



## Bunbury City Council

### Notice of Meeting and Agenda 17 September 2013

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**CITY OF BUNBURY**  
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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
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")
LAP	Local Action Plan

## GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
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 Notice of Meeting

TO: Council Committee Members

The next Ordinary Meeting of the Bunbury City Council will be held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, **17 September 2013** at 6.00pm.

Phil Harris  
Acting Chief Executive Officer  
(Date of Issue: 12/09/2013)

### Agenda 17 September 2013

Note: The recommendations contained in this document are not final and are subject to adoption, amendment (or otherwise) at the meeting.

#### Council Members

His Worship the Mayor, Mr D Smith – Presiding Member  
Deputy Mayor Councillor Stephen Craddock  
Councillor Murray Cook  
Councillor Judy Jones  
Councillor Brendan Kelly  
Councillor Alfred Leigh  
Councillor Neville McNeill  
Councillor Sam Morris  
Councillor David Prosser  
Councillor Ross Slater  
Councillor Michelle Steck  
Councillor Karen Steele

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

## **2. Disclaimer**

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, AND WILL ALSO BE STREAMED LIVE VIA THE INTERNET TO THE PUBLIC.

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

## **4. Attendance**

### **4.1 *Apologies***

### **4.2 *Approved Leave of Absence***

## 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

At the Council (Standing) Committee meeting held Tuesday 10 September 2013 the following declarations were made. These declarations are relevant for the Council meeting.

Deputy Mayor Cr Craddock declared an impartiality interest in the item titled '*Educational Facility (Retrospective) Lot 16, 84 Strickland Street – TPS Training*' as the husband of the current owner of the site was his former brother-in-law. He will remain in chambers, participate in the discussion and vote on the matter.

Mayor David Smith declared an impartiality interest in the item titled '*Educational Facility (Retrospective) Lot 16, 84 Strickland Street – TPS Training*' as he is friends with Mrs Kampelli who is one of the objectors; friends of the current owners of the site and Tom Price (TPS Training) is a life member of the Marist Hockey club which the Mayor is a life member of as well. He will remain in chambers, participate in the discussion and vote on the matter. He announced that he will step down as Presiding Member of that item.

Cr Steck declared a proximity interest in the item titled '*Happy Wife Café Expansion and Parking Issues – Lot 4 (DP: 1540) No. 98 Stirling Street, Bunbury*' as her partner is an owner of the property adjacent this one. She will vacate the chambers, not participate in the discussion nor vote on the matter.

### **Any Further Declarations**



## **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 Public Question Time**

### **6.2 Responses to Public Questions Taken 'On Notice'**

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

### **7.1 *Minutes***

#### **7.1.1 Minutes – Ordinary Council Meeting**

The minutes of the Ordinary meeting of the Bunbury City Council held 27 August 2013 have been circulated.

#### **Recommendation**

The minutes of the Ordinary meeting of the Bunbury City Council held 27 August 2013 be confirmed as a true and accurate record.

### 7.1.2 Minutes – 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 MTBN-1, MTBN-2, MTBN-3, MTBN-4, MTBN-5

#### Summary

The following Advisory Committee Meetings were held and the minutes are presented for noting:

1. Title: Minutes – Heritage Advisory Group Meeting (12/06/2013)  
Author: Leigh Barrett, Heritage Officer  
Appendix: [MTBN-1](#)
2. Title: Minutes – Heritage Advisory Group Meeting (14/08/2013)  
Author: Leigh Barrett, Heritage Officer  
Appendix: [MTBN-2](#)
3. Title: Minutes – Bunbury Wildlife Park Committee Meeting (01/07/2013)  
Author: Kristina Knight, Manager Wildlife Park  
Appendix: [MTBN-3](#)
4. Title: Minutes – CBD Parking Strategy Committee Meeting (05/08/2013)  
Author: Neil Dyer, Team Leader Parking  
Appendix: [MTBN-4](#)
5. Title: Minutes – Bunbury Airport Advisory Committee Meeting (15/08/2013)  
Author: Nigel Archibald, Team Leader Airport and Design  
Appendix: [MTBN-5](#)

#### Council Committee Recommendation

The following Advisory Committee meeting minutes listed in the report be accepted and noted:

1. Heritage Advisory Group meeting 12 June 2013
2. Heritage Advisory Group meeting 14 August 2013
3. Bunbury Wildlife Park Committee meeting 1 July 2013
4. CBD Parking Strategy Committee meeting 5 August 2013
5. Bunbury Airport Advisory Committee meeting 15 August 2013

#### **Outcome – Council Committee Meeting 10 September 2013**

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

Cr Jones asked a question in relation to the quorum requirements for the Heritage Advisory Group. It is advised that the Heritage Advisory Group is not a Committee of Council and therefore does not provide recommendations to Council in the way that the Council

(Standing) Committee and other Advisory Committees do. Accordingly the quorum provisions do not apply under our Standing Orders, as they are only applicable to meetings of the "...Council, its Committees, and to meeting of electors" (reference Standing Order 1.3(1)).

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

## **8. Petitions, Presentations, Deputations and Delegations**

### **8.1 *Petitions***

Pursuant to clause 6.10(2) of the City of Bunbury Standing Orders 2012, upon receiving a petition, the Council is to

- a) Receive the petition and refer to the relevant officer for a report to be submitted within the next two (2) rounds of Council meetings; or
- b) Reject the petition

### **8.2 *Presentations***

### **8.3 *Deputations***

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

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

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

## 10. Reports and Recommendations

### 10.1 Recommendations from Advisory Committees

#### 10.1.1 City of Bunbury Art Collection Request for Valuation and Condition Assessment

<b>Applicant/Proponent:</b>	City of Bunbury Art Collection Committee
<b>Author:</b>	Stephanie Addison-Brown, Director Community Development
<b>Executive:</b>	Stephanie Addison-Brown, Director Community Development
<b>Attachments:</b>	Nil

#### Summary

At the City of Bunbury Art Collection Committee meeting of 12 August 2013 the following motion was passed:

*“The Committee requests Council to start the valuation of the collection, including the craft collection, as soon as possible as it has been more than 5 years since the last valuation. A condition report for each piece is to be included.”*

*Moved: Rosemary Nicholson*

*Seconded: Helena Sahn*

*CARRIED*

#### Council Committee Recommendation

That Council commence a valuation of the City of Bunbury’s art collection as soon as possible.

#### Background

The City of Bunbury Art Collection Management Committee was appointed by the Council on 27 November 2007 to provide guidance and recommendations to assist the Council in discharging its duties. The purpose of the Committee is to provide advice relating to the protection, acquisition, conservation, promotion and exhibitions from the City of Bunbury Art Collection for the people of the City of Bunbury.

Membership of the Committee is currently as follows:

#### Committee Members (voting)

##### *Councillor representatives:*

- Councillor Karen Steele
- Councillor Murray Cook

##### *Community representatives:*

- Tresslyn Smith (Chair)
- David Bailey
- Rosemary Nicholson
- Helena Sahn
- Pina Versace
- Amanda Doust

#### Ex-officio Members (non-voting)

- Curator of the Art Collection, City of Bunbury

- Director, Bunbury Regional Art Galleries
- Director of Community Development, City of Bunbury
- Manager Community, Culture and Engagement, City of Bunbury

The City's current collection comprises over 800 works, about a third of which are currently on display in the Bunbury Regional Art Galleries, Bunbury Council Chambers, City of Bunbury administration building, the City Library and St John of God Hospital in Bunbury.

The collection was last valued at in excess of \$2.5 million in 2004, although there have been several acquisitions and donations of new works since then and market values may have fluctuated over time. A new valuation of the collection would ensure that the City has adequate insurance cover.

The Committee noted that a condition assessment of key works would also be of value, as it would enable the City to register works in urgent need of restoration and to ensure that an appropriate valuation can be carried out. It was recognised that to undertake a condition assessment of the entire collection would be very costly but that an examination of certain key works would be of benefit. It was suggested that this could be undertaken for the most valuable and/or significant pieces.

It is anticipated that this valuation for insurance purposes will cost the City in the order of \$10,000.

### **Council Policy Compliance**

There is no Council Policy compliance applicable to this matter.

### **Financial and Budgetary Implications**

No money has been assigned in the 2013-14 budget to conduct a valuation of the City's art collection. Funds would need to be allocated in the October 2013 budget review for the valuation to occur this financial year.

### **Officer Comments**

The request to undertake a valuation of the City's Art Collection is the result of a motion carried at the City of Bunbury Art Collection Committee meeting of 12 August 2013.

During the meeting, the Committee discussed the fact that the last valuation of the City's art collection was in 2004 and members expressed the need for a new valuation to be undertaken soon as a matter of urgency.

A project (PR-3447) has been created for the purpose of funding a new valuation with an estimated cost of \$10,000. With Council's endorsement, this project will be listed for consideration as part of the October budget review.

Outcome – Council Committee Meeting 10 September 2013

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

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

### 10.1.2 Attendance at Sister Cities Australia 2013 National Conference

<b>Applicant/Proponent:</b>	Bunbury Setagaya Sister Cities Committee
<b>Author:</b>	Jenni Brown, Executive Officer Bunbury Setagaya Sister Cities Committee
<b>Executive:</b>	Stephanie Addison-Brown, Director Community Development
<b>Attachments:</b>	Nil

#### Summary

The City of Bunbury will be hosting the Sister Cities Australia 2014 Conference in November. To enable this to occur, a delegation from the City of Bunbury will need to attend the Sister Cities Australia 2013 Conference in Broken Hill in November 2013 to present to the conference and to meet with the conference committee.

The Bunbury Setagaya Sister City budget has funding allocated for 5 people to attend the 2013 conference in Broken Hill (3 adult representatives and 2 youth representatives). This report seeks Council's endorsement for the proposed delegation to attend this conference.

#### Council Committee Recommendation

That Council endorse the attendance of the following members from the Bunbury-Setagaya Sister Cities Committee at the Sister Cities Australia 2013 National Conference in Broken Hill as delegates representing the City of Bunbury:

1. Valda Smith, Community Committee Member
2. Jenni Brown, Executive Officer Bunbury-Setagaya Sister Cities Committee
3. Arron Craig, Community Committee Youth Member
4. Stephanie Addison-Brown, Director Community Development
5. Dee Smith, Team Leader Events, Tourism and Promotions

#### Background

In 2012, four (4) delegates from the City of Bunbury participated in the National Sister Cities Conference in Launceston, Tasmania, to conduct a feasibility study as to whether Bunbury could host a future National Sister Cities Conference. The four (4) delegates who attended were:

- Andrew Brien – CEO, City of Bunbury
- Jenni Brown – Executive Officer, Bunbury Setagaya Sister Cities Committee
- David Byatt – Committee member
- Pauline Vukelic – Committee member

After the conference, it was resolved that the conference was an event that the City of Bunbury and the Bunbury Setagaya Sister Cities Committee could undertake. An Expression of Interest to Sister Cities Australia to host the Conference in 2014 was submitted.

On 2 August 2013, the City of Bunbury received confirmation that our Expression of Interest to host the National Sister Cities Conference in 2014 was successful.

In the Bunbury Setagaya Sister Cities Committee budget, an amount has been put aside for five (5) delegates to attend. This budget will cover two (2) youth representatives (aged between 16 and 23) and three (3) adult representatives.



The delegation will be responsible for:

- presenting to the Conference on the proposal for the 2014 Conference in Bunbury
- network with all other attendees and encourage them to partake in the 2014 Conference;
- liaising with attendees on what they would like to see at the 2014 Conference;
- attending every day of the conference and as many workshops as possible to assess whether these are the kind of workshops we wish to hold next year in Bunbury;
- being an integral part of the working group who will coordinate and present the conference in 2014;
- assisting with the Bunbury display during the breaks.

### **Council Policy Compliance**

There is no Council Policy applicable to this matter.

### **Legislative Compliance**

There is no Legislative Compliance applicable to this matter.

### **Officer Comments**

In making their recommendation, the Bunbury Setagaya Sister Cities Committee recognise that this is a City of Bunbury event; however, it is being driven by the Bunbury Setagaya Sister Cities Committee. Without the Committee and without the City of Bunbury, Bunbury would not have the opportunity to host this event.

Two (2) presentations will be required to be given. The first will be to the conference participants showcasing Bunbury and the 2014 conference, the second being for the Nomination for our Award, the Christmas Carnival Lantern Festival. A display will be set up encouraging participants to attend the 2014 conference. During the breaks, this display will need to be staffed by the adult delegates.

Edwin (Chenxi Zhuang) from the Bunbury Jiaxing Business Office will be invited to attend the conference in Broken Hill. This will be at no cost to the City as he will be funding his own way.

Confirmation of early bird conference registration for the 2013 conference in Broken Hill will need to be lodged with the Broken Hill City Council by 13 September 2013.

### **Community Consultation**

Not Applicable

### **Councillor/Officer Consultation**

Not Applicable

### **Outcome – Council Committee Meeting 10 September 2013**

This item was discussed as confidential behind closed doors pursuant to section 5.23(2)(a) and (2)(b) of the Local Government Act 1995 as it contains *a matter affecting an employee or employees and the personal affairs of any person.*

The Council Committee felt that there should be senior staff representatives to the conference as the City of Bunbury will be showcased at the conference.

The following motion was moved Cr Steele, seconded Deputy Mayor Cr Craddock.

*“That Council endorse the attendance of the following members from the Bunbury-Setagaya Sister Cities Committee at the Sister Cities Australia 2013 National Conference in Broken Hill as delegates representing the City of Bunbury:*

1. *Valda Smith, Community Committee Member*
2. *Jenni Brown, Executive Officer Bunbury-Setagaya Sister Cities Committee*
3. *Arron Craig, Community Committee Youth Member*
4. *Stephanie Addison-Brown, Director Community Development*
5. *Dee Smith, Team Leader Events, Tourism and Promotions”*

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

It was requested that Cr Leigh's vote against the motion be recorded.

### 10.1.3 Parking Machine EMV Credit Card Compliance

<b>File Ref:</b>	A05308
<b>Applicant/Proponent:</b>	CBD Parking Strategy Committee
<b>Author:</b>	Neil Dyer, Team Leader Parking
<b>Executive:</b>	Bob Karaszekewych, Director Planning and Development Services
<b>Attachments:</b>	Nil

#### **Summary**

To improve the security of the transactions occurring at unattended terminals (which includes parking machines) Europay, MasterCard and Visa (EMV) are changing the mandate for credit card (CC) transactions. To comply with the mandate, unattended terminals will need to comply with the new standard by January 2014.

#### **Council Committee Recommendation**

That Council approve the \$60,000 funding previously allocated in project PR-3214 for the upgrading of selected parking machines be allocated in the 2013/14 financial year to allow for the upgrade of credit card facilities in seventeen (17) parking machines.

#### **Background**

The City received advice of changes occurring with regards to the manner that credit card transactions for unattended terminals are to be handled in future.

EMV is the worldwide body that regulates the manner that credit card transactions are securely transacted. EMV has made changes to the mandate for unattended terminals (which includes parking machines) and the manner that transactions are processed.

Those changes will come into effect from January 2014 and will apply to all three key components in the payment process, the credit card reader; payment gateway; and the acquiring bank. Any machine that is not able to meet the new CC transaction standard by this date will be unable to complete transactions.

APARC and Parkeon the supplier and manufactures of the parking ticket issuing machines, respectively, have investigated the implications of changes and advised that in order for machines to comply with new requirements it will be necessary to replace the existing CC readers. The solution involves the purchase and installation of an EMV compliant kit. This kit includes, a replacement card reader; replacement face panel; and associated software.

Because of the cost of the kit it was not considered necessary to upgrade all of the 137 machines operated by the City. To determine which machines would warrant an upgrade, the transaction data from all of the machines was considered. As a result of that research it was considered necessary to upgrade seventeen (17) machines to provide a good level of service for patrons who currently use CC.

The machines which were identified as receiving the majority of CC transactions were mainly located in all-day car parks. In cases where there were multiple machines within the same car park, only the busiest of those machines were identified as requiring an upgrade.

The cost of the CC upgrade kit is \$3,450 (GST excl) per unit and so the cost to upgrade the seventeen (17) machines would be \$58,650 (GST excl). Any labour associated with installation of the kits would be borne by the City's general machine maintenance operational budget. The cost of parts required to disable CC facility from the remaining machines is minimal and has already been covered in the 2012/13 operational budget.

To ensure funding was available to undertake the CC upgrade, the project was created (PR-3214) for the 2013/14 financial year. During a recent budget review, the funding for this project was deferred to 2014/15.

If the City is to continue to allow CC transactions to selected machines, it is necessary to fund the project in the 2013/14 financial year to ensure that the project is completed prior to January 2014.

### **Council Policy Compliance**

There is no Council Policy applicable to this matter.

### **Legislative Compliance**

There is no Legislative Compliance applicable to this matter.

### **Officer Comments**

The City has a total of 137 parking machines operating both on-street and within off-street car parks. Currently all of these machines have CC facilities. Although it would be ideal to retain the CC payment option in all parking machines, because of the cost per machine (\$3,450) and the extremely low number of CC transactions occurring at the majority of machines this is not practicable.

When the proposed changes to EMV were first discussed, an investigation of parking machine transactions was undertaken to determine the number of CC transactions occurring at each machine. As a result, the information indicated that nearly all CC transactions were occurring within the CBD at the all-day off-street car parks.

As popularity of CC use in at the all-day off-street car parks appears to be continuing to increase, it would be beneficial for these car park users if the CC facilities remain.

Out of the 137 machines, it is only considered necessary to upgrade seventeen (17) machines at selected locations to continue to provide a good level of service for these users. In cases where there are multiple machines within a car park, only the busiest of those machines were identified as requiring an upgrade. Long term, the need for additional CC facilities will continue to be assessed and if additional CC facilities are required these facilities can be installed on a as needs basis and factored into future operating budgets.

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

The cost of upgrading the CC facility in selected parking machines will be \$60,000 which has been included within project PR-3214 for 2013/14. The funding source for this project will be from the City's parking reserve.

The removal of the CC facility from a machine may also result in a reduction to cost of machine hosting; this saving represents \$7 per month and a total cost saving of \$10,080 per annum.

**Community Consultation and Councillor/Officer Consultation**

Nil

**Outcome – Council Committee Meeting 10 September 2013**

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

During the discussion Cr Morris left the chambers at 8.05pm and returned at 8.07pm. He was present for the vote on the matter.

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

#### 10.1.4 Request for Parking Information from Councillor Steck

<b>File Ref:</b>	A05309
<b>Applicant/Proponent:</b>	CBD Parking Strategy Committee
<b>Author:</b>	Neil Dyer, Team Leader Parking
<b>Executive:</b>	Bob Karaszewych, Director Planning and Development Services
<b>Attachments:</b>	Nil

#### Summary

At the Council meeting of 30 October 2012 a Motion on Notice was submitted by Councillor Michelle Steck regarding Parking Ticket Machines.

