



Bunbury City Council

Minutes 12 May 2015



CITY OF BUNBURY
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Bunbury WA 6230
Western Australia
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Nature of Council's Role in Decision Making

- Advocacy:** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive/Strategic:** The substantial direction setting and oversight role of the Council, e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative:** Includes adopting local laws, town planning schemes and policies.
- Review:** When Council reviews decisions made by Officers.
- Quasi-Judicial:** When Council determines an application/matter that directly affects a person's rights and interests. The Judicial character arises from the obligations to abide by the principles of natural justice.

Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

Bunbury City Council Minutes

Minutes of the Ordinary meeting of the Bunbury City Council held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street Bunbury held Tuesday, 12 May 2015 at 5.30pm.

Minutes 12 May 2015

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

1. Declaration of Opening / Announcements of Visitors

The meeting was declared open by the Mayor Gary Brennan at 5.30pm.

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

The Mayor took the opportunity to advise Councillors that the Mayoral expenditure for the month of March totalled \$78.01, which consisted of \$60.52 for fuel and \$17.49 for tea and coffee supplies.

4. Attendance

Present:

Council Members:	
Presiding Member	Mayor G Brennan
Deputy Presiding Member	Deputy Mayor Cr B Kelly
Members	Councillor B McCleary
	Councillor S Morris
	Councillor J Jones
	Councillor N McNeill
	Councillor D Prosser
	Councillor K Steele
	Councillor J Miguel
	Councillor M Steck (from 5:43pm)
	Councillor W Giles
	Councillor M Cook
Executive Leadership Team (Non-Voting)	
Chief Executive Officer	Mr A Brien
Director Planning, Development and Regulatory Services	Mr B Karaskewych
Director Corporate and Community Services	Ms S Addison-Brown
Director Works and Services	Mr P Harris
Council Officers (Non-Voting)	
Acting Media and Communications Officer	Mr J Tatham
Manager Governance	Mr G Golinski
Manager Finance	Mr D Ransom
Senior Budget Officer	Ms E Lofthouse
Executive Assistant to the Mayor	Ms K Merwood
Acting Manager Engineering and Civil Operations	Mr N Archibald
Manager Corporate Projects	Mrs F Anderson
Council Meeting Support Officer	Mrs L Allan
Others (Non-Voting)	
Members of the Public	
Members of the Press	

4.1 Apologies

Cr Hayward was an apology.

4.2 Approved Leave of Absence

Nil.

5. Declaration of Interest

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

Section 5.60A: *“a person has a **financial interest** in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.”*

Section 5.60B: *“a person has a **proximity interest** in a matter if the matter concerns –*

- (a) a proposed change to a planning scheme affecting land that adjoins the person’s land; or*
- (b) a proposed change to the zoning or use of land that adjoins the person’s land; or*
- (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person’s land.”*

Regulation 34C (Impartiality): *“**interest** means an interest that could, or could reasonably be perceived to, adversely affect the **impartiality** of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.”*

Cr Steele declared an Impartiality Interest in the item titled *“10.2.3 Proposed Deed of Lease to Bunbury Tennis Club Inc. over portion of Reserve 30601, ‘Hay Park’, Lot 3001 on Deposited Plan 43554, Parade Road, Bunbury”* as her children play tennis at the Club. Cr Steele will remain in the chamber for the discussion and vote on the matter.

Cr Steele declared an Impartiality Interest in the item titled *“10.5.1 Traffic Flow Modifications Proposal Bolton Street, Fielder Street and Joseph Buswell Drive”* as her General Practitioner is located on Fielder Street. Cr Steele will remain in the chamber for the discussion and vote on the matter.

6. Public Question Time

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

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

6.1 Public Question Time

Mr David Smith, 8 Picton Crescent, Bunbury

Question 1: Can Council advise how many employees of Council and its subsidiaries who were employed as at 30/6/2014 have ceased to be employees of Council as of 1/5/2015, preferably broken down into the areas where they were employed?

Reply: No. The City only reports staff turnover in accordance with the adopted workforce plan on a financial year basis.

Question 2: Can Council please advise of progress on the sale of Lot 66 at the corner of Scott Street and Ocean Drive for which I understand an offer and acceptance was signed in September 2014 and in particular when Council will inform the public of the sale prices and the terms and conditions of the sale and to advertise the sale for public comment.

Reply: Three of the four conditions have been satisfied with one outstanding condition being that the Western Australian Planning Commission grant final approval of the Detailed Structure Plan submitted by the purchaser for Lot 66 on or before 30 June 2016. After satisfaction of this condition the disposal will be advertised.

Question 3: Can Council also advise approximately when it proposes to advertise the new Town Planning Scheme and the proposed timetable to have the scheme finally approved.

Reply: The draft Local Planning Strategy and draft Town Planning Scheme 8 have been referred to the Department of Planning for review with a recommendation for public exhibition. The timeframe for final approval rests with the WAPC and the Minister.

6.2 Responses to Public Questions Taken 'On Notice'

Nil.

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 28 April 2015 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 28 April 2015 be confirmed as a true and accurate record.

Outcome – Council Meeting 12 May 2015

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

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

Council Decision 138/15

The minutes of the Ordinary meeting of the Bunbury City Council held 28 April 2015 be confirmed as a true and accurate record.

