrument, such as the local planning scheme or region planning scheme. Under the Act and associated DAP regulations, applications that meet the prescribed type and value thresholds cannot be determined by a local government or

the Western Australian Planning Commission (WAPC).

There are two different types of DAPs:

1. Local Development Assessment Panels (LDAPs), which serves only one local government within its boundary area, as it is deemed to be a high-growth local government with enough development to support its own DAP (i.e. the City of Perth is currently the only LDAP); and
2. Joint Development Assessment Panels (JDAPs), which service two or more local governments, of which there are 14 JDAPs in Western Australia.

The South West JDAP covers the following local government areas:

- Augusta-Margaret River
- Boyup Brook
- Bridgetown-Greenbushes
- Bunbury
- Busselton
- Capel
- Collie
- Dardanup
- Donnybrook-Balingup
- Harvey
- Manjimup
- Nannup.

Each DAP comprise five members: three (3) specialist members, one of which is the presiding member, and two (2) local government members. The role of DAP members is to determine development applications through consistent, accountable, and professional decision-making. Presently, the City of Bunbury's local government members are:

- (a) Mayor David Smith (Member);
- (b) Cr Stephen Craddock (Member);
- (c) Cr Karen Steele (Alternate Member); and
- (d) Cr Judith Jones (Alternate Member).

The Director General of DAPs has advised the City of Bunbury in correspondence received on 14 January 2013, that appointments of all local government DAP members expire on 26 April 2013. Members whose term has expired will be eligible for re-consideration at this time.

An expression of interest for DAP specialist members was advertised in the West Australian on 8 and 12 December, 2012 and in regional newspapers in the week commencing 10 December 2012. Nominations for specialist members closed on Friday 25 January, 2013. Nominations for local government members will close on Friday 15 February, 2013.

Following receipt of all local government nominations, the Minister for Planning will consider and appoint all nominees for up to a two (2) year term, expiring on 26 April 2015. All appointed local members will be placed on the local government member register and advised of DAP training dates and times. It is a mandatory requirement, pursuant to the DAP regulations, that all DAP members attend training before they can sit on a DAP and determine applications. Local government representatives who have previously been appointed to a DAP and have received training are not required to attend further training.

Local government elections may result in a change to local DAP membership if current councillors, who are DAP members, are not re-elected. In this instance, the alternate local DAP members will take the place of the former local DAP members. If both local and alternative local members are not re-elected, the local government will need to re-nominate for the Minister's consideration of appointment.

Local DAP members are entitled to be paid for their attendance at DAP training and at DAP meetings, unless they fall within a class of persons excluded from payment.

Members who are not entitled to payment of sitting, training and State Administrative Tribunal attendance fees include Federal, State and local government employees, active or retired judicial officers and employees of public institutions. These DAP members are not entitled to be paid without the Minister's consent, and such consent can only be given with the prior approval of Cabinet. This position is in accordance with Premier's Circular – State Government Boards and Committees Circular (2010/02). Further information, including DAP location maps and the Premier's Circular, is available online at <http://daps.planning.wa.gov.au>

Local representation is vital to DAPS. If no nominations are received by 28 March, 2013, regulation 26 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, enables the Director General to include on the local government register a person who is an eligible voter of your local government district and who has relevant knowledge or experience that will enable that person to represent the interest of the local community of your district.

#### **Council Policy Compliance**

Not applicable.

#### **Legislative Compliance**

The nomination of local government members to the South West JDAP is in accordance with the *Planning and Development Act 2005* and associated *Planning and Development (Development Assessment Panels) Regulations 2011*.

#### **Officer Comments**

Not applicable.

#### **Analysis of Financial and Budget Implications**

Not applicable.

#### **Community Consultation**

Not applicable.

#### **Councillor/Officer Consultation**

Not applicable.

**Outcome – Council Committee Meeting 5 February 2013**

The Executive recommendation (as printed) was moved Cr Leigh, seconded Kelly with the addition of the following names:

“Cr Murray Cook (member), Cr Neville McNeill (alternate member) and Cr Michelle Steck (alternate member)”.

The Mayor put the motion (as amended) to the vote and was adopted to become the Committee’s recommendation on the matter.

**Outcome – Council Meeting 12 February 2013**

Pursuant to Standing Order 5.5 the recommendation (as printed) from the Council (Standing) Committee or Executive was moved Cr Leigh, seconded Cr Cook and adopted (‘en bloc’) to become the Council’s decision on the matter.