*“Council Decision 331/12*

*Pursuant to Standing Order 11.6 of the City of Bunbury Standing Orders that the “debate be adjourned” in order for the matter to be referred to the CBD Parking Strategy Committee for consideration and a report be returned to Council in due course.”*

#### **Council Committee Recommendation**

1. That Council receives and notes the report.
2. Council note that the comprehensive process involved in the preparation of TPS 8 will give consideration to car parking provisions and review of the LPP relating to Access Parking for Pedestrians, Bicycles and Vehicles.

#### **Background**

At the Council meeting of the 30 October 2012 Cr Michelle Steck submitted a Motion on Notice which contained five (5) recommendations relating to the City’s Town Planning Scheme and car parking within Bunbury. The recommendations were as follows:

1. That Council request the Chief Executive Officer to instigate a revisitation and review of City of Bunbury Town Planning Scheme 6 Parking Text with a view to readopting them or reassessing their relevance in potentially resolving current parking issues.
2. That Council consult with the Western Australian State Planning Commission in relation to various "Parking Business Models" that it supports or recommends.
3. That Council also investigate Parking Business Models that have been implemented in other Australian Capital Cities including Hobart.
4. That Council immediately consider commencing a staged removal of Street Parking Metres by withdrawing metres from Victoria Street; and
5. That Council request the Chief Executive Officer undertake a cost benefit/analysis study on the Net effect the implementation of meters has had on the City, as well as the Net effect the potential removal of Victoria Street parking meters has on the City following twelve (12) months.

Pursuant to the Council Decision 331/12 the following response is provided;

Town Planning Scheme 6 ceased to function from December 2002 when Town Planning Scheme (TPS) 7 was adopted by Council. Since the introduction of TPS7, Council has adopted a number of amendments to the Scheme, as well as, introducing Local Planning Policies to support the provisions of the TPS7. One such Local Planning Policy which was adopted 30 November 2010 was Policy 3.1 *Local Planning Policy: Access and Parking for Pedestrians, Bicycles and Vehicles*.

As it is necessary for Council to continually review its Town Planning Schemes, a review of TPS7 has commenced with the establishment of Town Planning Scheme 8 (TPS8) anticipated being operational by 2014. However, this is dependent on comments received during the public consultation period, subsequent support of Council and then the approval of the Minister for Planning.

The preparation of TPS8 will require consideration to be given to the provisions of the existing TPS7, any amendments to that document that have been adopted and any other relevant documentation. The process will also require validation of the document by 'road testing' and the Department of Planning officers review.

A component of TPS8 will relate directly to car parking matters, the development of this document will also include consideration of other contemporary parking policies and plans.

In August 2007 the City adopted the CBD Parking Strategy to manage parking within the Bunbury CBD. This Strategy involved a number of actions including but not limited to the introduction of on-street parking machines, the creation of centrally located two (2) hour free car parks and the creation of fixed rate all-day car parks on the fringes of the CBD. The on-street parking machines, the two (2) hour free and the fix price all day car parks were established in 2010.

A review of that CBD Parking Strategy was undertaken in May 2012 that confirmed the Strategy was sound; however the review did make twelve (12) recommendations which included extending the time limits to on-street car parking to enhance accessibility to car parking bays. The time limits were increased in 2012 so that all longer term CBD parking areas have a maximum time limit of two (2) hours. The results of this change along with the parking occupancy will be monitored over time as business and commercial use within the CBD changes to ensure adequate parking provision together with ensuring the strategic location of parking areas.

The introduction of on-street parking machines to the CBD was done as a management tool for on-street parking and formed an integral part of the CBD Parking Strategy to encourage the turn over (churn) of vehicles. The removal of the on-street machines would compromise and unravel the fundamental integrity of the CBD Parking Strategy and would adversely affect the primacy that currently exists for on-street parking.

To ensure the effectiveness of the CBD Parking Strategy, six (6) monthly manual surveys are undertaken and annual financial income from both on-street parking and off-street car parks are compared. The survey data collected and the financial reports indicate that since the introduction of paid parking, the number of vehicles parking within the CBD has continued to increase and not decrease.

### **Council Policy Compliance**

There is no Council Policy Compliance applicable to this matter.

### **Legislative Compliance**

There is no Legislative Compliance applicable to this matter.

### **Officer Comments**

The comprehensive process involved in the preparation of the TPS8 will ensure that consideration is given to car parking. This combined with the continued assessment and monitoring of car parking by the CBD Parking Strategy Committee will allow ongoing and suitable consideration to be given to the future needs of car parking.

Car parking subjects that continue to be considered by the CBD Parking Strategy Committee include location and suitability of additional parking, type of car parking required to service the various user groups, and alternative modes of transport.

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

There are no know financial or budget implications related to this matter.

### **Community Consultation**

No public consultation undertaken.

### **Councillor/Officer Consultation**

Consultation was undertaken with the Manager, Strategic and Integrated Land Use Planning responsible for the preparation of both the draft Local Planning Strategy and draft Town Planning Scheme 8. A presentation to Councillors is scheduled for 3 September 2013.

### **Outcome – Council Committee Meeting 10 September 2013**

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

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



## 10.2 Director Community Development Reports

### 10.2.1 Appointment to Bunbury Regional Arts Management Board

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Stephanie Addison-Brown, Director Community Development
<b>Executive:</b>	Stephanie Addison-Brown, Director Community Development
<b>Attachments:</b>	Appendix DCD-1, Confidential Report CRUSC-1

#### Summary

The Bunbury Regional Arts Management Board Inc. (BRAMB) is the incorporated body responsible for management of the Bunbury Regional Art Galleries. BRAMB's constitution states that the Bunbury City Council must endorse new appointments to this Board.

Correspondence from the BRAMB has been received and is **attached** at Appendix DCD-1 seeking Council's endorsement to appoint Mr Graeme Lush to one of the two vacant positions on the Board.

In accordance with section 5.23(2)(b) of the *Local Government Act 1995* the application from Mr Graeme Lush has been circulated to Elected Members as a Confidential Report **under separate cover** (CRUSC-1).

#### **Council Committee Recommendation**

1. Council endorse the appointment of Mr Graeme Lush to the Bunbury Regional Arts Management Board for a period of two years.
2. That the CEO be requested to nominate Stephanie Addison-Brown, Director Community Development as the Council staff representative to the Board in order to comply with BRAMB's constitution.

#### **Background**

The BRAMB constitution reads as follows:

*“5.1 Membership*

*All nominations for membership of the Corporation shall be in writing.*

*There shall always be not less than EIGHT (8) and not more than TEN (10) members of the Corporation comprising:-*

- (1) ONE (1) elected member of the Council of the City Of Bunbury;*
- (2) ONE (1) Representative of the Art Gallery of Western Australia;*
- (3) ONE (1) Collections Committee Representative;*
- (4) ONE (1) City of Bunbury Staff Member;*
- (5) FOUR–FIVE (4–5) Community Representatives who are ratepayers of the City of Bunbury and/or residents of the South West region;*
- (6) ONE (1) representative of the Stirling Street Art Centre;*
- (7) The Gallery Director or a nominated representative of the Bunbury Regional Art Galleries to be an ex-officio non-voting member.”*

### **Council Policy Compliance**

There is no Council policy affecting this recommendation

### **Legislative Compliance**

There is no legislative requirement for this recommendation.

### **Officer Comments**

BRAMB currently has two (2) vacancies. Sonya Dye and Michael Manea were invited to join BRAMB as temporary members in the last few months. BRAMB have been actively recruiting for new members since becoming aware of the intent of the previous Chair, Bill Cowan, to resign.

There has not been a City of Bunbury staff representative on BRAMB since January 2013.

As per Council Decision 240/13, an operational and structure review of the Bunbury Regional Art Galleries (BRAG) is due to commence with BRAMB and a range of other stakeholders including representatives from Council, Art Gallery of WA, Department of Culture and the Arts and the City of Bunbury Art Collection Committee.

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

There are no financial or budget implications for the City associated with the appointment of new board members to BRAMB.

### **Outcome – Council Committee Meeting 10 September 2013**

Deputy Mayor Cr Craddock moved Cr Leigh seconded the Executive recommendation with an additional point. The motion reads as follows:

- “1. *Council endorse the appointment of Mr Graeme Lush to the Bunbury Regional Arts Management Board for a period of two years.*
2. *That the CEO be requested to nominate a City Council staff member to the Board in order to comply with BRAMB's constitution.”*

The Council Committee suggested that the Director Community Development should be the staff member appointed to the board as traditionally it has been the holder of that position has represented the staff on the board. The CEO will advise the Council as to whom the staff representative will be.

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

## 10.2.2 Bunbury Regional Art Galleries – Review of Operational Structures and Functions

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Stephanie Addison-Brown, Director Community Development
<b>Executive:</b>	Stephanie Addison-Brown, Director Community Development
<b>Attachments:</b>	Nil

### Summary

On 6 August 2013, Council Decision 240/13 was made as follows:

- “1. That Council agree that BRAMB remain as a separate entity.
2. That Council take no further action on the recommendations of the Alexander report.
3. (a) That Council liaises with BRAMB to establish a working group comprising of representatives of all stakeholders to review the operational structures and functions of BRAG.
- (b) That this working group submit a proposed brief for this review to Council by 17 September 2013.
- (c) That the working group report (including recommendations) be submitted to Council by 30 January 2014, in time for any recommended changes to be included in the budget process.
4. As a result of the 2010 and 2012 studies, Council acknowledges that the capital costs of a new gallery are beyond its means at this time, however Council will continue to investigate future opportunities as they may arise.
5. That the Alexander report be publicly released.”

A subsequent meeting has taken place between Councillor representatives, City Executive staff and representatives from BRAMB and a proposal relating to the composition of the working group and a proposed brief for the review have been prepared for Council to endorse.

### Council Committee Recommendation

1. Council endorse the proposed composition of the working group to undertake the operational and structural review of BRAG
2. Council endorse the proposed brief for the operational and structural review of BRAG.

### Background

Following Council decision 240/13, a meeting was held on 28 August between the City of Bunbury and the Bunbury Regional Arts Management Board (BRAMB) with the intent of establishing a working group to undertake a review of the operational structures and functions of the Bunbury Regional Art Galleries (BRAG). At this meeting, a proposed brief for the review was also discussed. This brief was to be brought back to Council by 17 September, as per part 3 (b) of Council Decision 240/13.

It was agreed at the meeting that the following stakeholders should participate in the review and this was subsequently agreed to by all parties on the list:

Proposed Working Group

- Councillor Murray Cook, Bunbury City Council
- Councillor Neville McNeill, Bunbury City Council
- David Ansell, A/Deputy Director General, Department of Culture and the Arts (DCA)
- Dr Stefano Carboni or Brian Stewart, Art Gallery of Western Australia (AGWA)
- Beth Ferguson, BRAMB Chairperson
- Margaret Perkins, BRAMB member (Stirling Street Arts Centre representative)
- Tresslyn Smith, City of Bunbury Art Collection Committee Chairperson and member of BRAMB
- New Director of BRAG (due to commence 16 September 2013)
- Stephanie Addison-Brown, Director Community Development, City of Bunbury
- Wayne Wright, Director Corporate Services, City of Bunbury

Sonya Dye (temporary BRAMB member), who was present at the meeting on 28 August 2013, also offered to provide support and assistance to the process where she could but advised that she would not formally join the working group.

In addition to the list of stakeholder participants, the following scope for the review is proposed by working group members for Council endorsement:

Proposed Brief for the Review Operational Structures and Functions of BRAG

1. Undertake a review of BRAMB's governance model to consider the following activities:
  - a. Review of the BRAMB constitution
  - b. Establish a three-way Memorandum of Understanding (MOU) between the City of Bunbury, AGWA and BRAMB
  - c. Review options for funding
2. Undertake a review of the previous efficiency and functions reviews of BRAG undertaken by BRAMB as part of this process
3. Undertake a review of the relationship between BRAMB and City of Bunbury's Art Collection as part of this process

**Council Policy Compliance**

There is no Council policy affecting this recommendation

**Legislative Compliance**

There is no legislative requirement for this recommendation.

**Officer Comments**

Nil

**Analysis of Financial and Budget Implications**

There is no proposal to engage an external consultant so the City's costs will relate only to staff time spent undertaking the review.

**Outcome – Council Committee Meeting 10 September 2013**

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

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

### 10.3 Director Corporate Services Reports

#### 10.3.1 Budget Review for Prior Year Projects Carried Forward to 2013/14

<b>Applicant/Proponent:</b>	Internal report
<b>Author:</b>	David Ransom, Manager Finance
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix, DCS-1, DCS-2, DCS-3, DCS-4, DCS-5, DCS-6

#### Summary

Council adopted the 2013/14 Budget on 31 July 2013 of \$70.0M, comprising of \$26.0M capital works, \$1.4M debt reduction and \$42.6M in operating expenditure (excluding depreciation).

Budget reviews are conducted in October and February each year as part of the financial management processes within the City of Bunbury. In addition, it is also necessary to adjust the current budget for projects either not commenced or not completed in 2012/13 and carried forward into 2013/14; and for the budgeted financial position at 30 June 2013 to be adjusted to agree with the actual financial position.

A budget review has been completed and the changes to operating income and expenditure will increase the Operating Deficit from \$7,084,597 to \$7,791,366, an increase of \$706,769. Capital Expenditure has increased by \$5,974,592 and Capital Income increased by \$4,005,795.

As a result of the above operating and capital projects carried forward and adjustment for the actual funds available at 30 June 2013, the budgeted surplus funds at 30 June 2014 will increase from a balanced budget position (i.e. nil) to a surplus of \$448,920.

This surplus of \$448,920 will allow Council to transfer \$385,813 to the Withers Reserve for the balance of funds unspent on Withers Action Plan projects in 2011/12 and 2012/13.

The following supporting documents are **attached** at Appendix DCS-1 – DCS-5 for the period ending 31 July 2013:

- Budget Prior Year Projects Carried Forward 2013/14 Appendix DCS-1
- Statement of Comprehensive Income Appendix DCS-2
- Statement of Financial Activity Appendix DCS-3
- Statement of Net Current Assets Appendix DCS-4
- Capital Works Expenditure Summary Appendix DCS-5
- 2012/13 Projects Not Carried Forward to 2013/14 Appendix DCS-6

#### **Council Committee Recommendation**

1. Council adopt the Budget Review with the following budget variations and amends the current budget accordingly:

Increase in closing funds	\$3,124,486
Operating Revenue:	
- Increase Grants and Subsidies	\$53,966
- Increase Contributions Reimbursements	\$4,850
- Increase Fees and Charges	\$3,545

Operating Expenses:	
- Increase Material and Contracts	(\$709,846)
- Increase Other Expense	(\$59,284)
Capital Revenue:	
- Increase Grant Contributions for Assets	\$1,914,312
- Increase Proceeds from Disposal of Assets	\$20,000
- Decrease Transfers from Restricted Cash	\$2,071,483
Capital Expenditure:	
- Increase in Materials and Contracts	(\$5,974,592)
Increase in Closing Funding Surplus 30 June 2014	\$448,920

2. Council approve the transfer of \$385,813 to the Withers Reserve, from surplus funds, for the balance of funds unspent on Withers Action Plan projects in 2011/12 and 2012/13.

*\*Note: An Absolute Majority Vote is required by Council*

### **Background**

The Executive Leadership Team and Finance Staff have reviewed the 2012/13 projects that either were not commenced or not completed and are required to be transferred to the 2013/14 Budget. Budget review items have been identified and supporting financial statements prepared incorporating year to date budget forecasts to 30 June 2014.

The Budget Review for prior period projects carried forward to 2013/14 is presented to Council for consideration.

### **Council Policy Compliance**

Not applicable.

### **Legislative Compliance**

Regulation 33A of the *Local Government (Financial Management) Regulations 1996* requires:

- (1) *Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.*
- (2) *Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.*
- (3) *A council is to consider a review submitted to it and is to determine\* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*

*\*Absolute majority required.*

This budget review is in addition to the above legislative requirement and a February Budget Review will be presented to Council in March 2014.

### **Officer Comments**

Council's Executive Leadership Team together with Corporate Services staff monitor the City's monthly revenue and expenditure activities and (as required) refer any variances requiring remedial action to the Council.

Approved budget amendments are recorded in the financial statements to reflect Council's current budget and financial position at all times.

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

The changes to operating income and expenditure will increase the Operating Deficit from \$7,084,597 to \$7,791,366, an increase of \$706,769. Capital Expenditure has increased by \$5,974,592 and Capital Income increased by \$4,005,795.

As a result of the above operating and capital projects carried forward and adjustment for the actual funds available at 30 June 2013, the budgeted surplus funds at 30 June 2014 will increase from a balanced budget position (i.e. nil) to a surplus of \$448,920.

This surplus of \$448,920 will allow Council to transfer \$385,813 to the Withers Reserve for the balance of funds unspent on Withers Action Plan projects in 2011/12 and 2012/13. The budgeted surplus will then reduce to \$63,107 after this transfer.

Details of the budget changes contained within this budget review are shown in the Budget Prior Year Projects Carried Forward 2013/14 report **attached** at Appendix DCS-1 and the Financial Statements **attached** at Appendices DCS-2 – DCS-5.

### **Community Consultation**

Not applicable

### **Councillor/Officer Consultation**

This budget review includes 2012/13 projects which have either not commenced or were not completed and need to be included in the 2013/14 Budget. These projects were previously adopted by Council in 2012/13.

The Executive Leadership Team has reviewed the 2012/13 projects required to be carried forward to the 2013/14 Budget.

### **Outcome – Council Committee Meeting 10 September 2013**

The Executive 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 Committee's recommendation on the matter.



### 10.3.2 Financial Management Report for the Period Ending 31 July 2013

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Ransom, Manager Finance
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-2, DCS-3, DCS-4, DCS-5

#### Summary

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

1. Statement of Comprehensive Income (**attached** at Appendix DCS-2)  
Actual Financial Performance to 31 July 2013
  - Actual income of \$1.0M is the same as the year-to-date budgeted income. Note: Rates Income and Waste Collection Charges were raised in August 2013.
  - Actual expenditure of \$2.6M is \$1.4M less than the year-to-date budgeted expenditure of \$4.0M (refer explanation on next page).
  - Actual operating deficit of \$1.6M is \$1.4M less than the year-to-date budgeted operating deficit of \$3.0M.
2. Financial forecasts to 30 June 2014
  - Forecast operating income and expenditure will increase the operating deficit from \$7,084,597 to \$7,791,366, an increase of \$706,769.
  - Forecast surplus funds at 30 June 2014 will increase from a balanced budget position (i.e. nil) to a surplus of \$448,920. (Note this will reduce to \$63,107 should Council decide to transfer \$385,813 to the Withers Reserve).
3. Balance Sheet Year-to-date and Forecast balances are currently not available until the end of year audit for 2012/13 has been completed and the financial system rolled-over to 2013/14. A Balance Sheet report will be provided with the August 2013 Financial Statements.
4. Capital Works (**attached** at Appendix DCS-5)
  - Actual capital works of \$469K is \$828K less than the year-to-date budgeted capital works of \$1.3M, (refer explanation on next page).