CARRIED

11 votes "for" / Nil votes "against"

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

File Ref:	Various
Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Various
Attachments:	Appendix MTBN-1 – Policy Review and Development Committee Minutes – 16/04/2015 Appendix MTBN-2 – Community Access Committee Minutes – 10/04/2015

Summary

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

1. Title: Policy Review and Development Committee Minutes – 16/04/2015
Author: Greg Golinski, Manager Governance
Appendix: MTBN-1
2. Title: Community Access Committee Minutes – 10/04/2015
Author: Deanna Sullivan, Team Leader Community Development
Appendix: MTBN-2

Council Committee Recommendation

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

1. Policy Review and Development Committee Minutes – 16/04/2015
2. Community Access Committee Minutes – 10/04/2015

Outcome – Council Meeting 12 May 2015

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

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

Council Decision 139/15

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

1. ***Policy Review and Development Committee Minutes – 16/04/2015***
2. ***Community Access Committee Minutes – 10/04/2015***

CARRIED

11 votes "for" / Nil votes "against"

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

In accordance with section 6.9 (2)(b) of Councils Standing Orders, the CEO referred the following deputation requests to Council to decide by simple majority, whether or not to receive the deputation. Three deputations was received being:

David Smith, 8 Picton Crescent, Bunbury

Mr Smith requested to address item 10.2.3 titled *“Proposed Deed of Lease to Bunbury Tennis Club Inc. over portion of Reserve 30601, ‘Hay Park’, Lot 3001 on Deposited Plan 43554, Parade Road, Bunbury”* and item 10.2.5 titled *“Major Projects Update Report for the period 1 March 2015 to 31 March 2015 Major Projects Update Report for the period 1 March 2015 to 31 March 2015”*.

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Smith’s deputation request to address item .2.3 titled “Proposed Deed of Lease to Bunbury Tennis Club Inc. over portion of Reserve 30601, ‘Hay Park’, Lot 3001 on Deposited Plan 43554, Parade Road, Bunbury” and item 10.2.5 titled “Major Projects Update Report for the period 1 March 2015 to 31 March 2015 Major Projects Update Report for the period 1 March 2015 to 31 March 2015” and allows a period of up to five (5) minutes to present to Council on each item.

MOTION WAS LOST

Alex Karatamoglou, 15 Ashford Place, Bunbury

Mr Karatamoglou, speaking on behalf of the Bunbury Tennis Club, requested to address Item 10.2.3 titled *“Proposed Deed of Lease to Bunbury Tennis Club Inc. over portion of Reserve 30601, ‘Hay Park’, Lot 3001 on Deposited Plan 43554, Parade Road, Bunbury”*.

Council Decision 140/15

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Karatamoglou’s deputation request to address Item 10.2.3 titled “Proposed Deed of Lease to Bunbury Tennis Club Inc. over portion of Reserve 30601, ‘Hay Park’, Lot 3001 on Deposited Plan 43554, Parade Road, Bunbury” and allows a period of up to 10 minutes to present to Council.

CARRIED

Mark James, 105 Stirling Street, Bunbury

Mr James requested to address Item 10.5.1 titled *“Traffic Flow Modifications Proposal Bolton Street, Fielder Street and Joseph Buswell Drive”*.

Council Decision 141/15

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr James’ deputation request to address Item 10.5.1 titled “Traffic Flow Modifications Proposal Bolton Street, Fielder Street and Joseph Buswell Drive” and allows a period of up to 10 minutes to present to Council.

CARRIED

8.4 Council Delegates’ Reports

Nil.

8.5 Conference Delegates’ Reports

Nil.

9. Method of Dealing with Agenda Business

Standing Order 5.5 permits the Council to adopt the recommendations “by exception” (en-bloc). The Mayor put the matters listed in Section 10 to be “adopted by exception” to the vote.

Pursuant to Standing Order 5.5, the Council “*adopted by exception*” (i.e. without discussion) those recommendations listed for items 10.1.1, 10.1.2, 10.1.3, 10.1.4, 10.1.5, 10.1.6, 10.1.7, 10.2.1, 10.2.2, 10.2.5 and 10.3.1.

Items 10.2.3, 10.2.4 and 10.5.1 of the meeting agenda were then discussed and voted on separately and in the order that they appeared on the agenda. The items have been renumbered with the items voted “by exception” listed first.

The items “*adopted by exception*” were moved Cr Jones, seconded Cr Cook.

10. Reports

10.1 *Revision of Council Policy – Closed Circuit Television System* (was listed as item 10.1.1 of the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Author:	John Kowal, Manager Community Law, Safety and Emergency Management
Executive:	Bob Karaszekwych, Director Planning & Development Services
Appendix	Appendix RAC1: Council Policy Closed Circuit Television System

Summary

The purpose of this report is for Council to consider a revised Policy relating to the closed circuit television system, which has been commended by the Policy Review and Development Committee (PRDC).

Committee Recommendation

That Council adopt the revised Council Policy entitled *Closed Circuit Television System* as **attached** at Appendix RAC-1.

Strategic Relevance

City of Bunbury Strategic Community Plan

KPA 5 Corporate

Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Background

Council introduced a Closed Circuit Television (CCTV) surveillance system in 1998. Due to the ongoing growth of the CCTV system and the wider use of CCTV by the Police Service and City departments, a policy was adopted on 13 February 2001 (Council Decision 33/01).