**Council Decision 37/13**

***That Council nominates the following four (4) Councillors as its nominees for local government members on the South West Joint Development Assessment Panel as determined accordingly:***

- (a) Mayor David Smith (member);***
- (b) Cr Murray Cook (member);***
- (c) Cr Neville McNeill (alternate member); and***
- (d) Cr Michelle Steck (alternate member).***

CARRIED

12 votes “for” / nil votes “against”

**10.5 Access Road to Lot 9 Bunbury Outer Ring Road Stage 1** (was listed as item 10.3.2 on the meeting agenda)

<b>File Ref:</b>	A05498, DOC/151349
<b>Applicant/Proponent:</b>	Main Roads Western Australia South West
<b>Author:</b>	Damien Morgan, Development Engineer
<b>Executive:</b>	Thor Farnworth, Acting Director Planning and Development Services
<b>Attachments:</b>	Appendix <a href="#">DPDS-2</a> , <a href="#">DPDS-3</a>

**Summary**

Main Roads Western Australia (MRWA) has requested Council endorse the creation of a road reserve to provide legal access to a property impacted by the creation of the Bunbury Outer Ring Road.

**Council Committee Recommendation**

Council resolves to:

1. Pursuant to section 56 of the Land Administration Act (1997) endorses the creation of the road reserve as shown on Main Roads Western Australia's drawing number 201002-0545-1.
2. Endorse the application of the Council seal to the Main Roads Western Australia's drawing number 201002-0545-1.
3. Endorse the undertaking by Main Roads Western Australia that they will be responsible for the maintenance of the road reserve until an access road to the satisfaction of the City of Bunbury is constructed as part of the future proposed development plan for the area.

**Background**

The MRWA Bunbury Outer Ring Road (stage 1) project has required new legal access for Lot 9 South West Highway (North Boyanup Road) to be created, as this road is planned as a freeway with no property accesses.

MRWA has received formal agreement from the owners of former Lot 50 South West Highway for the creation of a road reserve on their land to service Lot 9; which is generally consistent with likely future development proposals for the area. A copy of the MRWA drawing showing the proposed road reserve alignment is **attached** at Appendix [DPDS-2](#).

To satisfy statutory requirements for the creation of the road reserve, MRWA requires Council endorsement for the dedication of this road.

Staff had expressed concerns to MRWA as to which authority would be responsible for the maintenance of the proposed limestone access road to service Lot 9. MRWA has agreed to accept maintenance responsibility for the access road in the interim period, until the road is constructed as part of the industrial subdivision development, to the satisfaction of the City of Bunbury. A copy of the letter from MRWA for the agreement is **attached** at Appendix [DPDS-3](#).

### **Council Policy Compliance**

Not applicable.

### **Legislative Compliance**

Section 56 of the Land Administration Act (1997).

### **Officer Comments**

The delivery of the Bunbury Outer Ring Road (stage 1) and Port Access Road (stage 2) is an important transport development for the City and the Greater Bunbury Region. They will improve access to the Bunbury Port, and remove a significant number of heavy vehicles from Robertson Drive, Picton-Boyanup Road, South West Highway and the Eelup Rotary.

The creation of the road reserve ensures the protection of the Bunbury Outer Ring Road as a freeway with no property access.

MRWA agreement also ensures the City has no maintenance responsibilities for this road until the industrial subdivision is developed.

### **Analysis of Financial and Budget Implications**

There are no financial implications for the City of Bunbury.

### **Community Consultation**

MRWA has done all negotiations with the impacted land owners.

### **Councillor/Officer Consultation**

Not applicable.

### **Outcome – Council Committee Member 5 February 2013**

The Executive recommendation (as printed) was moved Cr Jones, seconded Cr Cook.

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

### **Outcome – Council Meeting 12 February 2013**

Pursuant to Standing Order 5.5 the recommendation (as printed) from the Council (Standing) Committee or Executive was moved Cr Leigh, seconded Cr Cook and adopted ('en bloc') to become the Council's decision on the matter.

### **Council Decision 38/13**

#### ***Council resolves to:***

- 1. Pursuant to section 56 of the Land Administration Act (1997) endorses the creation of the road reserve as shown on Main Roads Western Australia's drawing number 201002-0545-1.***

- 2. Endorse the application of the Council seal to the Main Roads Western Australia's drawing number 201002-0545-1.**
- 3. Endorse the undertaking by Main Roads Western Australia that they will be responsible for the maintenance of the road reserve until an access road to the satisfaction of the City of Bunbury is constructed as part of the future proposed development plan for the area.**

CARRIED

12 votes "for" / nil votes "against"

**10.6 Hosting the 2014 National Sister Cities Conference** (was listed as item 10.1.1 on the meeting agenda)

<b>File Ref:</b>	A05259
<b>Applicant/Proponent:</b>	Committee Report
<b>Author:</b>	Jenni Brown, Administration Officer Setagaya
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Appendix <a href="#">ADV-1</a> , <a href="#">ADV-2</a>

**Summary**

That the City of Bunbury formally submit a nomination to Sister Cities Australia to host the Sister Cities Australia 2014 Annual Conference.

**Council Committee Recommendation**

That, the City of Bunbury formally submits a nomination to Sister Cities Australia to host the Sister Cities Australia 2014 Annual Conference.