#### **Council Committee Recommendation**

The Financial Management Report for the period ending 31 July 2013 be received.

#### **Background**

A financial management report is provided to Councillors on a monthly basis which includes the following summaries:

- Statement of Comprehensive Income (**attached** at Appendix DCS-2)
- Statement of Financial Activity (**attached** at Appendix DCS-3)
- Statement of Net Current Assets (**attached** at Appendix DCS-4)
- Capital Works Expenditure Summary (**attached** at Appendix DCS-5)

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

**Council Policy Compliance**

Not applicable.

**Legislative Compliance**

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-3) reporting on the revenue and expenditure as set out in the annual budget under Regulations 22 (1) (d) for this month.

**Officer Comments**

The following is an explanation of significant Operating and Capital variances identified in the Statement of Comprehensive Income and Statement of Financial Activity:

<b>Statement of Comprehensive Income</b>	<b>YTD Actual to Budget Variance</b>
<b>Operating Income</b>	\$8,115
The Total Operating Income variance between actual and budget-to-date is a favourable variance of \$8,115. There are a number of income items had have a minor actual variance above or below budget-to-date due to the timing of the receipt of income.	
<b>Operating Expenditure</b>	\$1,377,849
The Total Operating Expenditure variance between actual and budget-to-date is a favourable variance of \$1.38M. There are a number of expenditure items had have a minor actual variance above or below budget-to-date due to the timing of expenditure. Actual Salary Expenditure is \$486K above budget-to-date as this includes wages accrued for 8 days in June (\$523K) to be reversed after confirmation received from auditors. After this adjustment, salaries will be under budget by \$37K.	

<b>Statement of Financial Activity</b>	<b>YTD Actual to Budget Variance</b>
<b>Operating Revenues</b>	\$8,115
See explanation above included in the Statement of Comprehensive Income variances.	
<b>Operating Expenses</b>	\$1,377,849
See explanation above included in the Statement of Comprehensive Income variances	
<b>Capital Expenses</b>	
<b>Acquisition of Assets</b> – Variance due to delay in progress of various projects. Refer to Capital Expenditure Report for project details.	\$824,152

**Analysis of Financial and Budget Implications**

This Financial Management Report on the financial performance of the City is provided for Councillors information and does not have any financial or budget implications.

### **Community Consultation**

There is no requirement for community consultation on this report.

### **Councillor/Officer Consultation**

Council's Executive Leadership Team, Department Managers and Corporate Services staff monitors the City's monthly revenue and expenditure and (as required) refer any variances requiring remedial action to Council.

Approved budget amendments are recorded in the financial statements to reflect Council's current budget and financial position at all times.

### **Outcome – Council Committee Meeting 10 September 2013**

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

During the discussion Deputy Mayor Cr Craddock left the chambers at 8.54pm and returned at 8.56pm. He was not present for the voting on the matter.

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

### 10.3.3 Proposed Change of Tenure for the Paisley Centre Lease of Crown Land H81622 L

<b>Applicant/Proponent:</b>	City of Bunbury
<b>Author:</b>	Massimo Andreone Manager Contracts and Property
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-7

#### Summary

Pursuant to Council Decision 40/13, which states as follows:

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, and*
2. *A final report is brought back to Council prior to signing any contracts”,*

the City of Bunbury has addressed correspondence to the Department of Lands (“the Department”) advising that the City plans to use the Paisley Centre (“the Centre”) as the Bunbury Museum, for the foreseeable future, and that the City would be prepared to consider taking transfer of the Centre, the Department has approached the City with proposals on the future tenure arrangements for the Centre.

The Centre is situated at 1 Arthur Street, Bunbury, and being Lot 690 on Land Administration Diagram 87908 Volume 3014 Folio 889.

Two (2) options have subsequently been received from the Department, either to purchase outright the site in freehold, alternatively to procure the transfer of the land in fee simple, subject to such conditions concerning the use of the land as the Minister determines.

A location plan is **attached** at Appendix DCS-7.

#### **Council Committee Recommendation**

1. That Council agrees to the Minister transferring the Centre to the City in fee simple, at a nominal amount of \$1,000 plus GST and statutory fees to be determined, subject to the condition that the Centre is only used as a public museum, and for the same purpose as the current lease, being “*Cultural Centre, Restaurant and Parking*”.
2. That Council agrees to a consensual cancellation of the Deed of Lease concluded with the State of Western Australia dated 14 December 1998.

#### **Background**

The Centre is a ‘Heritage Listed’ property, and subject to encumbrances under the *Heritage of Western Australia Act 1990*.

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

The Centre, as mentioned above, is currently under lease by the City from the State of Western Australia, with a lease term of fifty (50) years, commencing from 14 December 1998, for a clear yearly rental of “Peppercorn” for the first three (3) years, to be reappraised every three (3) years thereafter, to be determined by the Minister, with rental payments payable half yearly in advance. The current rental payable by the City is Peppercorn.

Permitted Use of the Centre is “*Cultural Centre, Restaurant and Parking*”.

The Department has, in October 2012, confirmed that there is no objection to the use of the Centre as a public Museum.

In their letter to the City dated 24 July 2013, the Department has recommended alternative tenure arrangements for the Centre, as outlined as below.

Option a) would be the outright purchase of the site in freehold, whilst option b), would consist of conditional tenure thereof under section 75 of the *Land Administration Act 1997*.

An additional option not enunciated by the Department in their letter would be for the City to continue leasing the site under the current Lease Agreement with the State, but which, as already stated above, has been considered inappropriate for the long term development of the Museum.

Under option a) the proposed purchase price for the site, on an unimproved value, would be the sum of \$950,000 plus GST and statutory fees, and monies expended by the City have been taken into consideration in this regard. The Heritage restrictions would, however, remain in place.

Under option b) the Minister of Lands would transfer the land in fee simple subject to such conditions concerning the use of the land as the Minister may determine. The fee simple of conditional tenure land would be transferred at a nominal price of \$1,000 plus GST and statutory fees, because of the community benefit to be provided by the proposed development of the conditional tenure land for the specific use as a public museum (or other defined community use). The City would hold a small equity in the unimproved value of the land. The tenure would be a type of freehold, however, subject to Heritage restrictions, as well as to the further conditions imposed by the Minister.

### **Council Policy Compliance**

Not applicable

### **Legislative Compliance**

Section 75 of the *Land Administration Act 1997* – Transfer of Crown land in fee simple subject to conditions.

### **Officer Comments**

The recommendation and report comply with Council Decision 40/13.

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

In light of the nominal value of the expenditure, same is not to be recorded as a capital cost.

Provision for the transfer of the land in fee simple from the Crown, in the sum of \$1,000 plus GST, is provided for under operating budget Coordinate Land Acquisitions and Transfers.

The City would also be required to pay the following statutory fees in order to procure transfer of the land in fee simple

- Document preparation fee in sum of \$107.00
- Landgate lodgement fee in sum of \$160.00

**Community Consultation**

Not applicable.

**Councillor/Officer Consultation**

Not applicable.

**Outcome – Council Committee Meeting 10 September 2013**

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

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

#### 10.3.4 Proposed Amendment from Privately Owned Lots to Gazetted Road, Lots 98, 99 and 100 Higgins Street, South Bunbury on Plan 3227, Volume 2727 Folio 860

<b>Applicant/Proponent:</b>	Department of Regional Development
<b>Author:</b>	Jane Porter, Senior Property Officer
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-8

#### **Summary**

The City of Bunbury was approached by the Department of Regional Development and Lands to amend three (3) parcels of land that form what is now known as 'Higgins Street' from privately owned land to a gazetted road. A location plan is **attached** at Appendix DCS-8.

#### **Council Committee Recommendation**

Council agrees to amend the Certificate of Title for Lots 98, 99 and 100 Higgins Street from privately owned land to a gazetted road as recommended by the Department of Regional Development and Lands, subject to the terms and conditions as specified in the report, and the following:

1. Take all reasonable steps to give notice of the proposed amendment to the holder of the freehold land, the adjoining owners to the freehold land and all suppliers of public utility services to the freehold land under Section 52(3)(a) of the Land Administration Act 1997.
2. Advertising in accordance with the provisions of Section 52(3)b of the Land Administration Act 1997.

#### **Background**

The Department of Regional Development and Lands approached the City of Bunbury to have three (3) freehold lots that now form what is known as 'Higgins Street' amended to show as a gazetted road. The bituminised road was formed approximately fifty (50) years ago around 1960 and since then residents from Castle Street and Douglas Street have been using the bituminised road way to access their properties. It is also used by other local traffic as a through road between Forrest Avenue and Blair Street.

Since the issue was brought to the City's attention by the Department of Regional Development and Lands we have contacted all adjoining land owners, the Planning Commission of Western Australia and all public utility providers in writing, allowing thirty (30) days for any objection to be put to the City. We have received many phone calls from the adjoining land owners in response to our letters and have received no objections from any adjoining land owners, public utility providers or the Planning Commission of Western Australia.

In 1927 the registered owners, Benjamin and Doris Rosenstamin subdivided the land including the three (3) freehold lots that form Higgins Street. The original land owners have long since been deceased and the City has not been able to locate any beneficiary legally entitled to consent to the lots being transferred to State Lands.

### **Legislative Compliance**

Section 52(3)(a) and (b) of the *Land Administration Act 1997* is applicable to this matter.

### **Officer Comments**

The three (3) lots that now form 'Higgins Street' have been used by adjoining land owners since approximately 1960 when the three (3) lots were bituminised. Adjoining owners have since built their driveways as an access to their own properties and the road is used by other motorists as an access between Blair Street and Forrest Avenue.

The original owners are long deceased with no known living relatives and the Department of Regional Development and Lands has initiated the amendment so that 'Higgins Street' may continue to be used as a road.

No objections have been received by adjoining land owners, utility providers or the Planning Commission of Western Australia nor have there been any from internal departments at the City of Bunbury.

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

No financial or budget implications to the City of Bunbury.

### **Community Consultation**

As per Section 52(3)(a) of the *Land Administration Act 1997* all relevant parties were contacted in writing and invited to submit any objections to the proposed amendment within thirty (30) days. No objections were received.

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

### **Councillor/Officer Consultation**

Comment was sought from Works and Services and Planning and Development Services with neither department having any objections to the proposed amendment.

### **Outcome – Council Committee Meeting 10 September 2013**

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

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



### 10.3.5 South West Sports Centre Draft Master Plan Public Comment Report

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Garry Stokes, Manager Sport, Leisure and Active Lifestyles
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-9

#### Summary

The purpose of this report is to inform Council of the process and status of the South West Sports Centre Draft Master Plan project that was released for public comment and its results.

#### Council Committee Recommendation

Pursuant to clause 11.1(b) of the City of Bunbury Standing Orders 2012, the debate be adjourned until the first Briefing Session after the Council Election.

#### Executive Recommendation

1. Council note public feedback from the Draft Master Plan consultation process and Council staff undertake a further review of the plan with a focus on the conceptual design.
2. That this review be presented to Council in February 2014.
3. The report address the extra requirements addressed in the plan whilst still trying to minimise any reduction in service or facility provision of all sports and users.

#### Background

At the Ordinary Meeting of Council held on the 21st May 2013, Council decided (120/13):

*“Council Decision 120/13*

1. *That Council note the South West Sports Centre Masterplan progress report; and*
2. *That the South West Sports Centre Masterplan be advertised for public comment and a further report be brought back to Council by August 2013.”*

Advertising of the Draft Master Plan commenced on 4 July 2013 and concluded on 2 August 2013.

1. Advertising included press releases in:
  - a. Bunbury Mail
  - b. South Western Times
2. In house posters at:
  - a. South West Sports Centre
  - b. Bunbury City Library
  - c. City of Bunbury Administration building
3. Online Mediums
  - a. Bunbury Mail Homepage
  - b. City of Bunbury Website
  - c. South West Sports Centre Facebook Page

- d. City of Bunbury Facebook Page
- e. Your Say Bunbury webpage
- f. South West Sports Centre Online Newsletter - July

The Manager Sport Leisure and Active Lifestyles was interviewed on ABC radio on 9 July 2013 where feedback was encouraged through the Your Say Bunbury website.

A South West Sports Centre User group meeting was conducted on 18 July 2013 to further discuss the Draft Master Plan and encourage written submission through Your Say Bunbury website.

Submissions were taken up to 2 August 2013 and collated and evaluated by the Manager Sport, Leisure and Active Lifestyles.

### **Council Policy Compliance**

The project is consistent with the following Council Policies:

- Council Policy DWS-4 Provide Diverse Range of Activities and Facilities for Residents and Visitors states:  
*“To enhance the quality of life for visitors and residents of Bunbury through the provision of a diverse range of high quality and cost effective recreational; activities and/or facilities.”*
- Council Policy DCS-4 Integrated Planning states:  
*“Council is committed to achieving best practice and legislative compliance in its Integrated Planning performance in which activities and services delivered by the City of Bunbury are aligned with community expectations and objectives.”*

### **Legislative Compliance**

There are no significant Legislative requirements relevant to this project. Liaison and referral to the WA Planning Commission will be required at the development stage as the land is reserved for Regional Open Space under the Greater Bunbury Region Scheme.

### **Officer Comments**

All channels of public comment resulted in the following key themes:

1. Support and need for the development of additional multipurpose courts.
2. Concerns relating to Squash, Badminton and general aquatic facilities.
3. Concerns relating to current and future club spaces (Office and function space).
4. Access to facilities currently and proposed outside of SWSC operating hours access was raised.
5. A number of user and/or clubs felt that the consultation process that led to the preparation of the Draft Master Plan was inadequate.

Further to this consideration should be given to the possible integration of the PCYC facility and services into the plan.

The Draft Master Plan document as it stands provides very strong cases in a number of areas that need to be addressed to accommodate growing community needs. Any further work should look to support or supplement this document and provide alternative options for delivering key aspects of this plan.

## **Financial and Budget Implications**

Not Applicable

## **Community Consultation**

1. The South West Draft Master Plan was available at:
  - South West Sports Centre
  - Bunbury City Library
  - City Of Bunbury Administration building
2. The Draft Master Plan was also available through:
  - City of Bunbury Website
  - South West Sports Centre Monthly Newsletter
  - Your Say Bunbury Website
  - City of Bunbury Facebook Page
  - South West Sports Centre Facebook pages
3. Officers also conducted individual meetings with:
  - Alexander Squash Club
  - Bunbury Badminton Association
  - Basketball South West
  - Bunbury Basketball Association
4. Officers also held a South West Sports Centre User Group Meeting

Written feedback was directed to the Your Say Bunbury website.

A short survey on Your Say Bunbury website identified fourteen (14) key elements to provide an indication of which elements respondents supported and to prioritise these elements .

Hard copies of the survey were also made available with copies of the Draft Master Plan at:

- South West Sports Centre
- Bunbury City Library
- City of Bunbury Administration building

These feedback options were promoted through:

- ABC Radio Interview
- Press release South Western Times
- Press release Bunbury Mail.
- South West Sports Centre Members Email.
- City of Bunbury Face Book Posts
- South West Sports Centre Posts

## **Strategic Relevance**

Although no reference was made to policy alignment in the February 2011 report to Council, the currently endorsed Strategic Plan (which was relevant at the time of the report) includes Strategic Objective 4 which is to “Implement City Vision.”

City Vision contains a Social Objective which states:

*“Promote and facilitate sport and recreational activities for all age groups and ensure that facilities and access are appropriate for each type of user.”*

The Strategy to give effect to the Objective is:

*“Department of Sport and Recreation in partnership with local governments and the community prepare regional and local plans that address public liability, access, participation and facilities.”*

The supporting text for the above Objective and Strategy states:

*“.....These facilities (Hay Park) cater for neighbourhood, district and regional users. A review of the adequacy of these facilities given the high regional population growth rate and the capacity of the responsible authority to improve and maintain those facilities are key issue for consideration.”*

The project development is consistent with the above policy direction.

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

#### Economic

The economic impact of an upgraded sports centre is expected to be in the construction phases, the increased opportunities for commercial uses, expansion of revenue raising activities and the reinforcement of Bunbury as an attractive place to visit and to live and work.

#### Social

Social issues could be expected to emerge if sporting and leisure facilities are not keeping pace with demand in terms of the type and the size and quality of the facilities. Although health and well-being is not always easy to measure, mental health, obesity, diabetes, social isolation and alienation are issue areas that are gaining prominence in today's society. Appropriate, high quality and affordable facilities and programs can make a positive contribution to healthier communities.

#### Environmental

There are no known environmental issues. The centre does abut an important conservation area and there is potential to develop some low key activities that focus on the areas environmental attributes.

The centre also has installed a major energy saving device (solar heating) and any re-development should embrace sustainability principles.

#### Heritage

There are no known heritage issues.

### **Outcome – Council Committee Meeting 10 September 2013**

Cr Steck moved Deputy Mayor Cr Craddock seconded procedural motion 11.1(b) of the City of Bunbury Standing Orders that the debate be adjourned until the first Briefing session after the Council Election.

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

### 10.3.6 Proposed 2013/14 Community Funding Allocations

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Liz Allan, Community Funding/Grants Officer
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-10, DCS-11, DCS-12 and Confidential Report CRUSC-4

#### Summary

The purpose of this report is for Council to consider the allocation of funds under CEO-10 Community Funding (**attached** at Appendix DCS-10).

In accordance with section 5.23(2)(e)(iii) of the *Local Government Act 1995* outcomes of Assessment Group Discussion, containing recommendations for each proposed allocation has been circulated to Elected Members as a Confidential Report **under separate cover** (CRUSC-4).

#### **Council Committee Recommendation**

That Council;

1. In accordance with the Community Funding Policy distribute \$100,000 from the 2013/14 community funding Budget to the proposed recipients.
2. Allocate an additional \$16,583 Community Funding so that all project funds can be allocated in accordance with the Outcomes of Assessment Group Discussion, to be endorsed at the October Budget Review.

#### Background

In April 2012 comprehensive research into Local Government Funding policies and the City of Bunbury funding policy was undertaken. In April 2012 a report was presented to Council to adopt a revised Community Policy. This policy now provides an annual process to assess the community funding requests. Four (4) categories have been identified and capped values allocated to ensure consistency and a maximum allocation of \$100,000.