The Closed Circuit Television System assists by way of:

1. deterring offences against person or property;
2. facilitating a rapid response by City staff, WA Police Officers or other emergency service personnel to incidents of concern; and
3. improving the safety of city traders, retailers, workers visitors and City of Bunbury staff.

Council Policy Compliance

This report proposes the revision of an existing Council Policy.

Legislative Compliance

Content within the Policy refers to and is in accordance with the *Criminal Code Act Compilation Act 1913* and *Criminal Procedure Act 2004*.

Officer Comments

The PRDC have undertaken a review of the CCTV Council Policy, in accordance with the City's Policy review schedule.

The intent of the Policy remains the same, however proposed minor changes within the document are summarised below:

- * title changes to positions throughout the Policy;
- * minor wording changes throughout the Policy however nothing of any impact or consequence;
- * update of section 2 - Definitions;
- * addition of point d in section 3 - Ownership and Control of the CCTV System;
- * deletion of point b in section 5 – Access to CCTV;
- * addition to point a in section 7.4 – Release of copy of recorded footage or still photographs
- * deletion of point b in section 9 – Record Keeping.

The Memorandum of Understanding (MoU) between Western Australia Police and City of Bunbury was recently reviewed and as a result a new MoU came into effect on 30 October 2014.

Analysis of Financial and Budget Implications

There are no financial or budgetary implications impacting from the recommendation of this report, as the intent of the Policy has not been altered.

Councillor/Officer Consultation

The Policy has been reviewed internally by the community law, safety and emergency management department, and is recommended to Council by the PRDC.

Outcome – Council Meeting 12 May 2015

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

Council Decision 142/15

That Council adopt the revised Council Policy entitled *Closed Circuit Television System* as attached at Appendix RAC-1.

CARRIED

11 votes "for" / Nil votes "against"

10.2 Revision of Council Policy – Equal Opportunity (was listed as item 10.1.2 of the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Author:	Aileen Clemens, Manager Organisational Development and HR
Executive:	Andrew Brien, Chief Executive Officer
Appendix	Appendix RAC-2: Council Policy: Equal Opportunity

Summary

The purpose of this report is for Council to consider a revised Council Policy relating to equal opportunity, as applicable to the City of Bunbury.

Committee Recommendation

That Council adopt the revised Council Policy entitled *Equal Opportunity* as **attached** at Appendix RAC-2.

Strategic Relevance

City of Bunbury Strategic Community Plan

KPA 5 Corporate

Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Background

At the meeting held on 16 February 2015, the Committee deferred consideration of this item and requested officers to further review the Policy, to remove any duplication with legislation.

Initially a work procedure, the Equal Opportunity Policy was adopted by Council on 22 June 1999 and last reviewed in June 2010. The purpose of the Policy is to ensure the fair and equitable treatment of persons accessing the City of Bunbury's services/facilities (members of the public) and/or in the course of employment with the City of Bunbury.

Council Policy Compliance

This report proposes the revision of a Council Policy – *Equal Opportunity*.

Legislative Compliance

- * Local Government Act 1995
- * Equal Opportunity Act 1984
- * Fair Work Act 2009 (Cth)
- * Age Discrimination Act 2004 (Cth)
- * Workplace Gender Equality Act 2012 (Cth)
- * Disability Discrimination Act 1992 (Cth)
- * Sex Discrimination Act 1984 (Cth)
- * Racial Discrimination Act 1975 (Cth)

Officer Comments

The PRDC have undertaken an initial and further subsequent review of the Council Policy *Equal Opportunity*.

The Policy has been amended accordingly to maintain consistency with legislative requirements.

Analysis of Financial and Budget Implications

There are no financial or budgetary implications impacting from the recommendations of this report.

Councillor/Officer Consultation

The proposed policy is recommended to Council by the PRDC.

Outcome – Council Meeting 12 May 2015

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

Council Decision 143/15

That Council adopt the revised Council Policy entitled Equal Opportunity as attached at Appendix RAC-2.

CARRIED

11 votes "for" / Nil votes "against"

10.3 Revision of Council Policy – Recognition of Long Serving Employees (was listed as item 10.131 of the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Author:	Aileen Clemens, Manager Organisational Development & HR
Executive:	Andrew Brien, Chief Executive Officer
Appendix	Appendix RAC-3: Council Policy: Recognition of Long Serving Employees

Summary

The purpose of this report is for Council to consider a revised Council Policy relating to Recognition of Long Serving Employees, as applicable to the City of Bunbury.

Committee Recommendation

That Council adopt the revised Council Policy entitled *Recognition of Long Serving Employees* as **attached** at Appendix RAC-3.

Strategic Relevance

City of Bunbury Strategic Community Plan

KPA 5 Corporate

Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Background

The Recognition of Long Serving Employees Policy was reinstated as a policy by Council on 22 June 1999 and last reviewed in June 2010. The purpose of the Policy is to ensure that Council satisfies the requirements of section 5.50 of the *Local Government Act 1995*.

Council Policy Compliance

This report proposes the revision of a Council Policy – *Recognition of Long Serving Employees*.