**Background**

On return from the Sister Cities Australia 2012 Annual Conference, it was agreed by the Bunbury participants that this was an event with great opportunity for the City of Bunbury to host, which the City of Bunbury would be capable of hosting. Bunbury, jointly with Busselton, hosted the Sister Cities Australia conference in 2001, and subsequently, this event has not been held in Western Australia since. We have in principle support from the Shire of Broome, the City of Belmont, the City of Fremantle and the City of Busselton to host this event in Bunbury.

Participant numbers are down from 2001, and we would look at approximately 70 delegates attending, inclusive of the youth component from all over Australia with additional 5% international visitors.

**Council Policy Compliance**

Not Applicable

**Legislative Compliance**

Not Applicable

**Officer Comments**

Hosting this event is the ideal opportunity to showcase the City of Bunbury and our two (2) sister city relationships, Setagaya and Jiaying to more than 70 delegates from Australia and worldwide. The City of Bunbury currently has the expertise within the staffing structure to host this exciting conference, which is sure to be a success.

A major component of this event will be to combine with the City of Bunbury tourism team to put together a range of tourism experiences for delegates to enjoy while in Bunbury. This includes conference packages encouraging delegates to participate in pre/post touring and will value add to the overall conference.



The tourism team work with 109 tourism members, who we would want to involve in this event.

The Bunbury Setagaya Sister Cities Committee have shown full support for hosting this event, and have indicated that they will volunteer their help and assistance wherever possible to make this event a success.

The Bunbury Setagaya Sister Cities Committee first term of reference is “to publicise and educate the Bunbury community on its Sister City relationship with the City of Setagaya through active promotional programs and liaison with community, educational and commercial organisations.” Hosting the Sister Cities Australia Conference would meet this objective by actively promoting our Sister City relationship with Setagaya to the residents, schools and businesses in Bunbury. In addition there will be a range of sponsorship opportunities for businesses, school contributions and attendees at the Youth Conference and general media recognition within the community.

If the City of Bunbury is successful with the bid, a formal invitation will be sent to the Mayors of Setagaya and Jiaxing to encourage delegate attendance and participation in our event. The invitation will include the tourism packages available.

Registration fees for the Sister Cities Australia 2012 Annual Conference were:

SCA Members	Early Bird Registration	\$800
	Standard Registration	\$900
Accompanying Member		\$300
Non Members	Early Bird Registration	\$900
	Standard Registration	\$990
Youth Fees		\$300

Individual day registrations were also available

Accommodation was payable on top of the registration fee.

Please note the tourism team will assist in developing conference rates/packages for delegates.

Should the City of Bunbury be successful, grant opportunities will commence immediately through sources such as Events Corp, Royalties of Regions, South West Development Commission and other cultural grants to assist with the delivery of this event.

Should the City of Bunbury be successful in the bidding process, the conference proposed dates 12 to 14 November 2014, being a 3 day conference.

### **Analysis of Financial and Budget Implications**

This project (PR-3177) has been input into Sycle for the 2013/14 budget deliberations.

Internal staff costs will be absorbed and external costs will be budgeted for in 2014/15. A copy of the estimated budget for the project is **attached** at Appendix [ADV-1](#).

A copy of the Sister Cities Australia 2012 Annual Conference Income and Expenditure is **attached** at Appendix [ADV-2](#). The Devonport City Council estimated \$160,000 was injected directly into the region through each conference delegate spending \$2,000 during their visit.

### **Community Consultation**

Not Applicable

**Councillor/Officer Consultation**

Not Applicable

**Outcome – Council Committee Meeting 5 February 2013**

The recommendation (as printed) from the Advisory Committee was moved Cr McNeill, seconded Cr Slater.

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

**Outcome – Council meeting 12 February 2013**

The Council Committee recommendation (as printed) was moved Deputy Mayor Cr Craddock, seconded Cr Leigh with the following amendment:

Add a point B *“That Council notes that as per the budget submitted the conference is expected to be held at no net cost to Council.”* The existing recommendation will become point A.

The Mayor put the motion (as amended) to the vote and was adopted to become the Council's decision on the matter.

**Council Decision 39/13**

- A. *That, the City of Bunbury formally submits a nomination to Sister Cities Australia to host the Sister Cities Australia 2014 Annual Conference.***
- B. *That Council notes that as per the budget submitted the conference is expected to be held at no net cost to Council.***

CARRIED

12 votes “for” / nil votes “against”

**10.7 Use of the Paisley Centre for the Bunbury Museum** (was listed as item 10.4.1 on the meeting agenda)

<b>File Ref:</b>	
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Andrew Brien, Chief Executive Officer
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Nil

**Summary**

The Council resolved to support the development of the Bunbury Museum in the Paisley Centre at the Council Meeting held on 28 August 2012.

In undertaking additional research into the Centre, it was identified that the Council has occupied the Centre on a long term lease arrangement which was considered to be inappropriate for the long term development of the Museum. This report provides an overview of the process for the Council to acquire the Centre.