City of Bunbury Community Funding eligibility:

- Funding will not be provided for recurrent operational costs including salaries, vehicle costs, office supplies and utilities;
- Only applications for the ensuing financial year will be considered;
- Projects must provide positive impact/s to City of Bunbury community;
- Applicants to the Major Grants category must be an incorporated not-for-profit organisation. Applicants to the Small Grants category are not required to be incorporated.

What the City of Bunbury WILL Fund

- Events;
- Capital Purchases;
- Programs and Services.

What the City of Bunbury WILL NOT Fund

- Recurrent operational costs including salaries, vehicle costs, office supplies and utilities;
- Deficit or retrospective funding;
- Multi-year or ongoing requests;
- Requests received outside of the advertised application period;
- Incomplete applications;
- Organisation's with overdue acquittals for previous funding rounds.

Applicants were advised of the Corporate Guideline: Community Funding – Competitive Funding Pool (**attached** at Appendix DCS-11).

The Policy also required the assessment of the Applications to be undertaken against a set of criteria by an Assessment Group comprising three (3) Elected Members and two (2) Council Officers and recommendations forwarded to Council for endorsement.

The Assessment Group met on Thursday 5 September 2013 and comprised the Mayor, Cr Steck, Cr Steele, the Director Corporate Services, the Team Leader Community Development and the Grants Officer. The Director Community Development had hoped to attend however was unable. Members of the Group were provided with Interpretation of the Guidelines Forming the basis of Scoring (**attached** at Appendix DCS-12) which had been used by staff; this was based on the Corporate Guideline: Community Funding – Competitive Funding Pool.

### **Council Policy Compliance**

The process undertaken complies with Council Policy CEO-10 Community Funding.

### **Legislative Compliance**

Nil.

### **Officer Comments**

There were 56 applications received totalling \$383,422 – comprising of \$369,112 in cash and \$18,066 in-kind. When reviewing the in-kind requests, many of these were actual cash costs, but were listed by applicants as in-kind as they referred to services provided by the City of Bunbury, e.g. planning and building fees. A number did not meet the eligibility criteria as outlined in the Outcomes of Assessment Group Discussion.

After the 2012/13 round, a Community Funding Workshop was held to encourage more active communities. A Capacity Building workshop has been approved through the budget process for this financial year.

There has never been a situation before where the requested funding is so much greater than the funding available. This is a direct consequence of the Community Funding Workshop and Lucy Wiseman, the then Grants Officer and Caris Mooney, Team Leader Community Development should be acknowledged for this.

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

The total amount available for allocation in the 2013/14 budget is \$100,000. It is recommended that this amount be allocated to the proposed applications and that a further \$16,583 be allocated to be endorsed at the October Budget Review.

### **Community Consultation**

The Community Funding Round was advertised and information was placed on the City's website.

Those that attended the Community Funding Workshop were also made aware of the Community Funding Round.

Applications closed on 17 July 2013.

### **Councillor/Officer Consultation**

On Thursday 5 September 2013, the 56 applications were considered in detail by the Assessment Group comprising:

- The Mayor
- Cr Steele
- Cr Steck
- Team Leader Community Development
- Grants Officer
- Director Corporate Services

### **Outcome – Council Committee Meeting 10 September 2013**

This item was discussed as confidential behind closed doors pursuant to section 5.23(2)(e)(iii) of the Local Government Act 1995 as it contains *information about the business, professional, commercial or financial affairs of a person*.

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

During the discussion Cr Kelly left the chambers at 9.47pm and returned at 9.48pm. Cr Leigh left the chambers at 9.47pm and returned at 9.50pm. The Mayor adjourned the meeting at 9.49pm for a five (5) minute recess. The meeting resumed at 9.54pm. All Councillors were present for the vote on the matter.

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



## 10.4 Director Planning and Development Services Reports

### 10.4.1 Educational Facility (Retrospective) Lot 16, 84 Strickland Street – TPS Training

<b>File Ref:</b>	P09271 – DA/2013/147/1
<b>Applicant/Proponent:</b>	TPS Training
<b>Author:</b>	Gary Fitzgerald, Manager Development Assessment and Building Certification
<b>Executive:</b>	Bob Karaszekwych, Director Planning and Development Services
<b>Attachments:</b>	Appendix DPDS-1, DPDS-2, DPDS-3, DPDS-4

#### Summary

This application is for the Change of Use from the previous approved non-conforming use (Warehouse/Office/Transport Depot) to Educational Establishment within a residential zone. The Locality Plan is **attached** at Appendix DPDS-1.

Council had considered this matter at the 30 July and 6 August 2013 meetings. Council resolved as follows:

*“Council Decision 219/13*

*The motion on the ‘Educational Facility at No.84 Strickland Street’ is deferred for further information and consultation to be undertaken and will return to Council upon notification from the applicant.”*

Council has enabled the applicant additional time to submit further information, such as the provision of advice as to how the applicant could lessen the intensity of the use, and an Environmental Noise Assessment report.

MPM (Planning Consultants representing the applicant) and the applicant have requested that Council reconsider the Council (Standing) Committee recommendation given the further submission presented in support of the application.

#### **Executive Recommendation**

That Council resolves, pursuant to the provisions of the Planning and Development Act 2005 (as amended):

- I. To approve an Educational Establishment (retrospective Change of Use) at 84 Strickland Street, Bunbury (reference DA/2013/146/1) in accordance with the City of Bunbury Town Planning Scheme No.7, subject to the following conditions:
  - (1.1) The removal of all equipment and machinery, including crane(s), scaffolding and forklift(s) generating noise that exceeds the Environmental Protection (Noise) Regulations.
  - (1.2) The removal of all equipment and machinery that results in overlooking any adjoining property, to the satisfaction of the City.
  - (1.3) The installation of an open-style front fence (maximum height 1.8m) along the front boundary such that encompasses the entry and cast parking upon adjacent (Service Station) land to the satisfaction of the City.

- (1.4) The use of all other equipment and machinery, not exceeding the Environmental Protection (Noise) Regulations, is limited to the hours between 10am to 4pm Monday to Friday and no equipment and machinery is to be used for any purpose on all other days of the year.
  - (1.5) At all times, the development must comply with the definition of Educational Establishment as contained in Schedule 1 of the City's Local Planning Scheme.
  - (1.6) All works required to satisfy a condition of this approval are required to be installed/constructed and maintained in accordance with the approved plans and conditions of approval for the life of the development.
  - (1.7) This Planning approval supersedes any previous planning approval granted for the site.
  - (1.8) The existing landscaping must be retained and maintained and verges are to be landscaped and reticulated and maintained at all times to the satisfaction of the City's Landscape Architect. To this end a Landscape Plan is to be provided within one month of the date of development approval to the approval of the Landscape Architect. Once approved must be established within two months thereafter.
  - (1.9) The verge shall not be used for the purpose of parking, at any time. Additional hardstand or gravel sealing other than the cross-over will not be permitted on the verge.
  - (1.10) The development must comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Unauthorised Discharge) Regulations 2004* in relation to discharges into the environment.
  - (1.11) The development must comply with the requirements of the *Health Act 1911* and the *City of Bunbury Health Local Laws 2001*
  - (1.12) The development must comply with *Environmental Protection (Noise) Regulations 1997* in relation to noise emissions.
2. Advise the applicant and the submitters Council's decision.

## **Background**

The subject land is zoned Residential (R30) in *City of Bunbury Town Planning Scheme No.7 (TPS 7)*. Historically, the site has been used in a non-residential capacity.

The most recent grant of planning approval was issued on the 10 November 2009, for a change to non-conforming use to Storage and Incidental Office. That approved use is current.

The current occupant has been operating at the site without planning permission.

The Council (Standing) Committee Recommendation to Council was as follows:

*“Council, pursuant to the provisions of the Planning and Development Act 2005 (as amended), hereby resolves to refuse to grant Planning Approval to TPS Training for the retrospective Change of Use of the property to ‘Educational Establishment’ at 84 Strickland Street, Bunbury, for the following reasons:*

1. *The proposal is contrary to Clauses 10.2.1(i) and 10.2.1(n), of TPS7 in that the proposed development would not be “compatible within its setting”, and would have a significantly adverse impact on the established level of amenity*

*in the immediate residential area in terms of loss of privacy, visual amenity (size of machinery and equipment), and excessive noise levels.*

2. *The proposed development is contrary to Clause 10.2.1(o) which requires the local government to have due regard to: “the relationship of the proposal to development on adjoining land, or on other land in the locality, including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal”. In this respect, Council has determined that the proposed development would be entirely out of scale character having regard to established land uses on adjoining residential properties.*
3. *The proposed development is contrary to the provisions of Clause 4.9.3 of TPS 7 that states:  
“The local government shall not grant its planning approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is in the opinion of the local government, closer to the intended use of the zone”.  
Council considers that on the basis of the evidence presented:  
“In respect of the relative size, scale, and quantity of the machinery which is currently on the subject site and in terms of the weight of public objection, the proposed development would have a substantially greater adverse impact on the established level of amenity in the locality than the existing non-conforming use.”*
4. *The Council of the City of Bunbury has had due regard to the provisions of Clause 10.2.1 of TPS 7 (Matters to be considered by Local Government) and has determined that in respect of Clause 10.2.1(y) specifically, the public submissions made are largely relevant and substantive in terms of indicating the potential detrimental impact of the proposed development in the immediate residential area.”*

### **Council Policy Compliance**

#### *Access and Parking for Pedestrians, Bicycles and Vehicles – No.3.1*

The application has been assessed in respect of the requirements for parking as per the Local Planning Policy and also assessed in line with the policy entitled “Non-Residential Development in or adjacent to Residential Areas”.

### **Legislative Compliance**

Under Clause 9.4.1 of TPS7 the proposal had been advertised. Additionally, public notices were placed in the Bunbury Mail, two (2) onsite notices, and the surrounding residents were sent notification of the application by mail generated letters of objection from surrounding residents.

### **Officer Comments**

The additional information provided by MPM (Environmental Noise Assessment) proposes machinery associated with the facility to be relocated to the front of the site with the aim of lessening any adverse impact on adjoining (side and rear) residential properties, including findings of an acoustic assessment.

Acoustics consultant Lloyd George Acoustics assessment entitled: *Environmental Noise Assessment* is **attached** at Appendix DPDS-2

An extract from the report reads as follows:

Discussion

*“The analysis indicates that noise from the rear yard can exceed background noise by 13-18 dB and the assigned noise levels of the Regulations by 14-19 dB.*

*The proposal is to move all equipment training to the front, with the exception of the forklifts, as these were considered by TPS to be of lesser impact. Although the forklifts are quieter than other machines, they still result in noise levels above the assigned level and background noise. As such, the analysis considered the relocation of all equipment to the front yard and restricting the forklift operations to one at a time.*

*With a forklift operating in the front yard, noise levels are calculated to be below background noise and exceed the assigned noise levels by 6Db. Other equipment is calculated to exceed by 10-20Db and be 2-7 dB above background noise.*

*As expected, the worst case exceedances are similar for both the rear and front yard scenarios, since the neighbouring villas at 86 Strickland Street are adjacent both areas. The main benefit of relocating to the front is the relationship to background noise, making the equipment less audible; although at its worst location will still be 7 dB above background noise.”*

Conclusion

*“By relocating the equipment to the front yard, compliance with the Regulations is essentially achieved at the residences to the rear that are currently complaining of excessive noise (understood to be White Street and 86 D Strickland Street). However, there are residences that are in close proximity to the front yard. At these residences, the exceedances to the assigned noise levels are similar to those when operating in the rear yard and hence the site is still in non-compliance. Operating in the front yard would be of a lesser noise impact to operating in the rear yard, as residences near the front yard are exposed to higher levels of background noise due to their proximity to Strickland Street.*

*Due to the findings of this report, it is understood consideration is being given to using this site for education and forklift operations with all other equipment relocated to another site. Considering the forklift operations only, the following would be recommended:*

- *Forklift training to occur in the front yard.*
- *Only one forklift to be operated at a time.*

*With reference to Table 5-6, by implementing the above, noise from the forklifts is unlikely to be any more than background noise. Note that irrespective of the relationship to background noise, a single forklift in the front yard is still calculated to exceed the assigned noise level of the Regulations.”*

While the shifting of the machinery and equipment to the front of the lot may lessen the impact from adjoining (side and rear) residences that abut the property it should be noted that the additional information provided by the applicant does not demonstrate that noise will be reduced to a acceptable level complying with the appropriate noise regulations to those residential properties, including those opposite in front of the street, therefore the recommendation provided is to remove all machines and equipment from the site that exceed the Environmental Noise Protection Regulations.

Equally concerning is the impact to amenity resulting from overlooking that could occur from certain equipment/ machines such as cranes and scaffolding. Therefore it is again

considered appropriate to remove any such equipment that may result in overlooking issues relative to surrounding residential properties from operating from the site.

It is considered that the operation of the establishment as an educational facility with the limitation of machinery and equipment as detailed above would result in a use that is not inconsistent with the scheme, in particular Clause 4.9.3 that states:

*“The local government shall not grant its planning approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is in the opinion of the local government, closer to the intended use of the zone”.*

The Change of Use falls within the meaning of the use-class “Educational Establishment” that is currently operating (without approval) onsite, to train students for entry into the construction and mining industries and courses for the operation of a variety of equipment and machinery.

#### Principle of Use

The use-class ‘Educational Establishment’ as defined in TPS7 has an ‘A’ designation within a residential zone, As such, the Council has the discretion to determine the development after giving special notice, as defined within Clause 9.4 of the TPS.

An ‘Educational Establishment’ is traditionally a classroom-based use, and would not typically involve the use and operation of heavy machinery.

It should be noted there have been nineteen (19) submissions of objection to the original application. The key elements of objection are as follows:

- Excessive noise
- Vibration
- Inappropriate within a residential zone
- Damage to property (cracks in walls)
- Smell (Diesel fumes)
- Health and Hygiene concerns
- Dust and Pollution
- Visual eyesore
- Exacerbation of traffic issues
- Devaluation of property
- Concern over growth of the business

A further eleven (11) late submissions were received on 23 July 2013. Of those, six (6) had previously submitted objections. Of the remaining five (5) submissions the areas of concern are similar to those concerns listed above. Key issues relate to security (due to fence damage); excessive noise at night; concern that the business is located in the residential zone and that the business should be in the industry zone.

#### Landscaping

Should Council be of a mind to approve the application, the City’s Landscape Architect has requested that the existing verge be landscaped, reticulated and maintained.

### Parking

The parking provision for the site is calculated at one (1) bay per 30m<sup>2</sup> of Office space, and one (1) bay per employee plus parking bays for students, as determined by the local authority, for the educational component.

The applicant advises that the maximum number of employees the facility can accommodate is sixteen (16), and there will be a maximum number of six (6) staff, although on average those figures are less.

Taking into consideration there is no nearby public parking, it is considered the parking requirement for the use totals twenty (20) bays for staff and students.

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

The proposal has no budget implications for the City.

### **Community Consultation**

Advertising of the application has been undertaken in accordance with legislated requirements.

A Schedule of Submissions summarising issues raised is **attached** at Appendix DPDS-3 (a schedule of the late submissions is **attached** at Appendix DPDS-4).

### **Councillor/Officer Consultation**

The application has been considered by the City's Development Control Unit.

### Environmental Health

The City's Environmental Health Department had previously requested an acoustic report to ascertain the audible output of vehicle noise.

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

#### Economic

The site has the capacity to generate employment and skills development.

#### Social

Without appropriate controls the use would be socially disruptive to residents in the immediate vicinity.

### **Relevant Precedents**

There is no known (precise circumstance) relevant precedent.

### **Outcome – Council Committee Meeting 10 September 2013**

Mayor David Smith and Deputy Mayor Cr Craddock both declared an impartiality interest in this item (see section 5). The both remained in the chambers, participated in the discussion and voted on the matter.

The Mayor stepped down as presiding member at 6.51pm and Cr Jones presided over the meeting at that time.

Cr Steele left the chambers at 6.51pm and returned at 6.53pm. She was present for the voting on the item.

Mr Andrew McRobert, MPM Development Consultants, addressed the Committee and spoke in favour of the recommendation. He stated that his clients were looking at alternative premises to split their operations. They would like to keep the classroom facilities at the Strickland Street premises. He offered the Committee a slightly altered Executive recommendation.

Mr Tommy Kampanelli, owner of 3 White Street and Mr Basil Milentis from 91 Strickland Street addressed the Committee and spoke against the recommendation. The main point of the objections was that the business did not belong in a residential area. It was not conducive to the location and surroundings.

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

It was requested that the votes be taken separately. The Presiding member (Cr Jones) put the motion to the vote in separate parts:

Point 1: 4 votes “for” / 4 votes “against”. Cr Jones used her casting vote against the recommendation – motion LOST

Point 2: 6 votes “for” / 2 votes “against” – motion CARRIED

Point 3: 1 vote “for” / 7 votes “against” – motion LOST

Point 4: 4 votes “for” / 4 votes “against”. Cr Jones used her casting vote against the recommendation – motion LOST

The Mayor suggested that the preamble should be voted on. Cr Jones put the preamble to the vote and was LOST 3 votes “for” / 5 votes “against”. It was requested that the votes be recorded as follows:

For: Cr Jones, Cr Steele, Cr Morris

Against: Mayor D Smith, Deputy Mayor Cr Craddock, Cr Leigh, Cr Steck, Cr Kelly

The Committee did not offer an alternative recommendation. An alternate recommendation will need to be tabled at the Council meeting (17 September 2013) in order to get a Council decision on the matter.

Cr Jones stepped down from the chair at 8.01pm. The Mayor resumed presiding over the meeting.

Cr Morris left the chambers at 8.01pm and returned shortly after at 8.01pm.

#### 10.4.2 Gazettal of Lodging House Fees

<b>File Ref:</b>	A00348
<b>Applicant/Proponent:</b>	City of Bunbury
<b>Author:</b>	Bob Karaszekewych, Director Planning and Development Services
<b>Executive:</b>	Bob Karaszekewych, Director Planning and Development Services
<b>Attachments:</b>	Nil

#### Summary

Lodging Houses (e.g. Motels, Guest Houses, Backpacker type accommodation) are required to be registered every year in accordance with the City of Bunbury Health Local Laws 2001. The local laws have been developed in accordance with section 342 of the *Health Act 1911* (as amended).

Whilst the Council has already approved the fees for registration of a Lodging House, as part of the 2013/14 Schedule of Fees and Charges, section 344C of the Act requires the setting of fees in relation to the local laws by way of resolution of the local government and a the publication of a notice to appear in the Government Gazette and local newspaper.

#### Council Committee Recommendation

That Council:

1. Approve fees for the registration of a Lodging House to be effective from 4 October 2013, as follows:
  - Less than 100 lodgers \$100.00 per annum
  - 100 or more lodgers \$266.00 per annum
2. Authorise the publication of the Council resolution for fourteen (14) days, prior to the fee being published in both the Government Gazette and local newspaper.
3. Authorise the issue of Invoices for the renewal of a Lodging House licence by applying the previously gazetted fee for the period July – September 2013 and the new fee for the period October 2013 – June 2014.