Legislative Compliance

Local Government Act 1995

Officer Comments

The PRDC have undertaken a review of the Council Policy *Recognition of Long Serving Employees* in accordance with the policy review schedule

The Policy has been amended to maintain consistency with policy and legislative requirements.

Analysis of Financial and Budget Implications

There are no financial or budgetary implications, funding is sourced from existing budget lines.

Councillor/Officer Consultation

The proposed policy is recommended to Council by the PRDC

Outcome – Council Meeting 12 May 2015

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

Council Decision 144/15

That Council adopt the revised Council Policy entitled Equal Opportunity as attached at Appendix RAC-2.

CARRIED

11 votes "for" / Nil votes "against"

10.4 Revision of Council Policy – Recognition of Employee Service upon Retirement or Resignation (was listed as item 10.1.4 of the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Author:	Aileen Clemens, Manager Organisational Development
Executive:	Andrew Brien, Chief Executive Officer
Appendix:	Appendix RAC-4: Recognition of Employee Service upon Retirement or Resignation

Summary

The purpose of this report is for Council to consider a revised Council Policy relating to *Recognition of Employee Service upon Retirement or Resignation*, as applicable to the City of Bunbury.

Committee Recommendation

That Council adopt the revised Council Policy entitled *Recognition of Employee Service upon Retirement or Resignation* as **attached** at Appendix RAC-4.

Strategic Relevance

City of Bunbury Strategic Community Plan

KPA 5 Corporate

Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Background

The *Recognition of Employee Service upon Retirement or Resignation* Policy was adopted by Council on 22 June 1999 and last reviewed in June 2010. The purpose of the Policy is to ensure that Council satisfies the requirements of section 5.50 (1) & (2) of the *Local Government Act 1995*.

Council Policy Compliance

This report proposes the revision of a Council Policy – *Recognition of Employee Service upon Retirement or Resignation*.

Legislative Compliance

Local Government Act 1995

Officer Comments

The PRDC have undertaken a review of the Council Policy *Recognition of Employee Service upon Retirement or Resignation* in accordance with the policy review schedule.

The Policy has been amended accordingly to maintain consistency with policy and legislative requirements.

Analysis of Financial and Budget Implications

There are no financial or budgetary implications, funding is sourced from existing budget lines.

Councillor/Officer Consultation

The proposed policy is recommended to Council by the PRDC.

Outcome – Council Meeting 12 May 2015

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

Council Decision 145/15

That Council adopt the revised Council Policy entitled Recognition of Employee Service upon Retirement or Resignation as attached at Appendix RAC-4.

CARRIED

11 votes "for" / Nil votes "against"

10.5 Revision of Council Policy – Use of Banner Masts Located in Victoria Street (was listed as item 10.1.5 of the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Author:	Melinda Whiteley, Acting Executive Assistant Works and Services
Executive:	Phil Harris, Director Works and Services
Appendix:	Appendix RAC-5: Council Policy: Use of Banner Masts Located in Victoria Street

Summary

The purpose of this report is for Council to consider a revised Policy relating to the use of banner masts located in Victoria Street.

Committee Recommendation

That Council adopt the revised Council Policy *Use of Banner Masts Located in Victoria Street* as amended and **attached** at Appendix RAC-5.

Strategic Relevance

City of Bunbury Strategic Community Plan

KPA 5 Corporate

Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Background

On 31 October 2006, Council adopted a new policy which outlined an identified process and governed fees and usage of suspended advertising banners of the Victoria Street Cappuccino Strip (refer Council Decision 199/06). The Policy provides community/Not-for-Profit groups with the opportunity of hanging advertising banners in the Victoria Street, to promote community activities or upcoming events to passing vehicular and pedestrian traffic.

Council Policy Compliance

This report proposes a revision of an existing Council Policy.

Legislative Compliance

Installation and removal of the banners is to comply with relevant Codes of Practice approved by Worksafe WA and appropriate regulations relating to the Occupational Safety and Health Act 1984.

Officer Comments

The PRDC have undertaken a review of the Council Policy *Use of Banner Masts Located in Victoria Street*.

The Policy has been amended to reflect adjustments of responsibilities within the organisation. The Events Booking Officer now coordinates the applications with the installations being managed by the Building and Trade Department.

Analysis of Financial and Budget Implications

There are no financial or budgetary implications impacting from the recommendations of this report, as the intent of the existing Policy has not been altered.

Councillor/Officer Consultation

The Director Works and Services, staff within the Community Services and Building and Trades departments have been consulted in the review of this Policy, which has been recommended to Council by the PRDC

Outcome – Council Meeting 12 May 2015

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

Council Decision 146/15

That Council adopt the revised Council Policy Use of Banner Masts Located in Victoria Street as amended and attached at Appendix RAC-5.

CARRIED

11 votes "for" / Nil votes "against"

10.6 New Council Policy – Use of Car Parking Bays for Outdoor Eating Areas in the CBD
(was listed as item 10.1.6 of the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Author:	Phil Harris, Director Works & Services
Executive:	Andrew Brien, Chief Executive Officer
Appendix:	Appendix RAC-6: Council Policy: Use of Car Parking Bays for Outdoor Eating Areas in the CBD

Summary

The purpose of this report is for Council to consider a new Council Policy relating to the use of car parking bays for outdoor eating areas in the CBD, as applicable to the City of Bunbury.