**Executive Recommendation**

That:

1. The CEO be authorised to negotiate the acquisition of Paisley Centre from the State Government for use as a community building, primarily for use as housing the Bunbury Museum.
2. A final report is brought back to Council prior to signing any contracts

**Background**

On the 28 August 2012, Council resolved the following:

*“Council Decision 269/12*

*Since the Museum Advisory Committee submitted their recommendation to Council, the City has received advice from the owner of the Bill Brown building (former Lyric Theatre) that it is has been leased to another party. This means it is no longer available for consideration as a possible Museum site. Consequently, the Executive Leadership Team wish to offer Council the following alternative recommendation to consider. This aligns with the intent of the Committee's recommendation to consider the Paisley Centre as the Bill Brown building (former Lyric Theatre) is not a possibility.*

1. *That Council reiterates its commitment to establishing a Bunbury Museum;*
2. *That Council endorse the Paisley Centre as the site for the Bunbury Museum;*
3. *That Council endorses that the Museum Curator commence development of the Museum Collection, exhibitions and public programs in September 2012 prior to and in preparation for the opening of the Bunbury Museum in the Paisley Centre;*
4. *That the Museum Curator pursues external funding and support (through grants, bequests etc.) where available to support the establishment and ongoing development of the Bunbury Museum; and*
5. *That the analysis of the financial and budget implications for the Paisley Centre be included.*

## Council Policy Compliance

Not applicable

## Legislative Compliance

Section 75 of the Land Administration Act provides for the Minister to transfer land and buildings in accordance with the following:

### 75. *Transfer of Crown land in fee simple subject to conditions*

- (1) The Minister may transfer Crown land in fee simple subject to such conditions concerning the use of the land (the **specified use**) as the Minister determines.
- (2) For the purposes of this section and of section 76, the unimproved value of conditional tenure land must be calculated as if the use of the land were not subject to any conditions.
- (3) The fee simple of conditional tenure land may be transferred under subsection (1) for a nominal price or a discounted price because of the community benefit to be provided by the proposed development of the conditional tenure land for the specified use.
- (4) When conditional tenure land is used in breach of any condition concerning the specified use –
  - (a) the conditional tenure land is liable to be forfeited under section 35; and
  - (b) the Minister may recover from the holder of the freehold in the conditional tenure land –
    - (i) if the fee simple in the conditional tenure land was transferred under subsection(1) for a nominal price, an amount equal to the unimproved value of the conditional tenure land at the time of that recovery; or
    - (ii) if the fee simple in the conditional tenure land was transferred under subsection(1) for a discounted price
- (5) Neither the fee simple, nor any other estate or interest, in conditional tenure land can be transferred without the written permission of the Minister, which may be given subject to conditions.
- (6) Conditional tenure land cannot become the subject of any licence, mortgage, charge, security or other encumbrance without the written permission of the Minister, which may be given subject to conditions.
- (7) The Minister may by order, on the application of the holder of the freehold in conditional tenure land accompanied, subject to subsection (7a), by payment to the Minister of the relevant amount referred to in subsection (4)(b)(i) or (ii), cancel the conditions to which the use of the conditional tenure land is subject.
- (7a) The Minister may in prescribed circumstances, with the prior approval of the Treasurer, waive in whole or part the payment of the relevant amount referred to in subsection (4)(b)(i) or (ii), subject to such conditions as the Minister determines.
- (8) The rule against perpetuities does not apply to conditions referred to in subsection (1).

## CEO Comments

In accordance with the provisions of the Land Administration Act 1997 there is the ability for the State to transfer land and buildings to Council at a nominal amount subject to

appropriate conditions. In the case of the Paisley Centre it would be appropriate for the building to be acquired with conditions to ensure that it is only used as a museum or other defined community use.

Preliminary discussions have already occurred with the staff from the Department of Regional Development and Lands in relation to this matter, however prior to proceeding with the acquisition there is a need to get a formal position of Council.

### **Analysis of Financial and Budget Implications**

To be determined based on negotiations with the State Government

### **Community Consultation**

Not applicable

### **Councillor/Officer Consultation**

Not applicable

### **Outcome – Council Meeting 12 February 2013**

The Executive recommendation (as printed) was moved Cr Slater, seconded Cr Cook.

Cr Jones moved Cr Steck seconded the following amendment:

Remove the words “... primarily for use as housing the Bunbury Museum” from point 1.

The Mayor put the amendment to the vote and was LOST 1 vote “for” / 11 votes “against”. It was requested that the votes be recorded as follows:

For: Cr Jones

Against: Mayor D Smith, Deputy Mayor Cr Craddock, Cr Prosser, Cr Leigh, Cr Steck, Cr Slater, Cr Steele, Cr Kelly, Cr McNeill, Cr Cook, Cr Morris.