#### Background

A Lodging House, such as motels, guest houses and backpacker accommodation must be registered in accordance with Part 8.1.2 of the City of Bunbury Health Local Laws 2001 and applications for registration must be accompanied by a fee. As the local laws are made under the *Health Act 1911* (as amended), all fees and charges associated with the local law must be fixed by resolution in accordance with section 344C of the *Health Act 1911* (as amended), that specifies:

#### **344C. Fees and charges may be fixed by resolution**

- (1) *Where a local government is empowered to make a local law setting fees or charges under a provision set out in the Table to this section, it may fix that fee or charge by resolution in accordance with this section.*



- (2) *Fees or charges fixed under this section shall be fixed by resolution of a local government and notice of the resolution shall be published at least 14 days before the day on which the resolution is to take effect —*
  - (a) *in the Gazette; and*
  - (b) *in a newspaper circulating generally throughout the district of the local government.*
- (3) *Notice of a resolution under subsection (2) shall specify —*
  - (a) *the day on which the resolution is to take effect; and*
  - (b) *the amounts of the fees or charges.*
- (4) *Notwithstanding anything else in this Act, where a local government fixes a fee or charge by resolution under this section, that fee or charge applies in respect of the district of the local government and the fee or charge prescribed by local law which otherwise would have applied does not apply in respect of that district.*
- (5) *A resolution made by a local government under this section may revoke a resolution previously made by that local government under this section.*
- (6) *Sections 41(2), 42, 43, 45 and 46 of the Interpretation Act 1984 apply to a resolution made under this section as if the resolution were a regulation.*
- (7) *A fee or charge fixed under this section may be enforced and recovered as if it were prescribed by local law made under this Act.*
- (8) *Where a resolution made under this section is inconsistent with a regulation made under this Act —*
  - (a) *the regulation prevails to the extent of the inconsistency; and*
  - (b) *the Minister may, by order published in the Gazette, revoke or amend the resolution, whether or not the resolution has taken effect.*

**Table**

*Sections 133(1), 134(6), (11), (12), (29), (44), (45) and (46), 146(3), 158(3), 199(10) and 344(1)(a).*

*[Section 344C inserted by No. 28 of 1996 s. 18; amended by No. 36 of 2007 Sch. 4 cl. 4(7); No. 43 of 2008 s. 147(15).]*

Lodging house registrations apply from 1 July each year. As the proposed fees were not gazetted prior to this date, the previous gazetted fees (below) need to be applied for a three (3) month period.

- Less than 100 lodgers \$91.00 (pro rata)
- 100 or more lodgers \$242.00 (pro rata)

The following proposed fees will then be charged on a pro rata basis for the remainder of the financial year.

- Less than 100 lodgers \$100.00
- 100 or more lodgers \$266.00

There are currently eleven (11) registered lodging houses in the City of Bunbury and ten (10) of those pay registration fees (NB: the registered lodging house located at 25 Victoria Street formally known as Yanget Guest House is not charged fees as it is operated by a Not-For-Profit organisation). Council's Environmental Health Officers inspect lodging houses for compliance with the City of Bunbury Health Local Laws 2001, biannually.

### Definition of Lodging-house

The Health Act 1911 defines a lodging house as, lodging-house means any building or structure, permanent or otherwise, and any part thereof, in which provision is made for lodging or boarding more than 6 persons, exclusive of the family of the keeper thereof, for hire or reward; but the term, does not include —

- (a) premises licensed under a publican's general licence, limited hotel licence, or wayside-house licence, granted under the Licensing Act 1911(as amended);
- (b) residential accommodation for students in a non-government school within the meaning of the School Education Act 1999; or
- (c) any building comprising residential flats.

Hotels (such as Lord Forrest, Mantra, Rose Hotel, Prince of Wales etc) that provide accommodation on site are not registered as lodging houses with the City as they are a licensed premises with Racing, Gaming & Liquor and must comply with their requirements. Although these premises are inspected for compliance with Health related legislation by the City, the rooms are not inspected unless the City has received a complaint

### Lodging-house Premises

Premises less than 100 lodgers – proposed fee \$100

- Wander Inn, 16 Clifton Street
- Ocean Drive Motel, 123 Ocean Drive
- Dolphin Retreat Bunbury YHA, 14 Wellington Street
- Bunbury Beach House, 2 Clifton Street
- 25 Victoria Street, 25 Victoria Street (former Yanget Guest House NFP no fees applied)

Premises more than 100 lodgers – Proposed fee \$266

- Bunbury Welcome Inn, 75 Ocean Drive
- The Clifton Motel and Grittelton Lodge, 2 Molloy Street
- Sanctuary Condominium Unit, 105 Old Coast Road
- Quest Bunbury, 22/14 Lyons Cove
- Bunbury Motel, 45 Forrest Avenue
- Comfort Inn Admiral, 54 Spencer Street

### Fees and Inspection

Fees proposed for lodging houses are comparable with surrounding local governments, e.g.:

- Albany – Charge an Application fee of \$105 to establish as a lodging house and then an annual fee of \$155
- Augusta/Margaret River – Charge one flat fee of \$140 regardless of number of lodgers
- Busselton – Charge initial fee for less than 15 lodgers - \$315 and then \$210 to renew (annually) and initial fee for more than 15 lodgers - \$450 and then \$300 to renew (annually)
- Donnybrook – Charge one flat fee of \$180 regardless of number of lodgers

Fees charged for lodging houses is primarily to issue an annual Registration Certificate, as required by the legislation.

The City includes two inspections, per annum of the lodging houses as part of this fee checking the following for compliance with the City of Bunbury Health Local Laws 2001:

- guest to facility requirements ratio

- fire prevention and control
- cleanliness of rooms/kitchen/bathrooms/laundry/common areas
- cleaning and maintenance requirements
- bedding/furnishings
- pest control
- register of lodgers

Fees can be determined by Council; however each time the fee is amended or new fees developed under this legislation they must be gazetted in accordance with the Health Act 1911.

### **Council Policy Compliance**

There is no applicable Council Policy.

### **Legislative Compliance**

A Lodging House, such as motels, guest houses and backpacker accommodation must be registered in accordance with Part 8.1.2 of the City of Bunbury Health Local Laws 2001 and an application for registration must be accompanied by a fee. As the local laws are made under the *Health Act* 1911 (as amended), all fees and charges associated with the local laws must be fixed by resolution in accordance with section 344C of the *Health Act* 1911 (as amended).

### **Officer Comments**

The proposed fees have been increased to cover the City's administrative and inspectorial costs for lodging houses. The resolution of the proposed fee(s) is to ensure compliance with *Health Act* 1911 (as amended).

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

The proposed lodging house fee(s) have been increased in line with other Council fees and charges. The revenue generated from registrations is approximately \$2,048.00.

### **Community Consultation**

As per the legislative requirements, the Council resolution will be published in a local newspaper and in the Government Gazette fourteen (14) days prior to the new fee taking effect.

The fees also appear in the Councils Schedule of Fees and Charges for 2013/14 which has been publically advertised, prior to adoption.

### **Councillor/Officer Consultation**

Council officers have liaised with Department of Health WA and State Law Publisher to ensure that all legislative requirements have been considered.

### **Outcome – Council Committee Meeting 10 September 2013**

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

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

**10.4.3 Proposed Initiation of Scheme Amendment No. 72 - Modifying “Public Purposes Reserve – Special Uses” to “Development Zone – Residential” at Lot 312 Jeffrey Road, Glen Iris.**

<b>File Ref:</b>	A00647-03
<b>Applicant/Proponent:</b>	City of Bunbury
<b>Author:</b>	Kelvin D. Storey, Team Leader Integrated Land Use Policy
<b>Executive:</b>	Bob Karaszekwych, Director Planning and Development
<b>Attachments:</b>	Appendix DPDS-5

**Summary**

The City of Bunbury has been advised that the Western Australian Planning Commission has initiated a Greater Bunbury Region Scheme Amendment (GBRS 0031/57) that involves a change in the designation of Lot 312 Jeffrey Road, Glen Iris from “*Public Purposes Reserve – Special Uses*” (Glen Iris Relief Floodway) to “*Urban Deferred Zone*”.

The location and extent of GBRS regional reserves are identically captured within the City of Bunbury Town Planning Scheme No. 7 (TPS7). As such, in order to ensure on-going compatibility between the region and local schemes, any changes involving the release of all or part of a reserve in the region scheme needs to be reflected by an appropriate consequential amendment to the local scheme, and this also avoids the occurrence of resulting “*No Zones*”.

TPS7 Scheme Amendment 72 therefore seeks to retain consistency with the GBRS by amending the designation of the subject land as it currently appears on the Scheme Map from “*Public Purpose Reserve – Special Uses*” to “*Development Zone – Residential*”, which would be in keeping with the designation of adjacent zoned land.

The Scheme Amendment report (incorporating the GBRS amendment document as supporting information) is **attached** at Appendix DPDS-5.

**Council Committee Recommendation**

That Council in accordance with the *Planning and Development Act 2005* resolve to:

1. Initiate proposed Scheme Amendment 72 to the City of Bunbury Town Planning Scheme No.7 as detailed in the prepared Scheme Amendment Report involving deleting the “*Public Purpose Reserve – Special Uses*” at Lot 312 Jeffrey Road, Glen Iris and replacing this with “*Development Zone – Residential*”
2. Refer proposed Scheme Amendment 72 documentation to the Environmental Protection Authority for approval to advertise for public comment.
3. Notify the Western Australian Planning Commission of Council’s decision to initiate proposed Scheme Amendment 72, and furnish the Commission with a copy of the scheme amending documentation prior to proceeding to public advertising.
4. Subject to the consent of the Environmental Protection Authority and a request to WAPC, publicly advertise proposed Scheme Amendment 72 for a period of not less than 21 days in accordance with regulation 25 (2) (j) (v) of the Town Planning Regulations 1967.

5. Following the public advertising of proposed Scheme Amendment 72, the scheme amending documentation, including any proposed modifications, along with any public submissions lodged with the City of Bunbury during the advertising period is to be returned to Council for further consideration.

### **Background**

Council decision 16/13 (22 January 2013):

1. *Council resolves to inform the Western Australian Planning Commission that it has no objection to considering the initiation of an amendment to the Greater Bunbury Region Scheme involving a change from “Public Purposes Reserve (Special Uses)” to “Urban Zone” at Lot 312 Jeffery Road, Glen Iris; subject to confirmation by the Commission that the amendment will incorporate an alternative alignment of the Glen Iris Relief Floodway and/or the adequacy of alternative flood mitigation measures.*
2. *This recommendation to be reviewed by Council for a final resolution upon confirmation from the WAPC as per part one.*

Although Council now have an opportunity for further review (per part two of the above resolution), it should be noted that the GBRS (minor) amendment as initiated proposes a change to “Urban Deferred” Zone in preference to “Urban” Zone, the difference being that the “Urban Deferred” Zone acknowledges that “*there are various planning, servicing and environmental requirements which need to take be addressed before urban development can take place*” (GBRS Part 4 Clause 12 (b)). Accordingly, as a minimum requirement, it would be expected that modifications to the GBRS Floodplain Strategy and alternative flood mitigation measures (across the broader area) would need to be prepared and formally endorsed by responsible agencies (e.g. Department of Water) prior to any structure planning being considered over this and adjacent land.

### **Council Policy Compliance**

The Glen Iris – Moorlands Local Area Plan: Study document adopted by Council on 16 December 2012 acknowledges the likelihood of the GIRF being rationalised, identifying the majority of the subject land potentially for future residential development.

### **Legislative Compliance**

Region scheme and local planning scheme amendment procedures are regulated by the *Planning and Development Act 2005*.

### **Officer Comments**

The primary purpose of Scheme Amendment 72 is to ensure on-going consistency with the zoning designations of an amended GBRS. The justification for the region scheme amendment is provided within the supporting document prepared by the Department of Planning which is captured as part of the Scheme Amendment 72 report.

### **Strategic Relevance**

Uncertainty regarding the future status of the reserve/relief floodway has effectively constrained any significant progress that would lead to the comprehensive development of this part of Moorlands. Subject to flooding risks being mitigated, the benefits of the proposed amendment are that it may assist in advancing a resolution of this issue and

would enhance structure planning/neighbourhood design outcomes for the remaining developable portions of Moorlands.

The partial removal of the regional floodway reservation inevitably results in land use implications upon the wider area that have yet to be fully investigated. The Region Scheme Amendment as proposed effectively defers critically important detailed investigations to the local structure planning stages, which by their nature, are statutorily limited in their scope of authority for resolving floodplain management and biodiversity conservation issues (i.e. local planning instruments are more concerned with urban design matters). Specifically, should it be determined at a later stage that significantly constrained land should be included in a regional reserve (such as Regional Open Space), then the mechanisms to effect this would not be through the Local Planning Scheme or a local structure plan, but would inevitably necessitate another amendment to the Region Planning Scheme. The City has an opportunity to make a submission to WAPC in respect of the region scheme amendment as initiated, and may then draw attention to the potential shortcomings of the current approach.

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

Detailed consideration will be necessary as part of the structure planning phase and in the light of anticipated modifications to relevant WAPC policy.

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

None other than advertising costs.

### **Community Consultation**

The GBRS amendment has been initiated and will undergo a separate process of community consultation administered by the Department of Planning. The closing date for submissions to the GBRS amendment is 22 October 2013.

Subject to initiation by Council, it is intended that Scheme Amendment 72 be advertised in accordance with the *Planning and Development Act 2005* and associated *Town Planning Regulations 1967*.

### **Councillor/Officer Consultation**

Relevant staff of the Planning and Development Services directorate have informed the preparation of this report as required.

### **Outcome – Council Committee Meeting 10 September 2013**

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

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

It was requested that the votes be recorded as follows:

For: Deputy Mayor Cr Craddock, Cr Jones, Cr Leigh, Cr Steck, Cr Kelly, Cr Morris  
Against: Mayor D Smith, Cr Steele

#### 10.4.4 Proposed Formalisation of “Community Purpose Use” and “Office Addition (Ancillary)” – Lot 100 (No.16) Little Street Carey Park

<b>File Ref:</b>	P05670
<b>Applicant/Proponent:</b>	Ghassan Ghaseb
<b>Author:</b>	Teshome Tadesse, Senior Town Planning Officer
<b>Executive:</b>	Bob Karaszekewych, Director Planning and Development Services
<b>Attachments:</b>	Appendix DPDS-6, DPDS-7, DPDS-8, DPDS-9, DPDS-10, DPDS-11

#### Summary

The proposal is to formalise the current “*Community Purpose*” activities on Lot 100 (No. 16) Little Street. The Goomburrup Aboriginal Corporation delivers services to the Aboriginal people from this location.

The premises at Lot 100 (No.16) Little Street has, in effect, been used for “*Community Purposes*” related activities since 1973. However, records only indicate formal land use approval (Koala Kindy and Pre-Primary School) on site. In practice, the subject site has been used for delivery of many community services for Aboriginal people. The list of activities by the *Goomburrup Aboriginal Cooperation* include: Language and Cultural Program, a Suicide Prevention Program, Drivers Training Program, Women’s Group and Men’s Group programs.

All of those activities come under the use class “*Community Purpose*”; therefore it is appropriate that all land use activities be formalised in a new approval for Community Purpose, subject to modification to the car parking arrangement as indicated on the site plan. The proposed ancillary Office (18m<sup>2</sup>) can also be supported.

#### Council Committee Recommendation

That Council resolves to:

1. Approve the proposed Community Purpose and ancillary Office at Lot 100 (No. 16) Little Street application reference DA/2013/192/1 in accordance with Town Planning Scheme No.7 of City of Bunbury, subject to the following conditions:
  - (1.1) At all times, the development the subject of this planning approval must comply with the definition of Community Purpose as contained in Schedule 1 of the City’s Local Planning Scheme.
  - (1.2) This planning approval will expire if the approved development has not substantially commenced within two (2) years from the date of issue of the approval, or within any extended period of time for which the City of Bunbury has granted prior written consent.
  - (1.3) All works required to satisfy a condition of this approval are required to be installed/constructed and maintained in accordance with the approved plans and conditions of approval for the life of the development.
  - (1.4) A landscape plan must be submitted for the approval of the City of Bunbury’s Landscape Architect, prior to making a building permit application. The landscape plan must address the following:



- A site plan of existing and proposed development with natural and finished ground levels.
- The location, species and size of existing vegetation and vegetation to be removed.
- Exact species, location and number of proposed plants.
- A key or legend detailing proposed species type grouped under the subheadings of tree, shrub and ground cover.
- Mulching or similar treatments of garden beds including edges.
- Details of reticulation of landscaped areas, including the source of the water supply and proposed responsibility for maintenance.
- Treatment of paved areas (parking and pedestrian areas).
- Screening of car parking areas.
- Fence material, height and treatment.

Before the development is occupied, the landscaped area(s) must be planted, established and reticulated in accordance with the endorsed landscape plan(s). Those areas must be maintained as landscaped areas, at all times, to the satisfaction of the City of Bunbury.

- (1.5) All verge areas shall be suitably grassed or planted and maintained at all times.

The verge shall not be used for the purpose of parking or for overflow parking in the case of a common driveway being shared.

Additional hardstand or gravel sealing other than the cross-over will not be permitted on the verge.

Any landscaping to the verge other than lawn requires an approved 'Verge Treatment Permit' in accordance with the City's QF214 'Verge Treatment Guidelines Forms'. Approval must be sought, prior to any works to the verge commencing.

A copy of the Verge Treatment Guidelines can be obtained on the City's website [www.bunbury.wa.gov.au/roads, footpaths and verges/verge treatment guidelines](http://www.bunbury.wa.gov.au/roads,footpathsandverges/vergetreatmentguidelines)

- (1.6) Existing trees located within the verge are a City of Bunbury Asset and as such must be retained except where otherwise approved for removal by the City of Bunbury.

Should removal be approved, all costs associated with the removal of the tree are to be the responsibility of the developer.

In the case of new dwellings any verge tree that is approved for removal to compensate the new crossover will again be at the cost of the applicant.

Costs include: replacement tree, installation, mulching and altering the reticulation. Generally this cost will range in price between \$500 - \$1,200 dependant on the size of the tree that requires replacement.

- (1.7) The property owner/developer shall purchase street tree/s to be installed within the verge area.

Species, size and quantities will be determined by the City of Bunbury (City's Landscape Architect). Please contact the Landscape Department on 9792 3087 to discuss requirements.

- (1.8) The car parking arrangement to be modified as indicated in red on the approved plan.