Committee Recommendation

That Council adopt the new Council Policy entitled *Use of Car Parking Bays for Outdoor Eating Areas in the CBD* as **attached** presented at Appendix RAC-6.

Strategic Relevance

City of Bunbury Strategic Community Plan

KPA 5 Corporate

Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Background

The draft policy, *Use of Car Parking Bays for Outdoor Eating Areas in the CBD*, as **attached** at Appendix RAC-6 makes provision for the implementation of the use of car parking bays for outdoor eating areas in the CBD.

Council Policy Compliance

This report proposes the adoption of a new Council Policy – Use of Car Parking Bays for Outdoor Eating Areas in the CBD.

Legislative Compliance

Not applicable

Officer Comments

In 2014, Officers commenced negotiation with six different cafe owners who were interested in establishing alfresco dining opportunities on car parking bays immediately in front of their place of business. With no formalised guidelines or policy in place, a cross directorate working group was formed to ensure that any potential risks were addressed and every effort made to accommodate the willingness of business to invest in the CBD.

Generally most of the applicants have been cooperative during this process, however there was a clear lack of policy or guidelines associated with the use of car parking bays for outdoor eating areas.

Analysis of Financial and Budget Implications

There are no financial or budgetary implications impacting from the recommendations of this report.

Councillor/Officer Consultation

The proposed policy has been endorsed by the Executive Leadership Team. The draft policy was provided to the Chief Executive Officer of the BCCI for circulation and comments from members. Four comments/questions were received which sought clarification with response provided to the BCCI. The policy has been recommended to Council by the PRDC

Outcome – Council Meeting 12 May 2015

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

Council Decision 147/15

That Council adopt the new Council Policy entitled Use of Car Parking Bays for Outdoor Eating Areas in the CBD as attached presented at Appendix RAC-6.

CARRIED

11 votes "for" / Nil votes "against"

10.7 Amendment to Code of Conduct – Gifts and Benefits (was listed as item 10.1.7 of the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Author:	Greg Golinski, Manager Governance
Executive:	Andrew Brien, Chief Executive Officer
Appendix:	Appendix RAC-7: Code of Conduct – Gifts and Benefits section

Summary

The purpose of this report is for Council to consider some minor amendments to the City's Code of Conduct.

Committee Recommendation

That Council endorse the amendments to the Gifts and Benefits section of the 2014 Code of Conduct as **attached** at Appendix RAC-7.

Strategic Relevance

City of Bunbury Strategic Community Plan

KPA 5 Corporate

Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Background

The City's Code of Conduct was last reviewed by Council in late 2014, with a revised version adopted on 11 November 2014 (refer decision 418/14).

Council Policy Compliance

Not applicable.

Legislative Compliance

Section 5.103 of the Local Government Act 1995 requires local governments to have in place a Code of Conduct.

Officer Comments

A number of individual Councillors have requested the Policy Review and Development Committee develop some guidelines around the transferability of gifts and benefits received by Councillors.

It is suggested that rather than developing a policy in this regard, a more appropriate course of action is to amend the current Code of Conduct (the Code) which already provides guidance on how to deal with Gifts and Benefits received by, or offered to, Councillors and/or Officers. Pages 15–18 of the Code contain the relevant text in relation to Gifts and Benefits.

Appendix RAC-7 contains an extract of the Gifts and Benefits section of the Code, and details proposed additions which address the clarifications sought by Councillors.

Under the heading Acceptance of Gifts, it is proposed to add an additional subclause “ii”, which clarifies the process for accepting complimentary tickets for sponsored events.

Under the same heading, it is also proposed to add an additional clause “e”, which clarifies the process for transferability of gifts or benefits.

Analysis of Financial and Budget Implications

There are no financial implications arising from the recommendations contained within this report.

Councillor/Officer Consultation

The proposed amendments to the Code of Conduct were presented to the Policy Review and Development Committee for consideration following a request from individual Councillors, to clarify provisions relating to the transferability of gifts/benefits. The policy is now recommended to Council by the PRDC.

Outcome – Council Meeting 12 May 2015

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

Council Decision 148/15

That Council endorse the amendments to the Gifts and Benefits section of the 2014 Code of Conduct as attached at Appendix RAC-7.

CARRIED

11 votes “for” / Nil votes “against”

10.8 Proposed Closure and Disposal of Portions of Road Reserve Adjoining Lots 60 and 61 South Western Highway (was listed as item 10.2.1 of the Council Agenda)

File Ref:	Lot 60 and 61 South Western Highway
Applicant/Proponent:	Harley Dykstra on behalf of Byron Ynema
Author:	Kristen Anderson – Administration Officer Property
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-1: Location Plan

Summary

The City of Bunbury (the “City”) has received an application from Harley Dykstra Planning and Survey Solutions on behalf of their client Byron Ynema (the “Applicant”) to close the road reserve adjoining his property at Lot 60 and 61 South Western Highway and subsequently amalgamate said portions with his property. A location plan is **attached** at Appendix CEO-1.

Executive Recommendation:

That Council agrees to close the road reserve adjoining Lot 60 and 61 South Western Highway and subsequently dispose of the land to the adjoining owner, subject to:

1. The terms and conditions as specified in the report;
2. Advertising in accordance with section 58 of the Land Administration Act 1997;
3. Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995.