The Mayor put the motion to the vote and was adopted to become the Council’s decision on the matter.

### **Council Decision 40/13**

#### ***That:***

- 1. The CEO be authorised to negotiate the acquisition of Paisley Centre from the State Government for use as a community building, primarily for use as housing the Bunbury Museum.***
- 2. A final report is bought back to Council prior to signing any contracts.***

CARRIED

10 votes “for” / 2 votes “against”

It was requested that the votes be recorded as follows:

For: Mayor D Smith, Deputy Mayor Cr Craddock, Cr Prosser, Cr Leigh, Cr Slater, Cr Steele, Cr Kelly, Cr McNeill, Cr Cook, Cr Morris.

Against: Cr Jones, Cr Steck

**10.8 College Grove Joint Venture Draft Documents** (was listed as item 10.4.2 on the meeting agenda)

<b>File Ref:</b>	
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Andrew Brien, Chief Executive Officer
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Confidential Report <a href="#">CRUSC-4</a>

**Summary**

At the Council meeting of 20 November 2012 the Council resolved as follows:

*“Council Decision 357/12*

- 1) *That Council provide in-principle support for the termination of the current Joint Venture Agreement and the finalisation of a new Joint Venture Agreement between the City and Department of Regional Development and Lands (RDL) generally in accordance with the following drafts;*
  - a) *Termination Agreement dated 3 December 2012*
  - b) *Joint Venture Agreement dated 3 December 2012*
- 2) *That the Chief Executive Officer be authorised to progress the final drafting of the two (2) Agreements following advice from Council solicitors;*
- 3) *That the Department of Regional Development and Lands and Landcorp be advised of Council's decision.”*

This report provides an update on the actioning of the resolution of the Council and seeks approval for the finalisation of the Joint Venture and development of a new Joint Venture.

**Executive Recommendation**

That Council:

1. Notes that the review of the two (2) draft documents has been undertaken by Council's solicitors with a number of minor amendments suggested which do not impact upon the previous decision and that the two (2) documents are still in accordance with the previous in-principle support; and
2. Delegates authority to the Chief Executive Officer to finalise the documents once final drafting has been completed, subject to their being no material changes to the drafts.

**Background**

Council Resolution 357/12 (above) provided in-principle support for the termination of the College Grove Joint Venture between Council, the Department of Regional Development and Lands (RDL) and Landcorp.

This arrangement was developed following extensive consultation between the parties over an extended period of time. Whilst the initial intent was for Council to enter into a new Joint Venture with the other two (2) parties, negotiations reached a point at which time Landcorp decided it was in their interests and that of the Joint Venture to terminate their involvement.

This decision was supported through the in-principle support provided on the previous draft documents.

The complications for the Joint Venture arose as a result of the proposed land swap as part compensation for the future loss of development at College Grove. As Council is aware there are a number of freehold lots which are to be transferred to Council as part compensation for the loss of development and the arrangements contained in both the termination deed and the new Joint Venture document adequately address the conditions of the agreement provided by Minister Grylls in his correspondence from July and December 2011.

Copies of the draft documents were provided to Councils solicitors in December following the Council resolution, and these have since been reviewed and amended to reflect the changes identified. These draft changes have also been discussed with officers at RDL and subject to final review by Landcorp. They are now ready to proceed to the signing stage.

Copies of the confidential redlined versions are **attached** at [CRUSC-4](#).

Once a final agreement has been reached on the draft documents, Landcorp will arrange for a final set of audited statements to be provided to the Joint Venture partners for review. This will include all costs associated with the development of the land at College Grove for which Landcorp have been involved.

#### **Council Policy Compliance**

Not applicable

#### **Legislative Compliance**

Not applicable

#### **Officer Comments**

A separate confidential memorandum was distributed to elected members on 16 November 2012 which provided background to the Joint Venture and the proposal to finalise the matter. I have attended meetings with Council's solicitors and also with officers from RDL to progress the review of the draft documents which have now been provided for further consideration of Councillors.

#### **Analysis of Financial and Budget Implications**

Whilst there has been significant discussion around the costs associated with the loss of development on the Joint Venture site, these matters were agreed to by the Council in accepting the proposal outlined by Minister Grylls in his letter of 15 July 2011, and further clarified in his letter of 15 December 2011.

All additional costs associated with the finalisation of the current and the new Agreement being drafted will need to be met by the individual parties respectively.

Council will need to consider contributing funds to the Joint Venture to enable planning and development of identified lands in the 2013/14 and subsequent year's budgets. This could be sourced from the sale of some of the land proposed as part of the land swap arrangements.

### **Community Consultation**

Not applicable

### **Councillor/Officer Consultation**

Council were last briefed in November 2012 when the draft documents were provided.

### **Outcome – Council Meeting 12 February 2013**

The Executive recommendation (as printed) was moved Cr Steck, seconded Cr Leigh.