- (1.9) Before development commences, a damage bond to the value of \$500 must be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy "Bonds".
- (1.10) A minimum of 1m<sup>3</sup> of storm water storage for each 65m<sup>2</sup> of impervious area must be provided on site in accordance with the city of Bunbury's Information Guide – Stormwater Disposal from Private, Commercial and Industrial Properties.  
Detailed design plans of the proposed stormwater management must be submitted for approval, prior to the development commencing, and implemented in accordance with the approved plan, prior to the development being occupied.
- (1.11) Before development commences, a crossover permit must be obtained from the City of Bunbury. Construction and maintenance of the crossover shall be in accordance with the crossover permit.
- (1.12) Before development is occupied, all disused or redundant vehicular crossover(s) must be removed and the area reinstated to the satisfaction of the City of Bunbury.
- (1.13) Before development is occupied, any alterations, relocation or damage of existing infrastructure within the road reserve must be completed and reinstated to the specification and satisfaction of the City of Bunbury.
- (1.14) Before the development is occupied, line marking and parking signage must be installed in accordance with the approved plans.

Advice Notes:

- (1) *It is the owner's responsibility to ensure all required approvals are obtained for the project, prior to works commencing on site (including any specified conditions attached to the Planning Approval).*  
*Separate approvals that are required to be issued, prior to works commencing, could include: Building Permit Building Act 2011 and Building Regulations 2012; Health Approval Health Act 1911 and Food Act 2008; Local Laws for on-site Waste Disposal, Food Premises, Hairdressing Premises, Skin Penetration Premises and Public Buildings; Water Corporation Approval; New Cross Over Permits (Council's Engineering Department); Landscaping Approval (for any works on road verge) .*  
*Failure to obtain any required approvals, prior to works commencing, can result in separate statutory fines under the relevant legislation.*  
*Further information can be obtained from the City of Bunbury website [www.bunbury.wa.gov.au](http://www.bunbury.wa.gov.au) Building Services or Building Certification Department (08) 9792 7120.*
- (2) *Energy efficiency details for the proposed project to comply with Building Code of Australia – Volume 1, Part J for Climate Zone 5.*
- (3) *Owners, Builders and Developers undertaking development of any kind are hereby advised of their responsibility to comply with the requirements of the Disability (Access to Premises – Buildings) Standards 2010 and Disability Discrimination Act 1992.*  
*The Building Permit application plans and specifications must indicate all provisions of access for people with disabilities, into and within the building, in accordance with the BCA – Volume 1, Part D3 and AS1428.1 – 2009.*

- (4) *Plans and Specifications must be submitted to the Water Corporation for approval. [www.watercorporation.com.au](http://www.watercorporation.com.au) Bunbury Office: Level 3, 61 Victoria Street, Phone: (08) 9791 0400*
- (5) *When a new crossover is proposed, and before construction of it can commence, a separate verge crossover application must be submitted and approved.*  
*A permit application form can be obtained on the City's website [www.bunbury.wa.gov.au](http://www.bunbury.wa.gov.au)*
- (6) *It is the applicant's responsibility to ensure all required approvals are obtained prior to the works commencing. Works such as de-watering, native vegetation clearing or working near existing infrastructure may require separate approvals from relevant private or government agencies.*
- (7) *Before development commences, the existing effluent disposal system(s) must be decommissioned in accordance with Division 3 of the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.*  
*The City notes that there may be a possibility of the existence of Acid Sulphate Soils (ASS) on the land concerned. At the time of subdivision and/or, at the time of the construction of any buildings/structures on the land, the applicant is to ensure compliance with all relevant legislation and/or standards in this regard.*  
*The City of Bunbury contains many places of Aboriginal Heritage significance. Proponents are advised to consider Aboriginal heritage issues and their obligations under the Aboriginal Heritage Act 1972 at an early stage of planning. Further information can be obtained from the Department of Indigenous Affairs on 9235 8000 or at the following web site <http://www.dia.wa.gov.au/Heritage/default.aspx>.*  
*This Planning Consent issued by the City of Bunbury does not remove any responsibility the applicant may have in obtaining vegetation Clearing Permit from the Department of Environment in accordance with the Environment Protection Act 1986. Further information can be obtained from the Department of Environment and Conservation on 9725 4300 (Bunbury Office) or at the following website [www.dec.wa.gov.au](http://www.dec.wa.gov.au).*  
*This Planning Consent issued by the City of Bunbury does not remove any responsibility the applicant may have in notifying Department of Sustainability, Environment, Water, Population and Communities of the proposal for consideration of impacts in accordance with the Environmental Protection and Biodiversity Conservation Act 1999. Further information can be obtained from Department of Environment and Heritage on (02) 6274 1111 or by visiting <http://www.deh.gov.au/epbc/assessmentsapprovals/index.html>.*

2. Advise the applicant and the submitters its decision.

## Background

Lot 100 (No. 16) Little Street has been used for Community Purpose related activities to local Aboriginal people since 1973. Location plan is **attached** at Appendix DPDS-6.

In summary, the applicant has provided the following justification in respect of the proposal:

- That the Goomburrup Aboriginal Corporation (originally Bunbury Aboriginal Progress Association) was the original Aboriginal Corporation in the South West;
- That it owns the property since 1973 and this property has been used for the delivery of services to the Aboriginal People in the locality;
- That Goomburrup has the largest membership in the Greater Bunbury Area;
- That from Goomburrup, Djidi Djidi Aboriginal School has developed “Kindy” that operated in the 1990’s;
- South West Aboriginal Medical Service has developed from the health programs and Needac Ltd from the employment programs through Goomburrup;
- That the heritage status of the place is unique and has a place in the hearts of Aboriginal people Goomburrup occupies.
- That the current activities on site include the following:
  - \* *Dandjoo Moordiyap Dabakarn Language and Culture Program (originally in 1984/85 and returned in 2011 and operational from an office on site) – visitor per day 1; staff 1; number of vehicle per day 1.*
  - \* *Goomburrup Aboriginal Cooperation occupies two offices on site. The Corporation conducts a Suicide Prevention Program (to be located in town), KaditiJ-KaditiJ Driver Training Program – visitors per day 4, staff 1.8 FTE, Number of vehicle per day 2 staff and up to 4 visitors. In addition the Cooperation provides Women’s Group on a Monday which is estimated that 5 visitors on a Monday and number of vehicles per Monday 2. The Men’s Group on a Thursday – visitors 8 and number of vehicles per Thursday 3.*
  - \* *In addition, occasionally a group of people use the meeting room (six or less) and a community member and representatives from government agencies visit the site.*

That the concrete driveway at the right side is currently used for staff parking and the grassed area to the left is used for visitors parking.

A full account of applicant’s submission is **attached** at Appendix DPDS-7.

## Council Policy Compliance

The most relevant policy in this case is City’s Local Planning Policy – *Access and Parking for Pedestrians, Bicycles and Vehicles* in relation to car parking requirements. The Policy specifies that if car parking requirements are not specified the local government is to determine parking requirements on the basis of the nature of use/development, the number of persons likely to occupy or be accommodated on site, road safety, and in the consideration of traffic and amenity of the area.

The applicant has outlined in his submission that six (6) vehicles (maximum) will be on site during peak car parking demand. The proposal indicates six (6) parking spaces (tandem) on site. Development Assessment supports the proposed arrangement subject to modifications as indicated in red on the site plan to improve vehicles manoeuvrability on site.

## Legislative Compliance

The proposed Community Purpose is an “A” use and can be considered by Council following the public consultation process in accordance with the Scheme requirements. Only one submission was received from the adjoining Church mainly on car park matters.

In accordance with the Scheme, car parking requirements for community purpose is as determined by the Local Government. It is considered that the proposed car parking arrangement can be supported as amended on the site plan. The proposed office addition is not a stand-alone office but an ancillary use for the purpose of land use classification. It will only serve to enhance the community purpose activities.

## Officer Comments

There are two (2) main factors in respect of the proposal which require determination by Council:

- (1) Formalisation of the current use on site as Community Purpose; and
- (2) The construction of 18m<sup>2</sup> office building at the rear of the lot.

It is considered appropriate that Council support the proposed formalisation of Community Purpose use on site and to allow the construction of 18m<sup>2</sup> office (ancillary) at the rear of the lot.

## Land Use

The subject land is zoned Residential – R20/30 and the use class “Community Purpose” is an “A” use in the Residential zone. The zoning map under TPS 7 is **attached** at Appendix DPDS-8.

City’s records show approval for Koala Kindy and Pre-Primary School on the subject land. In practice, the subject site has been used for the delivery of many community services for the Aboriginal people. The list of activities by the *Goomburrup Aboriginal Cooperation* include: language and cultural program, a Suicide Prevention Program, Drivers Training Program, Women’s Group and Men’s Group programs. All of these activities come under the use class “Community Purpose”; and therefore the proposed change of use to “Community Purpose” can be supported.

A set of development plans is **attached** at Appendix DPDS-9.

## Car Parking

Table 2 (Car Parking Table) of TPS 7 provides that car parking requirement for the use class Community Purpose is to be as determined by the Local Government with the consideration of Local Planning Policy, applicable or equivalent use class and in the consideration of the maximum capacity of all facilities.

It is considered that the maximum capacity of the facilities on site can be considered in the determination of car parking requirements in terms of staff car parking and the required visitors’ car parking spaces on site. The applicant (in his submission) has advised that the community activities are not conducted simultaneously and that it is understood that six (6) car parking spaces (two (2) for staff and up to four (4) for visitors) are required in the consideration of peak activities on site. The proposal indicates six (6) tandem parking spaces on site. The tandem parking arrangement is not an ideal arrangement, but the proposed arrangement can be accepted with modification to ensure manoeuvrability of

vehicles within the site. The modified car parking layout as amended by the City's staff yield seven (7) car parking spaces on site with a reversing bay for visitors' car parking area.

The Anglican Parish of Carey Park has raised car parking related issues in terms of shortage of car parking on site and the matter of parking on the road reserve in the immediate locality. A full account of Anglican Church's submission is **attached** at Appendix DPDS-10.

Development Assessment section notes the issues that have been raised by the Church. However, the community purpose activities have been undertaken on site for a number of years. The current proposal which adds 18m<sup>2</sup> office space (ancillary) at the rear of the building would not significantly compromise the adjoining church activities nor impact the adjoining residential site. It is also considered that this scale of development would not significantly alter the car parking situation in the immediate locality. The parking matter will be monitored, and if it is considered that it impacts the locality the City will consider the installation of appropriate parking restrictions. The proposed formalisation of the existing Community Purpose use can be supported. It should be noted that any significant expansion in the future should be looked at carefully to avoid land use conflicts and car parking shortage on site.

#### Heritage

The City's Municipal Inventory states the heritage significance of Lot 100 (No. 16) Little Street in the following terms:

*"LOCAL (a). In 1971, the conversion of an existing building to cater primarily for the needs of young Aboriginal children was a significant initiative of the local Noongar Community who sought to determine the direction of early education for their children."*

The heritage significance of the site will not be altered by the current proposal, as it is mainly to formalise the current community purpose use on site (no external change to existing building). It should be noted that the Heritage Officer has raised no concerns. It is also considered that the 18m<sup>2</sup> office addition at the rear would not impact the current heritage status of the place.

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

It is considered that there are no financial or budget implications to the City.

#### **Community Consultation**

The proposal was advertised from 10 July 2013 and inclusive of 23 July 2013, in accordance with Scheme requirements. At the end of the public consultation period two (2) submissions were received out of which one (1) submission was from the Government Agency and one (1) from the general public. The Government Agency has raised no objections. One (1) submitter (the Anglican Parish of Carey Park) has raised car parking issues. It is considered that the addition of 18m<sup>2</sup> office building at the back of the existing building will not significantly alter the car parking situation in the locality. A copy of the submissions received is **attached** at Appendix DPDS-11.

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

The proposal has been discussed within Development Assessment staff and relevant divisional staff prior to the finalisation of this report.

**Delegation of Authority**

Delegation of authority is not applicable in this case.

**Relevant Precedents**

There are no relevant precedents in the consideration of the current proposal.

**Outcome – Council Committee Meeting 10 September 2013**

Mr Paul O'Neill and Mr Bud Coe representing Goomburrup Aboriginal Corporation was present at the meeting to answer any questions that the Councillors may have had in relation to this matter.

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

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

#### 10.4.5 Happy Wife Café Expansion and Parking Issues – Lot 4 (DP: 1540) No. 98 Stirling Street, Bunbury

<b>File Ref:</b>	P09113
<b>Applicant/Proponent:</b>	Paul Thomas Griffin – Happy Wife Cafe
<b>Author:</b>	Damien Morgan, Development Engineer Neville Dowling, Planning Officer Gary Fitzgerald, Manager Development Assessment and Building Certification
<b>Executive:</b>	Bob Karaszekwych, Director Planning and Development Services
<b>Attachments:</b>	Appendix DPDS-12, DPDS-13

#### **Summary**

The Happy Wife Cafe received Planning Approval on 26 October 2010, as a “Gourmet Deli” classified under the use class of “Restaurant” under the City’s Town Planning Scheme (TPS7). The proprietor wants to extend the seating capacity (approximately 40sqm) to the rear of the premises.

In June 2013, the proprietor submitted a Petition that requested Council to make an exception in respect of TPS7 and Parking Policy requirements for the planned expansion of the Happy Wife Cafe.

Following Council’s determination at its meeting on 6 August 2013, the applicant subsequently submitted a Development Application. A copy of the site plans and floor plans are provided in **attached** Appendix DPDS-12.

#### **Council Committee Recommendation**

That Council resolves to:

1. Grant planning approval subject to:
  - a) The applicant providing a contribution of \$14,000 for the construction of four (4) public car parking bays in Stirling Street road reserve; and
  - b) Satisfying appropriate development conditions imposed to the satisfaction of the Manager Development Assessment and Building Certification.
2. That, separate to the matters relating to the Happy Wife, Council Executive staff be requested to prepare a report for the December round of Council meetings on recommendations as to how to increase the number of parking bays in the vicinity of the Parade Hotel/Quays precinct.

#### **Background**

Following receipt of the Petition, at its meeting on 6 August 2013 Council resolved (Council Decision 246/13) to:

- “1. *Receive the Petition (dated 11 June 2013) from the proprietor of the Happy Wife Café containing 856 signatures in support of the premises being able to expand without the provision of any on-site requirement for car-parking;*



2. *Advise the proprietor of the Happy Wife Café that should he wish to expand the Café, a new Development Application for the proposed expansion is required to be submitted compliant with the Town Planning Scheme 7, legislated health and building requirements, and Council’s adopted Local Planning Policy “Access and Parking for Pedestrians, Bicycles and Vehicles”;*
3. *Advise the proprietor of the Happy Wife Café that Council is prepared to reduce the required car parking bays to four (4) offsite car bays;*
4. *Support the preparation of the Local Area Plan for each suburban local neighbourhood shopping centre to stimulate private sector investment and public sector funding for capital works, such as car park spaces and associate infrastructure and streetscaping that will contribute to the enhancement and revitalisation of local centres.*
5.
  - a) *Request the Director Works and Services in consultation with the Director Planning and Development Services and the superintendent of Parking, to prepare a plan with costing’s for angle parking adjacent to the Frank Buswell Foreshore in the vicinity of the Happy Wife Café and the Quays together with a recommendation for a proposed contribution from the proprietors of the Happy Wife Café in the event of an alternate location for off-street parking not being provided.*
  - b) *These plans and recommendations to be returned to Council for the September round of Council meetings.”*

Since that decision, staff met with the owner to discuss options to address compliance with TPS7 and Policy requirements.

### **Council Policy Compliance**

Any expansion of existing premises is required to comply with Council's adopted Policy entitled *Access & Parking for Pedestrians, Bicycles and Vehicles*.

### **Legislative Compliance**

The existing premises are compliant with its current planning approval dated 26 October 2010.

### **Officer Comments**

The following comments are relevant to Council consideration.

#### Proposed expansion of the premises

It is evident that the applicant is not able to provide any further car park spaces on the premises without making significant physical building modifications, particularly as the proposed expansion occupies the existing 2 car park bays that are required by the current development approval.

#### Parking

Notwithstanding the requirements of TPS7 and Local Planning Policy, whereby 8 car park bays were assessed as being required to be provided, Council Decision 246/13 resolved to reduce the required car park bays to four (4) off site car bays.

Following discussions with the applicant and having regard to Council's decision, Officers recommend the applicant fund the extension of the existing public parallel parking on Stirling Street by four (4) bays (refer **attached** Appendix DPDS-13), to allow for the expansion of the alfresco dining area and additional seating. Once those bays have been constructed and the proprietor of the Happy Wife Café has satisfied all other requirements of the planning approval they can commence trading.

Staff calculated that the proprietor pay a contribution of \$18,000 for the construction of the additional four (4) public parallel parking bays on Stirling Street. The proprietor was amenable to an initial cost of \$3,500 per car park bay (\$14,000). Subsequent Officer costing amounts to \$18,000. The proprietor, has consider and agreed with the true cost of providing on-street car park bays.

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

Not applicable.

### **Community Consultation**

Not Applicable.

### **Councillor/Officer Consultation**

Works and Services Division and Planning and Development Services Officers contributed to this report. The Executive Leadership Team has been consulted and provided input into the Executive Recommendation.

### **Strategic Relevance**

The Strategic Community Plan 2030, Theme One "Support for Local Business", "planning decisions that enhance and support the development of local businesses are considered to be essential if Bunbury is to continue to prosper...this included the removal of obstacles to local business development", "create an environment that will attract new business...enhance our sense of place, pride and participation in our community".

Council has adopted the *Leschenault Inlet Masterplan* that foreshadows the proposed (staged) planning, design and physical enhancement of the foreshore, which could reasonably be extended to the provision of public parking to gain access to foreshore facilities.

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

#### Economic

The locality contains a relatively small, nonetheless diverse range of local shopping experiences with various premises having redevelopment potential and enhancement of surrounds; such that is likely to positively impact on the local economy, attract job creation and tourism particularly with improvements to the Leschenault Inlet foreshore.

#### Social

The current diversity in local shopping, eateries and service experiences with potential for redevelopment in close proximity to the local resident community, it is poised to be established, over time, as a local hub of activity.

Environmental

Provided the local neighbourhood shopping area is well-planned and designed it should enhance the experience.

**Relevant Precedents**

There is one known precedent, whereby the Council had recently approved the provision of parallel on-street car parking on Plaza Street, in relation to a Change of Use due to the inadequacy of parking spaces on-site. This was at the cost of and accepted by the Applicant.

**Outcome – Council Committee Meeting 10 September 2013**

Cr Steck declared a proximity interest in this matter (see section 5). She left the chambers at 6.12pm and was not present for the discussion or vote on the matter.

Mr Paul Griffin, proprietor of the Happy Wife Café, addressed the Committee in favour of the recommendation. He stated that the last four (4) months has been stressful and he is glad that the City and he have been able to arrive at an agreement in regards to the parking.