Background

Harley Dykstra have been assisting the land owners of Lot 60 and 61 South Western Highway, who also own Lots 58, 59 and 62, in the development of their property. A structure plan was previously prepared for the land and was approved by the City and the Western Australian Planning Commission (WAPC) in early 2014 to allow for residential development.

Following the endorsement of the Structure Plan, a subdivision application was lodged and in August 2014 was approved (WAPC Ref 150058). During the Structure Plan and subdivision plan application process, it was identified that the unused road reserve between the existing lots and the existing South Western Highway could be better utilised.

The Applicant has identified the following as justification for the road closure:

- * Due to the presence of the existing South Western Highway, the subject road reserve is unlikely to be constructed; and
- * As condition of the subdivision approval for the land, the rear of Lots 58 to 61 and the whole of Lot 62 are required to be ceded to the Crown for the purpose of foreshore reserve. Due to this loss of land, the Applicant wishes to regain some land at the front of the properties where appropriate.

Legislative Compliance

Section 58 of the Land Administration Act 1997
Section 3.58 of the Local Government Act 1995

Officer Comments

Through the application and approval process for the Structure Plan and subdivision plan, significant consultation has been undertaken between the Applicant, the City, WAPC and service providers with no objections for the road closure having been received.

The Applicant has provided sufficient justification for the closure of the road reserve and has ceded a substantial portion of their land to the Crown. Through this application process, the Applicant is ensuring future development of the area whilst still creating open space along the Preston River.

Analysis of Financial and Budget Implications

The Applicant has paid in the application costs for the road closure and amalgamation to the City and will be responsible for any costs associated with the closure and amalgamation.

As the land is road reserve, the City will receive no remuneration for the sale of the land to the Applicant, however, the Department of Lands will have the land valued and enter into negotiations with the Applicant for the transfer of the road reserve land.

Community Consultation

As per Section 3.58 of the Local Government Act 1995, all relevant service providers 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 will be undertaken should Council endorse the decision to dispose of the land to the Applicant.

Councillor/Officer Consultation

The Applicant has been in discussion with the City for some time during their application process for a Structure Plan and subdivision plan. The road closure and amalgamation request has also been discussed by the City's Development Coordination Unit with no objections having been received.

Outcome – Council Meeting 12 May 2015

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

Council Decision 149/15

That Council agrees to close the road reserve adjoining Lot 60 and 61 South Western Highway and subsequently dispose of the land to the adjoining owner, subject to:

- 1. The terms and conditions as specified in the report;***
- 2. Advertising in accordance with section 58 of the Land Administration Act 1997;***
- 3. Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995.***

CARRIED

11 votes “for” / Nil votes “against”

10.9 Proposed Deed of Lease – Falgunan Nanukurup and Navajothy Arasan Trading as Spice Journey over Koombana Bay Beach Kiosk, Reserve 28032, Koombana Drive, Bunbury (was listed as item 10.2.2 of the Council Agenda)

File Ref:	Koombana Kiosk
Applicant/Proponent:	Falgunan Nanukurup and Navajothy Arasan Trading as Spice Journey
Author:	Jane Dawson, Senior Property Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-2: Location Plan

Summary

The City of Bunbury has been approached by Falgunan Nanukurup and Navajothy Arasan Trading as Spice Journey (the “Applicant”) requesting a Commercial Deed of Lease over the Koombana Bay Beach Kiosk, Reserve 28032, Koombana Drive, Bunbury for a term of (5) years, for use as a kiosk. A location plan is **attached** at Appendix CEO-2.

Executive Recommendation

That Council agrees to the proposed Deed of Lease with the Applicants over Koombana Bay Beach Kiosk, Reserve 28032, Koombana Drive, Bunbury for use as a Kiosk subject to:

1. Terms and conditions as specified in the report; and
2. Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995.

Background

The Demised Premises is Crown Land under a Management Order No. G844871 to the City of Bunbury, Certificate of Title Volume LR3107 Folio 880.

The City sought Expressions of Interest in 2010 and entered into a Deed of Lease with the successful applicant the Little Cornish Restaurant Pty Ltd as Trustee for the Dudley Family Trust on 1 December 2010 for a term of five (5) years. The Lease was then Assigned to Falgunan Nanukurup and Navajothy Arasan Trading as Spice Journey on 12 November 2013.

Current Lease Details

Commencement:	1 April 2010
Term:	Five (5) years
Expiry Date:	30 November 2015
Lease Area:	Kiosk
Rental:	\$5,200.00 + GST per annum
Outgoings:	Responsibility of the Lessee.
Insurance Requirements:	The applicants to maintain Public Risk Insurance and General Insurance cover over the premises with Public Liability to be set at \$10(M).
Preparation of Lease:	The Lessee to pay the full cost of document preparation and advertising.

Proposed New Lease Details

Commencement:	1 December 2015
Term:	Five (5) years
Expiry Date:	30 November 2020
Lease Area:	Kiosk
Rental:	\$7,800.00 + GST per annum, CPI annually and Market Rent Review every three (3) years.
Outgoings:	Responsibility of the Lessee.
Insurance Requirements:	The applicants to maintain Public Risk Insurance and General Insurance cover over the premises with Public Liability to be set at \$10(M).
Preparation of Lease:	The City to cover the costs of document preparation, advertising and registration on Commercial Leases as at 2013.