Cr Kelly moved Cr Steele seconded procedural motion 11.1(b) that the “debate be adjourned” until a briefing can be made on the matter in order for Councillors to fully understand what land is affected.

The Mayor put the procedural motion to the vote and was LOST 6 votes “for” / 6 votes “against” – the Mayor used his casting vote “against” the motion.

The Mayor put the motion to the vote and was adopted to become the Council’s decision on the matter.

### **Council Decision 41/13**

#### ***That Council:***

- 1. Notes that the review of the two (2) draft documents has been undertaken by Council’s solicitors with a number of minor amendments suggested which do not impact upon the previous decision and that the two (2) documents are still in accordance with the previous in-principle support; and***
- 2. Delegates authority to the Chief Executive Officer to finalise the documents once final drafting has been completed, subject to their being no material changes to the drafts.***

CARRIED

8 votes “for” / 4 votes “against”

It was requested that the votes be recorded as follows:

For: Mayor D Smith, Deputy Mayor Cr Craddock, Cr Jones, Cr Prosser, Cr Leigh, Cr Steck, Cr McNeill, Cr Morris.

Against: Cr Kelly, Cr Steele, Cr Cook, Cr Slater



## 11. Applications for Leave of Absence

Nil

## 12. Motions on Notice

### 12.1 Motion on Notice – Support for Bunbury Marine Facilities Alliance Concept

<b>File Ref:</b>	
<b>Applicant/Proponent:</b>	Deputy Mayor Cr Stephen Craddock
<b>Author:</b>	Deputy Mayor Cr Stephen Craddock
<b>Executive:</b>	If adopted by Council refer to: Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Nil

Deputy Mayor Cr Craddock submitted the following motion for the Council Meeting on 12 February 2013:

*“That the City of Bunbury:*

- 1. Support the concept of developing a marine industry and supporting infrastructure as outlined by the Bunbury Marine Facilities Alliance;*
- 2. Support applications for state funding to assist in undertaking environmental assessments and engineering design work necessary to underpin Bunbury Marine Facilities Alliance initiatives; and,*
- 3. Identify appropriate opportunities to include marine infrastructure initiatives in Council’s strategic planning.”*

#### **Comments – Deputy Mayor Cr Craddock’s**

In support of his motion, Deputy Mayor Cr Craddock states that, *“The Bunbury Marine Facilities Alliance presented their concept initiatives to Council at the Council (Standing) Committee meeting held 5 February 2013. They have requested that the Council formalise their support in time for their launch on 18 February 2013.”*

#### **Executive Comments**

Not available at the time of preparing the agenda.

#### **Deputy Mayor Cr Craddock’s Motion**

That the City of Bunbury:

1. Support the concept of developing a marine industry and supporting infrastructure as outlined by the Bunbury Marine Facilities Alliance;
2. Support applications for state funding to assist in undertaking environmental assessments and engineering design work necessary to underpin Bunbury Marine Facilities Alliance initiatives; and
3. Identify appropriate opportunities to include marine infrastructure initiatives in Council’s strategic planning.

### **Outcome – Council Meeting 12 February 2013**

The Motion on Notice (as printed) was moved Deputy Mayor Cr Craddock, seconded Cr Steck to become the motion under discussion.

It was requested that the votes be taken in separate parts.

The Mayor put the motion to the votes in separate parts. The results of which formed the Council's decision on the matter:

- Point 1: 11 votes "for" / 1 vote "against" CARRIED
- Point 2: 10 votes "for" / 2 votes "against" CARRIED. It was requested that the votes be recorded as follows:  
For: Mayor D Smith, Deputy Mayor Cr Craddock, Cr Jones, Cr Prosser, Cr Steck, Cr Steele, Cr Kelly, Cr McNeill, Cr Cook, Cr Morris  
Against: Cr Leigh, Cr Slater
- Point 3: 10 votes "for" / 2 votes "against" CARRIED. It was requested that the votes be recorded as follows:  
For: Mayor D Smith, Deputy Mayor Cr Craddock, Cr Jones, Cr Prosser, Cr Steck, Cr Steele, Cr Kelly, Cr McNeill, Cr Cook, Cr Morris  
Against: Cr Leigh, Cr Slater

#### **Council Decision 42/13**

##### ***That the City of Bunbury:***

- 1. Support the concept of developing a marine industry and supporting infrastructure as outlined by the Bunbury Marine Facilities Alliance;***
- 2. Support applications for state funding to assist in undertaking environmental assessments and engineering design work necessary to underpin Bunbury Marine Facilities Alliance initiatives; and***
- 3. Identify appropriate opportunities to include marine infrastructure initiatives in Council's strategic planning.***

### **13. Questions on Notice**

#### **13.1 *Response to Previous Questions from Members taken on Notice***

Nil

#### **13.2 *Questions from Members***

Nil

### **14. New Business of an Urgent Nature Introduced by Decision of the Meeting**

Nil

## 15. Meeting Closed to Public

Cr Cook had left the chambers at 7.50pm and was not present on the voting for the meeting to go behind closed doors.