Mrs Leonie Kershaw, representing the hospitality industry, addressed the Committee and spoke in support of the recommendation. She stated that the café is a hidden gem for Bunbury and is good for the tourism in Bunbury. The Council need to embrace and accommodate such businesses within the City of Bunbury.

Ms Kim Harvey addressed the Committee and spoke in support of the recommendation. She stated that she is in support of the Happy Wife Café and has requested that Council look at angle parking in Stirling Street.

The Executive recommendation was moved Cr Kelly, seconded Cr Jones.

Deputy Mayor Cr Craddock moved the Mayor seconded the following amendment:

Add a point which reads:

- "2. *That separate to the matters relating to the Happy Wife, Council Executive staff be requested to prepare a report for the December round of Council meetings on recommendations as to how to increase the number of parking bays in the vicinity of the Parade Hotel/Quays precinct.*"

The Mayor put the amendment to the vote and was CARRIED 7 votes "for" / nil votes "against".

Cr Steele moved, Cr Leigh seconded the following amendment:

In point 1(a) change the amount of "\$18,000" to being "\$14,000".

The Mayor put the amendment to the vote and was CARRIED 4 votes "for" / 3 votes "against".

The motion (as amended) reads as follows:

*“That Council resolves to:*

1. *Grant planning approval subject to:*
  - a) *The applicant providing a contribution of \$14,000 for the construction of four (4) public car parking bays in Stirling Street road reserve; and*
  - b) *Satisfying appropriate development conditions imposed to the satisfaction of the Manager Development Assessment and Building Certification.*
  
2. *That, separate to the matters relating to the Happy Wife, Council Executive staff be requested to prepare a report for the December round of Council meetings on recommendations as to how to increase the number of parking bays in the vicinity of the Parade Hotel/Quays precinct.”*

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

Point 1 (a) 7 votes “for” / nil votes “against”  
Point 1 (b) 7 votes “for” / nil votes “against”  
Point 2: 7 votes “for” / nil votes “against”

Cr Steck returned to the chambers at 6.47pm. She was present for the vote on all remaining matters of the agenda.

#### 10.4.6 Regional Animal Welfare Shelter Facility

<b>File Ref:</b>	A05276
<b>Applicant/Proponent:</b>	Internal report
<b>Author:</b>	John Kowal, Manager Community Law, Safety and Emergency Management
<b>Executive:</b>	Bob Karaszekwych, Director Planning and Development Services
<b>Attachments:</b>	Appendix DPDS-14, DPDS-15

#### Summary

The Bunbury Wellington Group of Councils (BWGC) has proposed the development of a Regional Animal Shelter.

The preferred location for the facility is Lot 120 DP: 71852 South Western Highway, Davenport and the approval of Council is now sought for the use of a portion of the said land for this purpose.

#### Council Committee Recommendation

That Council:

1. Endorse the use of a portion of Lot 120 DP: 71852 South Western Highway Davenport as the location for the Regional Animal Pound and Welfare Centre; and
2. Proceed to have the land rezoned from 'Rural' to 'Public Purpose Reserve'.

#### Background

The City of Bunbury Dog Pound is over thirty years old. Due to the size of land on which it is located, the existing facility is unable to be expanded. The current facility also has poor drainage, poor security, no temperature control or ventilation and does not provide any exercise area for impounded dogs.

This situation has been further exacerbated following the introduction of the *Cat Act* in November 2011, as it has necessitated the conversion of a storeroom at the current facility into a cattery for impounded felines.

As other BWGC local governments are in a similar predicament with their pound facilities, it was determined that a Business Case for the development of a Regional Animal Shelter is undertaken. Following the completion of the Business Case, funding from the Country Local Government Fund Regional Groups (CLGFRG) will then be allocated for the development of the facility. The facility, which will be jointly funded and managed, will be used by the member local governments primarily for the impounding of domestic dogs and cats and where possible, the re-homing of these domestic animals.

When developing the Business Case, it was necessary to provide concept drawings of the proposed buildings and determine a suitable location for the facility. Concept drawings of the facility were completed and investigations for a suitable site were undertaken. The investigations included consideration of the following criteria:

- The need for the facility to be centrally located between the BWGC local governments;

- The accessibility of the site by road and in an area where any noise from the facility will not impact on neighbours;
- Preference for the facility to be on land owned by one of the BWGC local governments;
- Accessibility to all required services.

The location that has been selected as the most suitable site for the facility is Lot 120 DP: 71852 South Western Highway Davenport. The land met all of the above criteria; is located within the City of Bunbury; and is owned by the City of Bunbury. The location plan is **attached** at Appendix DPDS-14.

Through the endorsement of the Business Case, the BWGC local governments have given support for the facility at this location, due to the land being owned by the City of Bunbury. Endorsement by the City of Bunbury Council for the use of the portion of the lot, for the purpose of establishing the facility, is sought.

Should Council endorse the use of the land for the facility together with the rezoning of the land; an application will then be made to the WAPC for the rezoning of the land from 'Rural' to 'Public Purpose Reserve', which will in turn permit the development of the facility on the land.

#### **Council Policy Compliance**

There is no relevant Council Policy in relation to this matter

#### **Legislative Compliance**

The rezoning of the land is a statutory planning requirement.

#### **Officer Comments**

The current Bunbury pound is over thirty years old. The facility is unable to be expanded due to the size of the lot on which it is currently located. Although well maintained, the facility has poor drainage, security, ventilation, no climate control and no potential for impounded dogs to be exercised. The constraints of the pound have been further increased following the recent conversion of an existing storage room into a cattery to enable the City to satisfy its obligations in relation to the recently introduced *Cat Act 2011*.

As the other BWGC local governments are faced with a similar situation regarding their pound facilities, it was decided that a Business Case should be developed for the creation of a regional animal shelter facility. It was proposed that this facility would be able to assist all the BWGC local government members with the animal impounding obligations under the *Dog Act 1976* and the *Cat Act 2011*.

The Business Case proposed a central facility that was able to cater for the impounding of domestic animals without the need for the expansion (or in some cases, the retention) of existing BWGC local government facilities.

Through the sharing of the facility by the BWGC members and the potential of outsourcing the management of the facility to an external organisation, it is also possible that there may be a reduction of costs associated with the ongoing management of the facility for the individual local governments.

The Business Case also identified that a regional facility would provide a benefit for the residents of the BWGC local governments through improved care and potentially, an increase in the re-homing rate of impounded animals.

The development of the Business Case for the facility (project PR-2123) was funded by the South West Development Commission and was prepared by City of Bunbury staff. The Business Case provides concept drawings for the proposed facility and following an investigation of a number of sites, the Business Case proposes the use of Lot 120 DP: 71852 South Western Highway, Davenport (the site) which is located opposite the Bunbury airport. Copy of the site evaluation and concept drawings, are **attached** at Appendix DPDS-15.

Through the endorsement of the Business Case, the BWGC have agreed to the use of the site; and specific adoption of the site will be subject to the Council endorsement and rezoning of the site.

Following the completion of the Business case, preliminary comments were obtained from the Development Consent Unit (DCU) which is an internal group which provides input from the areas of Planning, Health, Engineering, Building, Environment and Heritage for the use of the site.

Overall the advice received from the DCU was positive; however it did indicate that the proposed location was within a Development Investigation Policy Area (DIPA). The advice provided two options in addressing the DIPA with the best course of action being to have the land rezoned from “Rural” to “Public Purpose Reserve”. For the land to be rezoned, it will be necessary to obtain Council and WAPC approval. Initial comments have been sought from the WAPC indicated that there would be no issues with the rezoning of the land or the proposed future development of the facility on the site.

To enable the continued progress towards the establishment of the facility by 2015 and to enable the continued sourcing of remaining funds for the development of the facility, it is now necessary to obtain the endorsement of Council for the establishment of the facility at the site.

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

The facility will be jointly funded though the BWGC. Funding has already been sourced though the Department of Local Government and additional funds will be sought through the CLGFRG Funding Program. Any remaining funds that may be required will be sourced through the BWGC local governments. The total cost of the project has been estimated at \$1.8M; however, this amount is likely to decrease following site specific drawings which will allow for more accurate costing to be obtained.

As this is a BWGC joint facility, the ongoing management and running costs will be shared proportionally between the BWGC.

### **Community Consultation**

There has been no broad community consultation in relation to this report, the site or the facility. Consultation with regards to the facility was previously undertaken during the development of the Business Case with the Executive, relevant internal staff and external key stakeholders including other BWGC representatives, RSPCA, veterinarians and local animal welfare groups.

### **Councillor/Officer Consultation**

Following the development of the Business case, the proposed facility at the preferred location was presented to the City of Bunbury Development Consent Unit (DCU) for preliminary comments. The response from DCU was positive however it did identify the need to rezone the land and that site specific septic systems would be required.

### **Strategic Relevance**

The development of the facility has the following link to Council's Strategic Plan and Corporate Plan – *4.5.6 Coordinate measures to manage compliance with environmental health and other regulatory legislation.*

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

The on-going maintenance and operational costs associated with the facility will be shared proportionally by the BWGC.

The costs of running the facility will mainly be associated with the impounding of domestic animals. This cost is already provided for in the City's operational budget and it is anticipated that by developing the facility, the cost to the City of Bunbury will remain unchanged or potentially reduced.

### **Outcome – Council Committee Meeting 10 September 2013**

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

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



## **10.5 Director Works and Services Reports**

### **10.5.1 Stanley Road Waste Management Facility Offset**

<b>File Ref:</b>	A04592
<b>Applicant/Proponent:</b>	Internal Report / Bunbury Harvey Regional Council
<b>Author:</b>	Tony Battersby, Manager Waste Operations
<b>Executive:</b>	Phil Harris, Director Works and Services
<b>Attachments:</b>	Appendix DWS-1, DWS-2, DWS-3

#### **Summary**

The Bunbury Harvey Regional Council is required to provide an appropriate offset area to compensate for clearing associated with current and future rehabilitation / daily cover of the Stanley Road landfill site.

This report outlines the recommendation for an environmental offset area for Council's consideration.

#### **Council Committee Recommendation**

That Council endorse the use of the far eastern side of Lot 45 Stanley Road Waste Disposal Site Wellesley as an environmental offset for current, future rehabilitation and daily cover needs.

#### **Background**

The Bunbury Harvey Regional Council proposes to use the sand on the eastern side of the landfill (refer **attached** Appendix DWS-1) to complete current and future rehabilitation in addition to the ongoing supply of daily cover requirements of the site.

The project involves the clearing of 6.07 hectares of native vegetation and consequently requires Ministerial approval under the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) on account of its likely impacts to native wildlife.

The Federal Government requires the Bunbury Harvey Regional Council to undertake a range of actions in order to mitigate and compensate for the project likely environmental impacts, including the protection and management of 6.07 hectares of native vegetation as an environmental offset. This land is to be conserved in perpetuity.

Bunbury Harvey Regional Council staff are in the process of compiling the required documentation to meet the Federal Government requirements. Efforts are being undertaken in order to resolve the EPBC Act assessment process as soon as possible in view of the rehabilitation and daily cover urgency.

The 6 to 10 hectare portion of Lot 45 Stanley Road Wellesley that is proposed as an offset area has established native bush with fencing on three (3) sides. (refer **attached** Appendix DWS-2 and DWS-3). This offset is comparable vegetation and is likely to be to a standard acceptable by the Federal Government.

### **Council Policy Compliance**

Not Applicable.

### **Legislative Compliance**

The recommendation is consistent with the statutory assessment process under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

### **Officer Comments**

The recommendation is the preferred option of officers from the BHRC as the eastern side of Lot 45 Stanley Road has a high pressure gas pipeline easement running north to south which restricts the use of the area for landfill purposes. The proposed offset area will complement the adjoining gas easement.

The Stanley Road site falls within the Shire of Harvey.

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

The recommendation only requires minimal management works in order to bring the offset area up to a standard likely to be acceptable to the Federal Government.

### **Community Consultation**

No community consultation has been conducted on the issue to date.

### **Councillor/Officer Consultation**

The City Executive team have been briefed on this issue and have provided input. There have been discussions at meetings of the BHRC for several months with representations from the Shire of Harvey and the City of Bunbury. The Sustainability and Integrated Land Use Planning team have been consulted during the process.

### **Outcome – Council Committee Meeting 10 September 2013**

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

During the discussion Cr Steck left the chambers at 9.24pm and returned a short time later at 9.24pm. She was present for the vote on the item.

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

### 10.5.2 Hay Park Multi Sports Pavilion – Approval of Design and Advertise for Construction Tender

<b>File Ref:</b>	A05592
<b>Applicant/Proponent:</b>	Peter Hunt Architects
<b>Author:</b>	Jason Gick, Manager Engineering
<b>Executive:</b>	Phil Harris, Director Works and Services
<b>Attachments:</b>	Appendix DWS-4

#### Summary

The design development phase of the Hay Park Multi Sports Pavilion is progressing well. The Council has indicated that it wants to give final approval of the design before going to tender for the construction of the building.

Given the cancellation of the scheduled 22 October 2013 Ordinary Meeting of Council due to Local Government Elections, Councils early approval to proceed to Tender is sought.

#### Council Committee Recommendation

That Council:

1. Approve the schematic drawings and site plan drawings prepared by Peter Hunt Architects;
2. Approve the advertising of the construction tender upon completion of the Design development phase.

#### Background

The following Council Decisions apply to this project:

*“Council Decision 147/11*

1. *Council approves the Royalties for Regions ‘Action Agenda’ application from the City of Bunbury for the Hay Park South Multi Sports Pavilion.*
2. *Council ranks the Hay Park South – Multi Sports Pavilion application as Priority 1*
3. *Councils contribution to the project be \$1,300,000*
4. *Council applies to CSRFF for the remaining \$361,000 election commitment for improvements to Soccer facilities.”*

Council Decision 147/11 supported the Councils application for additional funding for the project.

*“Council Decision 261/12*

*Part 1: That the Council adopt the following project scope for the design and construction briefs for the Hay Park South Regional Multi Sports Pavilion:*

*“Design and construction of a Regional Sports Pavilion to accommodate regional representative soccer, rugby and other sports in accordance with the requirements of:*

- *Football West;*
- *Western Australian Rugby League Association;*

- *Project Description defined in the Royalties for Regions Regional Development Council grant application; and*
- *Department of Sport and Recreation funding agreement.”*

*Part 2: That options for management models for the Hay Park South Regional Multi Sports Pavilion are developed and presented to Council by 1 July 2013.”*

Council Decision 261/12 framed the design criteria for tender to ensure the needs of the stakeholders and the funding providers were met in the design brief, and initiated discussion about the facility management structure.

*“Council Decision 31/13*

1. *That Council endorse the recommendation in the WALGA Report:  
“Peter Hunt Architects is the recommended Tenderer for its pricing submitted for its Lark Hill concept design on the basis of demonstrating best value for money. The Contractor’s legal entity name is Peter Hunt Pty Ltd also trading as Peter Hunt Architect Unit Trust.”*
2. *Council advise WALGA to proceed with preparing the resultant Contract for issue.”*

Council Decision 31/13 appointed the preferred Architect to deliver the design for the Lark Hill concept design.

*“Council Decision 162/13*

1. *Adopt the stakeholder preferred Building ‘C’ (Rugby) at Larkhill, Port Kennedy as its preferred development option for the Hay Park South – Multi Sports Pavilion.*
2. *Elevate the preferred Pavilion building above ground to avoid latent groundwater constraints*
3. *Replace the pedestrian ramps in the preferred development option with an elevator in the design*
4. *Exclude the following items from the project:*
  - *Relocation of BMX toilet block*
  - *Upgrade of premium rugby pitch including dug-outs*
  - *Provision of two grass viewing mounds*
  - *New sports flood lighting*
  - *Fencing around rugby pitch*
  - *Landscaping*
  - *Loose furniture and equipment*

Council Decision 162/13 effectively “locked in” the Building ‘C’ at Larkhill, Port Kennedy as the Councils preferred development option and addressed the groundwater constraints of the site.

*“Council Decision 233/13*

1. *That Council supports the expanded project scope as presented.*
2. *Additional funds to be identified in the relevant financial year.*
3. *The Architect to be instructed to proceed accordingly.”*

Council Decision 233/13 ensured the project included additional items requested by the City, the user group and the stakeholders, and adjusts the budget accordingly.

In order to go to Tender the Council must be satisfied with the design and cost estimates.

### **Council Policy Compliance**

Tendering for goods and services is done in accordance with Councils procurement policies.

### **Legislative Compliance**

Tendering for goods and services is done in accordance with the Local Government Act 1995 Regulations.

### **Officer Comments**

The Design Development phase is the process of integrating the design detail of the various elements that comprise the built form. The design detail associated with mechanical, electrical, structural, hydraulic and civil engineering functions are brought together with the architectural, site planning, telecommunications, utilities, interior design, landscaping, kitchen set out and other services to ensure proper integration.

The Design Development phase requires a lot of attention to the detail of the various disciplines, consideration of the user group and stakeholder requirements, future servicing and maintenance, scheduling of service works and more.

The City has been working closely with the Architect and its sub-consultants to ensure the design meets contemporary building methods, statutory compliance and integration of services.

The Design Development Phase will be concluded by the assembly of the Tender documents including:

- Invitation to Tender
- General Conditions of Tender including Contract Schedules
- Special Conditions of Tender
- Principal Technical Specification (Overarching Specification)
- Several specialist Technical Specifications (eg electrical, plumbing etc)
- Principal Construction Drawings
- Several specialist Construction Drawings
- Schedules (colour schemes, fittings, cabinet furniture etc)

The Design development phase is expected to be completed by 27 September 2013, and invitation to tender can be issued on 2 October 2013.

The Architect has recommended a four (4) week Tender period, closing on 30 October 2013. It is suggested that the Tender assessment process will take about three (3) weeks.

A copy of the architectural drawings are **attached** at Appendix DWS-4.

## Analysis of Financial and Budget Implications

The project budget\* is configured thus:

	12/13	13/14	14/15
5200 Capital Grant Inc – State - General		\$ 335,000	
5204 Capital Grant Inc – State – Royalties for Regions		\$2,833,657	
<i>Total Income (\$3,168,657)</i>		<i>\$3,168,657</i>	<i>-</i>
3250 Contract Exp – Professional Services	\$ 100,000	\$ 241,694	
3300 Contract Exp – Labour and Materials		\$4,432,625	\$ 800,000
<i>Total Expenditure (\$5,574,319)</i>	<i>\$ 100,000</i>	<i>\$4,674,319</i>	<i>\$ 800,000</i>
<b>Net Budget Total</b>	<b>\$ 100,000</b>	<b>\$1,505,662</b>	<b>\$ 800,000</b>

\* Does not include additional \$700,000 required to address Council Decision 233/13.