Council Policy Compliance

Council Policy: Commercial Leases

Legislative Compliance

The notice of intention to grant the applicants a Deed of Lease will be: published in the City Focus column of the Bunbury Mail Newspaper; displayed at the City's Libraries and the Administration Building; and on the City's website in accordance with Section 3.58 of the *Local Government Act 1995*.

Officer Comments

The applicant has occupied the current lease site since 2013 and has complied with all provisions of the Lease. All particulars of the proposed Lease have previously been made available to the Applicant.

The City's redevelopment clause will be included in the Lease.

Analysis of Financial and Budget Implications

A market rental valuation was obtained from Landgate on 18 March 2015 with the Applicant to pay \$7,800.00 + GST per annum and having responsibility for all the normal outgoings.

Community Consultation

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

Councillor/Officer Consultation

The Development Coordination Unit have no objections to the proposed lease.

Outcome – Council Meeting 12 May 2015

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

Council Decision 150/15

That Council agrees to the proposed Deed of Lease with the Applicants over Koombana Bay Beach Kiosk, Reserve 28032, Koombana Drive, Bunbury for use as a Kiosk subject to:

- 1. Terms and conditions as specified in the report; and***
- 2. Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995.***

CARRIED

11 votes "for" / Nil votes "against"

10.10 Major Projects Update Report for the period 1 March 2015 to 31 March 2015 (was listed as item 10.2.5 of the Council Agenda)

Applicant/Proponent:	Internal
Author:	Andrew Brien, Chief Executive Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-6: Major Projects Report 1 March to 31 March 2015

Summary

As an outcome of the Council Decision to disband the Major Projects Committee, the report **attached** at Appendix CEO-6 provides an overview of Councils endorsed major projects for period 1 March 2015 to 31 March 2015.

As a result of Elected Member requests, the report now contains additional minor expenditure projects which when added together, act as major commitments (including various Withers projects).

Executive Recommendation

That Council receives and notes the circulated Major Projects update report for the period ending 31 March 2015.

Background

The Major Projects report is a positive tool to help effectively manage and report on current year Major Projects being undertaken by the City of Bunbury, and will be submitted to Council on a six weekly interval and to allow time for works to be actioned.

It should be noted that in the list of projects identified in this report that not every project will have an update due to project delivery and consultation at different stages.

Council Policy Compliance

Not Applicable.

Legislative Compliance

Not Applicable

Officer Comments

This report will be circulated to Council for noting and receiving on a 6 weekly basis. It should be noted that if any Elected Member wishes to receive an update on any major project outside of this timeframe, this option is still available.

Analysis of Financial and Budget Implications

Not Applicable.

Community Consultation

There is no requirement for community consultation.

Councillor/Officer Consultation

Not Applicable.

Outcome – Council Meeting 12 May 2015

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

Council Decision 151/15

That Council receives and notes the circulated Major Projects update report for the period ending 31 March 2015.

CARRIED

11 votes "for" / Nil votes "against"

10.11 State Library of Western Australia – Regional Model 2015/2016 (was listed as item 10.3.1 of the Council Agenda)

Applicant/Proponent:	Internal
Author:	Sharon Chapman, Manager Information, Libraries and Customer Support
Executive:	Stephanie Addison-Brown, Director Corporate and Community Services
Attachments:	Appendix DCCS-1: Regional Library Framework Appendix DCCS-2: 2015/2016 Regional Activity Plan

Summary

The Bunbury City Library has performed the role of the South West Regional Library since 2012. The City has signed an agreement with the State Library of Western Australia to provide regional library services on behalf of the State to 22 participating libraries across 12 local government areas in the south west region.

Given the introduction of a new model on 26 June 2012 proposed by the State Library involving annual Activity Plans, Council resolved to undertake the Regional Library role in accordance with Schedule C of the State Library of Western Australia Regional Model for a period of 12 months (Council Decision 188/12). Council resolved to continue this commitment for another twelve months at it's meeting on 14 May 2013 (Council Decision 122/13). Council agreed to continue to perform this role at it's meeting on 10 June 2014 (Council Decision 192/14).

Council is now requested to consider a continued commitment to perform the role for another twelve months in the 2015/2016 financial year.

Executive Recommendation

That Council endorse the signing of the 2015/2016 Regional Activity Plan (as part of Schedule C of the Regional Model Agreement) to enable the Bunbury City Library to continue as the Regional Library for the South West Region for 2015/2016.

Background

In 2007 the State Library of WA, in conjunction with WALGA, launched a review of the WA public library system. The outcomes of this review were vast and included redeveloping and enhancing the Regional Model. The main focus of this redevelopment was:

- * for Regional Libraries (such as Bunbury, Albany, Geraldton, Kalgoorlie and others) to take on a leadership role for their regions on behalf of the State Library as opposed to their previous operational support role; and
- * to take a business planning approach to delivery of regional support services, including development of annual regional Activity Plans, coordinated by the appropriate Regional Library on behalf of participating regional LGA libraries.