Pursuant to Standing Order 6.2 of the City of Bunbury Standing Orders, Cr Leigh moved, Cr Steele seconded that *“the meeting exclude members of the public and press to permit Confidential Business (as defined by the Local Government Act 1995) to be discussed”*.

The Mayor put the motion to the vote and was CARRIED 11 votes “for” / nil votes “against”. The meeting was closed to the public and press at 7.51pm.

The Mayor adjourned the meeting at 7.52pm. The meeting reconvened at 7.55pm behind closed doors. Cr Cook had returned to the chambers at 7.54pm. At the time of reconvening the meeting Cr Jones, Cr Steck and Cr Slater had not returned to the chambers and were not present for the voting on item 15.1.1.

### 15.1 Matters for which the Meeting may be Closed

#### 15.1.1 Tender – Road Resealing 2012/2013 RFT 1213 00021

<b>File Ref:</b>	
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Mark Robson, Manager, Contracts and Property
<b>Director:</b>	Phil Harris, Director, Works and Services
<b>Attachments:</b>	Confidential Report <a href="#">CRUSC-1</a>

#### Summary

The City of Bunbury has advertised for, and requested Tender Submissions from, suitably qualified and experienced Contractors in order to attend to the annual road resealing program.

#### **Council Committee Recommendation**

Council accepts the tendered Lump Sum Fee submitted by Malatesta Road Paving & Hot Mix in order to attend to the resealing works, and awards the Contract to them.

#### **Background**

This tender was advertised in the “West Australian”, as well as in the “Bunbury South Western Times” newspapers, on 12 and 13 of December 2012 respectively.

Electronic Tender Responses closed at 2:00pm on Friday, 4 January 2013. The Senior Contracts and Procurement Officer and the Senior Property Officer opened the electronic tender box.

The documentation was made available via [www.tenderlink.com/bunbury/](http://www.tenderlink.com/bunbury/). A total of four hundred and twenty two (422) tenderlink alerts were released, nine (9) companies

downloaded the documentation, and at closing, three (3) electronic responses were received from:

1. Malatesta Road Paving & Hot Mix, of Lot 2, South Western Highway, Bunbury, WA 6230;
2. Roadtech Constructions Pty Ltd, of Unit 2, 7A Peel Street, Mandurah, WA 6210;
3. Fulton Hogan Industries Pty Ltd, of Lot 6, Harris Road, Picton, WA 6229.

An evaluation panel comprising of the City's Manager – Civil and Open Space; the Works Coordinator; and the Engineering Technical Officer, assessed the tender responses.

The tenders were evaluated using the following criteria:

- Compliance Criteria
- Qualitative Criteria
- Price

#### Compliance Criteria

The following compliance criteria were used to assess the tenders:

- a) Conflicts of Interest in the performance of their obligations under the contract;
- b) Financial Position, they're presently able to pay all their debts in full as and when they fall due, and being able to fulfil the Requirements from their own resources or from resources readily available to them; and
- c) Insurance Coverage as required in terms of the Request for Tender.

#### Qualitative Criteria

The following Qualitative Criteria were used to assess the tenders:

- a) The Standard of the tender submission;
- b) The Quality Systems of the organization;
- c) The Respondents Understanding of the Requirements; and
- d) The Respondents Demonstrated Experience and previous works in completing similar requirements.

#### Price

Evaluation of the tender prices (and ranking) has been assessed but because the results are "commercial in confidence" details are listed in a Confidential Report ([CRUSC-1](#)) that has been circulated to members **under separate cover**.

### **Strategic and/or Regional Outcomes**

Acceptance of the Executive recommendation listed in this report is consistent with the City of Bunbury Strategic Plan 2007-2012, in continuing to maintain and service its assets and infrastructure.

### **Analysis of Financial and Budget Implications**

Adequate funding for the six road resealing projects has been provided in the 2012-2013 Annual Budget and is identified in Sytle as:

- PR -1085;
- PR -1077;
- PR -1080;

- PR -1081;
- PR -1093; and
- PR -1362.

The tendered sum submitted by the recommended Contractor is within the available budget.

### **Confidentiality and Impartiality Agreement**

All members of the evaluation panel have signed a confidentiality and impartiality agreement.

### **Council Policy Compliance**

The tender process complies with the requirements of the City's Work Procedure WP4.12 "Tender Procedure and Associated Legislation."

Council's "DCS 9 Purchasing - Local Preference Policy" was applied during evaluation of the tenders but has not affected the outcome.

### **Legislative Compliance**

Advertising and processing of tenders was conducted in accordance with the Local Government (Function and General) Regulations 1996, Part 4 "Tenders for Providing Goods or Services".

### **Delegation of Authority**

This tender has been dealt with in accordance with Local Government (Functions and General) Regulations 1996 (Part 4 - Tenders for Providing Goods or Services).