The most recent Project Cost Plan prepared by RBB Consultants (2 July 2013) shows the project cost estimate to be \$5,971,850, which includes additional items identified by the City, the user group and stakeholders. Adding \$50,000 to accommodate on site reticulation adjustments, the project cost estimate is about \$6,022,000. Thus the project cost estimate exceeds the project budget by \$447,500.

The cost estimate has factored in an 8% contingency; however, staff suggests that additional contingency should be allowed for to cover unanticipated contract variations. The upfront design, specification and documentation of the project reduces the contract risk by ensuring the known project details are specified in the contract, however, it is considered prudent to allow for unknown contract variations to ensure the project can be delivered to the desired quality and scope. Therefore it is suggested that an additional 5% (say \$300,000) of the project cost may be required to address this risk.

It should be noted that the cost estimates are based on contemporary industry rates and costs and that the actual contract cost will not be known until tenders are called.

### Community Consultation

The project has been identified in reports previously subject to community consultation:

- City of Bunbury Recreation Plan (2006); and
- Hay Park Feasibility Study (2009).

In addition, the City has consulted extensively with sporting stakeholders including rugby and soccer during the grant application process.

On Tuesday 12 March 2013 the City facilitated a site tour at Lark Hill, Port Kennedy with senior representatives of the soccer and rugby fraternities. This tour was undertaken with the Architect and facility managers from the City of Rockingham.

The current situation presented to the Council in this report was explained to representatives of the soccer, rugby and BMX fraternities on Monday 27 May 2013.

The City has consulted with Troy Jones of the Department for Sport and Recreation (grant provider) to clarify any grant constraints in the Council decision making. Mr Jones has advised that the Council may adopt either building design but it must adhere to the intent and objectives of the grant agreement. The Council may spend more on the project, but the

grant will not be increased accordingly. Conversely, should the project come in under budget, the grant will be reduced proportionately.

The City met with stakeholders and the user groups on 19 June 2013 to discuss the specific requirements associated with the use of the building and the construction period logistics.

### **Councillor/Officer Consultation**

The Project Manager responsible for the delivery of the project has been working closely with the Manager Sport, Leisure and Active Lifestyles who will be responsible for its operation.

Various staff have consulted on the master planning, project logistics, project timeframes, stakeholder needs and facilities management.

The difference in building concept drawings was presented to the Executive for direction at its 22 May 2013 meeting. The Executive recommended the adoption of the stakeholder preferred Building 'C' (Rugby) at Larkhill, Port Kennedy for the preferred development option for the Hay Park South – Multi Sports Pavilion.

The increased cost estimates and project risks were presented to Executive staff on 8 July 2013.

Staff from the SW Sports Centre, procurement, asset maintenance and engineering met with the Architect on 27 August 2013 to discuss finishings and scheduling of the Tender process.

### **Outcome – Council Committee Meeting 10 September 2013**

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

During the discussion on the item Cr Morris left the chambers at 9.27pm and returned at 9.28pm. He was present for the vote on the matter.

Cr Jones left the chambers at 9.36pm and returned at 9.38pm. She was present for the vote on the matter.

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

## 11. Applications for Leave of Absence

## 12. Motions on Notice

### 12.1 Motion on Notice – Footpath on Devonshire Street Withers

<b>Applicant/Proponent:</b>	Councillor Michelle Steck
<b>Author:</b>	Councillor Michelle Steck
<b>Executive:</b>	If adopted by Council refer to: Phil Harris, Director Works and Services
<b>Attachments:</b>	Appendix MON-1

Cr Steck submitted the following motion for the Council Meeting on 17 September 2013:

*"That Council construct a footpath along Devonshire Street, Withers"*

#### **Comments - Cr Steck**

In support of her motion, Cr Steck states that, *"Several residents live in the units at the Parade Road end of Devonshire Street who use mobility scooters, and rely on these mobility devices to access the public transport, the Library and shops within Minninup Forum (refer photo's **attached** at Appendix MON-1).*

*The residents are all of different ages, including young persons.*

*Because there is no footpath the persons on mobility scooters are forced to use the road which becomes overly dangerous. Residents report a number of near miss incidents between cars and scooters on the road."*

#### **Executive Comments**

The Devonshire Street footpath has been identified as a potential project within the Withers Action Plan with an estimated construction cost of \$170,000.

The Manager Infrastructure and Assets advises that the path is listed as one of the higher priority projects in the Withers area providing linkages to educational and medical facilities, shops, public transport and the Withers Library.

#### **Cr Steck's Motion**

That Council construct a footpath along Devonshire Street, Withers



## 12.2 Motion on Notice – PR-2480 Victoria Street Upgrade – Café Strip

<b>Applicant/Proponent:</b>	Councillor Stephen Craddock
<b>Author:</b>	Councillor Stephen Craddock
<b>Executive:</b>	If adopted by Council refer to: Phil Harris, Director Works and Services
<b>Attachments:</b>	Appendix MON-2

Cr Craddock submitted the following motion for the Council Meeting on 17 September 2013:

1. *That Council contribute 50% of the total estimated cost of \$67,259.50 for the supply of shade structures to complete Council's original obligation for the Project to upgrade the Cappuccino Strip.*
2. *That an arrangement be entered into with the appropriate business owners for their contribution of the remaining 50%, to be paid over a five (5) equal yearly payments (See **attached** Appendix MON-2).*
3. *That the ownership and maintenance of the shade structures remain with Council until the full payment is concluded, at which time ownership and maintenance will be vested with each individual business.*
4. *The balance of Council's contribution to be considered in the half yearly budget review."*

### Comments - Cr Craddock

In support of his motion, Cr Craddock states that, *"The Cappuccino Strip Upgrade is now almost complete. Unfortunately the Project has exceeded the estimated total cost. An important element of the original plan was the installation of shade structures outside each cafe, which the traders were told would be provided at no cost to the businesses.*

*The provision of a uniform appearance of the shade structures is an integral and important element of the streetscape upgrade. Council is keen to avoid an ad-hoc situation where each trader supplies their own structures and colour.*

*The Project cost over runs has meant that there is currently no money for these structures. The traders have come together and made an offer to pay 50% of the cost of the structures to enable the project to be completed.*

*I believe it is only fair that Council should contribute the remaining 50% of the cost of these structures, to enable the Project to be completed. This will go some way to fulfilling Council's original obligation. The longer than expected road closures have resulted in significant reduction in business for all of the traders. An extra Council contribution will address the traders concerns."*

### Executive Comments

The Victoria Street pavement replacement program commenced in 2009 with the purpose of replacing the red brick paving due to the age and deterioration of the pavers, with a larger format paving to reduce the Council's liability with regard to trip hazards and improve the overall aesthetic amenity of the streetscape.

The 2011 – 2012 City of Bunbury Capital Works program identifies the Victoria Street Upgrade – Café Strip Project, which has involved the following works between Symmons Street and Wellington Street:

- replacement of the red brick paving within parking bays with Urbanstone paving consistent with streetscaping works completed throughout Victoria Street for continued parking use;
- replacement of the red brick paving within parking bays with Urbanstone paving to allow for alfresco dining;
- replacement of the red brick paving within footpath areas with Urbanstone paving;
- replacement of road pavement and traffic islands;
- installation of stormwater trench drainage to eliminate flooding issues;
- installation of stone tree surrounds;
- installation of bike racks to catering for the growing number of cyclists;
- installation of planters to delineate between alfresco area and road pavement;
- installation of conduit under the stormwater drain to allow for future lighting of the streetscape.

The original work was scheduled for May – June 2012 with the works then postponed until April – August 2013 and is therefore now nearing completion.

The following Council Decisions apply to this project:

*“Council Decision 95/12*

1. *Council note the project design as proposed on drawings numbered SW-12-01 which will improve pedestrian safety, drainage and access to existing businesses where minor transverse cross-fall changes and existing building construction is compatible.*
2. *Council note that the upgrade works may increase alfresco and street entertainment opportunities on this section of Victoria Street.*
3. *That Council survey the business owners as to the alfresco dining aspects of the plan by means of written feedback forms. Detailed written feedback be sought on:*
  - *likely usage of each owner*
  - *The proposed hours of use*
  - *Parking bays lost*
  - *Street furniture upgrades*
  - *Possible part contribution of each business owner to the proposal*
4. *That the results of the survey and submissions on the drawings be returned to Council for further consideration by 30 May 2012”*

*“Council Decision 157/12*

1. *Council note the results of the survey.*
2. *A meeting of business owners on the section of Victoria Street between Symmons and Wellington Street to be held to review the survey results.*
3. *Procurement of the works based on the design drawings be deferred pending the results of the meeting of business owners and the matter be returned to council as soon as possible for further consideration.*
4. *That current funds be carried forward to the 2012/2013 financial year.”*

Council Decision 157/12 supported the Councils application for funding for the project.

The refined cost plan and the Stakeholders ‘wish list’ has identified a number of optional and non-optional items that need to be funded in addition to the existing project budget.

The appointment of the preferred Landscape Architect is in accordance with the City's procurement guidelines and policies.

The proposed variation in budget requires a Council Decision in accordance with the Local Government Act 1995.

In April 2012 it was suggested that consideration be given to either:

- (a) A mall being established by closing off Victoria Street to vehicular traffic between Wellington and Symmons Streets; or
- (b) The street being kept open to traffic and further alfresco opportunities being made available by the removal of selected parking bays and the upgrade of the streetscaping.

Option (b) was the preferred proposal.

Factors that have increased the original budget project expenditure are:

- Completely new road surface installed;
- Installation of an improved drainage system;
- Moving of the flush kerb to allow for tree works and extra paving;
- Traffic Management costs.

Actions taken to mitigate the budget project expenditure are:

- Reduced amount of planters ordered;
- Shade structures not currently ordered.

#### **Cr Cradoock's Motion**

1. That Council contribute 50% of the total estimated cost of \$67,259.50 for the supply of shade structures to complete Council's original obligation for the Project to upgrade the Cappuccino Strip.
2. That an arrangement be entered into with the appropriate business owners for their contribution of the remaining 50%, to be paid over a five (5) equal yearly payments (See **attached** Appendix MON-2).
3. That the ownership and maintenance of the shade structures remain with Council until the full payment is concluded, at which time ownership and maintenance will be vested with each individual business.
4. The balance of Council's contribution to be considered in the half yearly budget review.

## 13. Questions on Notice

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

### 13.2 *Questions from Members*

Deputy Mayor Cr Craddock submitted the following questions (in writing) prior to the close of the meeting agenda. A response has been provided by the Executive Leadership Team:

*Question 1: Can a financial summary of the completed timber jetty deconstruction project be provided, including final costings, the details of previously agreed financial commitments by council and the State Government and an update on the current status of those agreements (including copies of relevant correspondence) be provided?*

**Response:** The deconstruction of the jetty project is completed; however, the site clean-up needs to be completed before Department of Transport will release the City of its onsite obligations. The expenditure of the project do date has been \$3.2M. The remaining clean up, contract management, and administration are likely to cost the balance of the budget, in the order of \$400,000.

The State Government has offered the City \$3.5M on a dollar for dollar basis to deconstruct the old structure and build a small replica structure with a heritage precinct. The City has already claimed \$1.4 of the \$3.5M. Of the remaining costs, the City is able to claim half, in the order of \$200,000, which leaves \$1.9M remaining for future use.

*Question 2: Can a background be provided on the obligations Council has with the Heritage Council of WA in regards to heritage interpretation as part of the Statutory Approval given to deconstruct the timber jetty?*

**Response:** The City is obliged to provide suitable interpretation of the jetty's heritage values at the site. The level of interpretation is not clearly stipulated by the HCWA; however, the City has identified different levels of activity that could be pursued, depending on the Council's budget and desired outcome.

To ensure the interpretation is delivered to the HCWA's expectations and contemporary practices, the City has engaged Savagely Creative consultants to prepare a Heritage Interpretation Plan. The plan will provide recommendations to the Council and give an overview of interpretation choices. The draft plan is nearing completion and is expected to be submitted to the City within days.

The City has lodged a grant submission to the Federal Governments Tourism Industry Regional Development Fund (TIRF) for the development of a heritage precinct near the existing crane.

*Question 3: Can an update be provided on the design and costing estimates, including maintenance expenses, of heritage options 1 to 4 described at the Council briefing session of 19 February 2013 by the City Engineer, Mr Jason Gick?*

Response: The design and costing estimates for Options 1 to 4 as presented at the Council Briefing will be included in the Heritage Interpretation Plan. The maintenance costs will not be included, as the level of interpretation has not yet been determined. The maintenance costs can vary considerably depending on the type of interpretation employed. For example the placement of old artefacts may require nothing more than occasional cleaning and weed control. The use of highly interpretative digital lighting media may cost considerably more.

*Question 4: Can the Executive staff investigate and follow up on the recent offer by Mr Kerry Trantham to supervise the construction of a fishing platform, at no cost to council, on the east side of the groyne in Koombana Bay?*

Response: Any replacement structure will need to be subjected to proper planning and will need to adhere to the statutory parameters established through the deconstruction approval process. These include compliance with the HCWA statutory conditions, WAPC statutory conditions, and Department of Transport Regulations and guidelines.

It is essential that any public infrastructure development is properly planned, designed and constructed. It would be highly undesirable to allow volunteers to build a structure for public use that then becomes the ongoing responsibility of the Council. Without a proper planning and design process there is significant risk that the structure will not be built to standards.

The Manager Engineering has worked with Mr Trantham for the duration of the jetty deconstruction project. Mr Trantham has demonstrated an excellent work ethic and his interest in maritime infrastructure is evidenced by his work at the Volunteer Sea Search and Rescue facilities. However, Mr Trantham is not a qualified structural or marine engineer so is not in a position to certify any of the proposed work.

The use of the old jetty timbers in the structure without a proper design and structural assessment exacerbates the public liability risks exposed to the Council. Whilst there are many timbers that 'may' be suitable for lesser structural elements, such as decking, the timbers are over 100 years old and cannot be graded against contemporary structural standards.

*Question 5: Can a report be provided by Executive staff following liaison with the Bunbury Timber Jetty Society, as to how they may potentially best contribute to the Heritage Interpretation Project?*

Response: The Bunbury Timber Jetty Environment and Conservation Society have been consulted as part of the Heritage Interpretation Plan process. The BTJE&CS are recognised as an important knowledge resource in the planning process and have been involved in discussions about heritage interpretation.

*Question 6: Can a report on the condition, quantity and estimated longevity of the recovered remnant timber from the historic wooden jetty and of any plans to protect the remaining timbers prior to interpretive use be provided?*

Response: As part of the deconstruction project, the City retained 200 tonnes of best quality timber from the jetty. This material is stored at the City's Works Depot and piles as best as possible given their non-uniform shapes, varying lengths and diameters, and non-uniform fittings. The timber is the best material sourced from the jetty and remains available for the City to use in future works (preferably associated with the Jetty or other heritage interpretation).

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

## 15. Meeting Closed to Public

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

MOVED        SECONDED

In accordance with Section 5.23(2)(c) and (d) of the *Local Government Act 1995* and clause 6.2 of the City of Bunbury's Standing Orders Local Law 2012, RESOLVES to close the meeting to members of the public to consider the following items:

- 15.1.1 Tender RFT 1213-00028 for the Engagement of a Contractor to Provide Maintenance, Repairs and Replacement of Irrigation Pumps
- 15.1.2 ERBEAC District Court Appeal

#### 15.1.1 Tender RFT 1213-00028 for the Engagement of a Contractor to Provide Maintenance, Repairs and Replacement of Irrigation Pumps

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Russell, Senior Contracts and Procurement Officer
<b>Executive:</b>	Phil Harris, Director Works and Services
<b>Attachments:</b>	Confidential Report – CRUSC-2

#### Summary

The City of Bunbury has advertised and requested Tender Submissions from a suitably experienced and qualified Contractor for Maintenance Repairs and Replacement of Irrigation Pumps as needed to maintain various bores owned by the City. The contract to be offered is initially 12 months (1 year) with an option to extend for a further two (2) years at 12 monthly (1 year) intervals at the City's discretion.

#### Council Committee Recommendation

Council accepts the tender submitted by D.M. Gregson and B.T. Kettle trading as Bifnco Mechanical Fitting and Pump Services for the maintenance, repair and replacement of irrigation pumps as required, for an initial period of one (1) year.

#### Background

This tender was advertised in the West Australian and the Bunbury South West Times newspapers on the 10th and 11th of July 2013. The documentation was made available via [www.tenderlink.com/bunbury/](http://www.tenderlink.com/bunbury/). A total of 565 tenderlink alerts were released, 10 companies downloaded the documentation and at closing three (3) responses was received from:

1. Sanders Investments (Bunbury) Pty Ltd trading as "Thinkwater Bunbury": 23 Denning Road, Bunbury WA 6230
2. Total Eden Pty Ltd: 8 Vale Street, Malaga WA 6090
3. D.M Gregson and B.T Kettle trading as "Bifnco Mechanical Fitting and Pump Services": 1651 Donnybrook Boyup Brook Road, Yabberup WA 6239

A submission from Montego Nominees Pty Ltd trading as "Southern Water Technology Trust" was received late and was not considered for evaluation.

An evaluation panel comprising of the Manager Civil and Open Space, Senior Building and Structures Officer, and Senior Contracts and Procurement Officer assessed the responses.

The tenders were evaluated using the following criteria:

- Compliance Criteria – Yes / No answers
- Qualitative Criteria – 50% Experience in the industry, availability of parts and replacement pumps.
- 50% Resource and Occupational Health and Safety.

Pursuant to section 5.23(2)(c) of the Local Government Act 1995 the evaluation of the tender prices (and ranking) has been assessed and are considered to be “commercial in confidence”. The details of the tenders assessed have been circulated to Elected Members as a Confidential Report (CRUSC-2) **under separate cover**.

### **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 DSC-9 "*Purchasing - Local Preference Policy*" was considered 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*".

### **Officer Comments**

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

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

Funding for this maintenance and replacement work has been provided in the 2013/14 budget through the Works and Services Budget area entitled Maintain Open Space Bores.

### **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 10 September 2013**

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

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



### 15.1.2 ERBEAC District Court Appeal

<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 CRUSC-3

This report is confidential in accordance with section 5.23(2)(d) of the Local Government Act 1995, which also permits the meeting to be closed to the public for business relating to the following:

*Legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.*

A confidential report and recommendation has been circulated to members **under separate cover** (Confidential Report CRUSC-3). The report is not for circulation.

#### **Outcome – Council Committee Meeting 10 September 2013**

The Executive recommendation was moved Cr Kelly, seconded Deputy Mayor Cr Craddock.

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

#### **Council Committee Recommendation**

1. Council note the advice received from Christopher Garvey Lawyers in relation to District Court Appeal 258/10.
2. That upon receipt of the judgement from Christopher Garvey Lawyers the matter be referred back to Council for determination of the process forward.

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

## **16. Closure**