### **Relevant Precedents**

Council has dealt with all tenders previously called.

### **Outcome – Council Committee Meeting 5 February 2013**

The Executive recommendation (as printed) was moved Cr Steck, seconded Cr Jones.

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

### **Outcome – Council Meeting 12 February 2013**

The Council Committee recommendation (as printed) was moved Cr Steele, seconded Cr Leigh.

The Mayor put the motion to the vote and was adopted to become the Council's decision on the matter.

### **Council Decision 43/13**

***Council accepts the tendered Lump Sum Fee submitted by Malatesta Road Paving & Hot Mix in order to attend to the resealing works, and awards the Contract to them.***

CARRIED 9 votes “for” / nil votes “against”
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Cr Slater returned to the meeting at 7.56pm and was present for the discussion and vote on the remaining items on the agenda.

The Mayor had declared an interest in the two remaining items (15.1.2 and 15.1.3) on the agenda (see section 5). He left the chambers at 7.56pm and was not present for the discussion or vote on the items. Deputy Mayor Cr Craddock presided over the meeting in the Mayor’s absence.

Cr Steck and Cr Jones returned at 7.57pm and were present for the discussion and vote on the remaining items on the agenda.

### 15.1.2 Confidential – Proposed Discussions with Bunbury Regional Arts Management Board

<b>File Ref:</b>	A04597
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Andrew Brien, Chief Executive Officer
<b>Executive:</b>	Stephanie Addison Brown, Director Community and Customer Services
<b>Attachments:</b>	Confidential Report <a href="#">CRUSC-2</a>

A confidential report and recommendation has been circulated to members **under separate cover** (Confidential Report [CRUSC-2](#))

#### **Outcome – Council Committee Meeting 5 February 2013**

As this item has been listed as strictly confidential the minutes of this item have been recorded under confidentiality and any recommendations from the Committee will remain confidential until the Ordinary Council meeting on 12 February 2013 when the Council makes its decision in regards to this matter.

#### **Outcome – Council Meeting 12 February 2013**

The Council committee recommendation was moved Cr Morris, seconded Cr McNeill.

The Deputy Mayor put the motion to the vote and was adopted to become the Council's decision on the matter.

#### **Council Decision 44/13**

##### ***That Council:***

- 1. Agree to provide a copy of Mr Alexander's report under a signed confidentiality agreement to BRAMB members and Councillors to enable dialogue between the City and the Board on matters relating to the operation of Bunbury Regional Art Galleries (BRAG) and the Bunbury Regional Arts Management Board (BRAMB).***
- 2. All BRAG employees including the Galleries Director are excluded from discussions to ensure impartiality and probity of process; the report is to remain confidential.***
- 3. The City and BRAMB members meet to discuss the way forward in respect to the recommendation by 28 February 2013.***
- 4. The Executive return a recommendation to Council Committee on 19 March 2013.***

CARRIED

10 votes "for" / 1 vote "against"



### 15.1.3 Appointments to Bunbury Regional Arts Management Board

<b>File Ref:</b>	A00168-10
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Andrew Brien, Chief Executive Officer
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Confidential Report <a href="#">CRUSC-3</a>

A confidential report and recommendation has been circulated to members **under separate cover** (Confidential Report [CRUSC-3](#)).

#### **Outcome – Council Committee Meeting 5 February 2013**

As this item has been listed as strictly confidential the minutes of this item have been recorded under confidentiality and any recommendations from the Committee will remain confidential until the Ordinary Council meeting on 12 February 2013 when the Council makes its decision in regards to this matter.

#### **Outcome – Council Meeting 12 February 2013**

The Council Committee recommendation was moved Cr Morris, seconded Cr McNeill.

The Deputy Mayor put the motion to the vote and was adopted to become the Council's decision on the matter.

#### **Council Decision 45/13**

***Council requests that BRAMB provide a full report on all the applicants along with the rationale for their decisions based on selection criteria in the advertisement to fill the existing vacancies.***

CARRIED  
7 votes "for" / 4 votes "against"

It was requested that the votes be recorded as follows:

For: Cr Jones, Cr Prosser, Cr Steck, Cr Steele, Cr Kelly, Cr McNeill, Cr Morris  
Against: Deputy Mayor Cr Craddock, Cr Leigh, Cr Slater, Cr Cook

### **15.2 Public Reading of Resolutions that may be made Public**

The Mayor returned to the chambers at 8.19pm and presided over the remainder of the meeting.

Cr Cook moved Deputy Mayor Cr Craddock seconded that the meeting be reopened to the public. The Mayor put the procedural motion to the vote and was CARRIED 12 votes “for” / nil votes “against”. The meeting was reopened at 8.20pm.

The Chief Executive Officer read out the resolutions that were made behind closed doors.

### **16. Closure**

The meeting was declared closed at 8.22pm.