Since 2012 the City of Bunbury has agreed to continue its role as the Regional Library for the South West region within the new framework proposed by the State Library of Western Australia. This was an initial twelve-month commitment with an opportunity to review its ongoing viability each year. The reason for suggesting only a twelve month commitment that is reviewed annually was

that not all Regional Libraries had agreed to sign up to this new model because of the need to contribute financially themselves to the Activity Plans. There was a significant amount of discussion and debate between the State Libraries and the Regions in regard to the introduction of this new framework. It is clear the debate between the State Library and the Regions has not been resolved and an ongoing review of the state framework is necessary. A report regarding the Regional Model framework was recently presented by representatives from the State Library to the Library Board of Western Australia. This report is considered confidential and not available to regional libraries. The generalised content of the report has been discussed with Regional Librarians though the recommendations to the Board are currently unknown. A significant amount of concern was expressed by the Regional Librarians across the State about the 'one size fits all' model that has been implemented but can sometimes be difficult to deliver in practice.

The West Australian Local Government Association (WALGA), in conjunction with Public Libraries Association of Western Australia (PLWA), has recently conducted forums entitled 'Public Libraries in Western Australia – What is the future?' These visioning forums aim to:

- * Understand key social, economic, technical trends that will affect public library services and how Local Governments can appropriately respond over the next decade.
- * Develop a new vision and strategic framework for public libraries in 2025, for adoption by WALGA's State Council; and
- * Identify viable funding and governance arrangements to assist Western Australian Local Governments to be well placed to deliver effective public library services into the future.

All local government Chief Executive Officer's (metro and regional) and key library staff have been provided with discussion papers and invited to attend these forums. The sessions are being facilitated for WALGA and PLWA by the same consultants that delivered similar forums in 2007 and are experienced other library frameworks in progress throughout the eastern states of Australia. The outcomes from this first consultation phase will be used to inform the development of a final Strategic Vision and Framework for Public Libraries in Western Australia, which will be presented to WALGA members, zones and State Council for adoption later in the year.

This report seeks Council endorsement to continue to perform the Regional Library model for another twelve months during 2015/16 with a further review to be undertaken before 2016/2017.

Council Policy Compliance

Not applicable.

Legislative Compliance

Not applicable.

Officer Comments

The provision of a leadership and support role to other libraries across the South West has had a minimal impact on the delivery of services to the Bunbury community in since 2012. The State Library reimburses the City of Bunbury for most expenses incurred in provision of regional services via an agreed annual Activity Plan, while other time paid for by the City of Bunbury covers work the staff would already have undertaken on cooperative regional activities.

The Activity Plan is governed by the State Library of Western Australia and by agreeing to sign, the City of Bunbury will commit its Library staff to attendance at regular meetings, undertaking regional visits, provision of advice to other South West libraries, provision of training and mentoring services for participating libraries and other general assistance.

Should Council decide not to support this proposal, it is anticipated that other libraries in the South West may not be in a position to take on the Regional Library role. Some of the more rural Libraries would be most affected by the withdrawal of this support and assistance. In addition to providing regional support to other libraries in the South West, the leadership role that the Bunbury Library undertakes as the Regional Library also provides a position of strength when negotiating with the State Library and other larger metropolitan library services. This role has also enabled the City's Library Service to retain its status as a 'first tier' library within the State.

As the nominated Regional Library, the City has also fostered positive relationships and promoted regional partnership opportunities with other participating LGAs in the South West including the City of Busselton, Shire of Boyup Brook, Shire of Bridgetown/Greenbushes, Shire of Capel, Shire of Collie, Shire of Dardanup, Shire of Donnybrook/Ballingup, Shire of Harvey, Shire of Manjimup, Shire of Murray, Shire of Nannup and Shire of Waroona. Within this group of LGAs there are 22 individual Library branches providing library services throughout the South West Region.

In addition, the City has demonstrated regional leadership through the coordination of a training program for 95 library staff from the 22 public libraries. There are eight topics being delivered through six training sessions over a four month period. These sessions are being held at Bunbury and Bridgetown Libraries. The total cost for this training will be around \$1000.00, which is funded by the State Library and the City of Bunbury through the Regional Activity Plan. This training has been possible through the significant amount of teamwork by the facilitators from the City of Bunbury, City of Busselton, Shire of Dardanup and the Shire of Capel. These staff have readily agreed to work cooperatively and share their combined skills and knowledge.

The City is also continuing to be part of a working group, the South West Library Consortium (SWLC), which is investigating the potential of a single Library Management System (LMS) that could be utilised by all participating libraries in the south west. At present, all libraries operate their services independently which can mean limited and often inconsistent service provision across the region. By implementing a new system with 1LMS functionality, patrons would be able to utilise combined services, receive a simplified service and have access to a significantly larger collection that would be floated between participating libraries. All participating south west local government authorities have been able to capitalise on the combined knowledge and experience of the working group members. If approval is received by the relevant participating local governments to go ahead, the south west region libraries involved should be able to secure a better deal as a group when sourcing an appropriate system. This working group is currently structured so that LGAs may opt-in/opt-out at any time. At present, the Shire of Dardanup, Shire of Capel and City of Busselton are leading the working group with the City of Bunbury providing support, input and knowledge

Analysis of Financial and Budget Implications

In previous years, the funding model consisted of a cost sharing arrangements between the State Library, the City of Bunbury and regional LGAs in an annual region-specific fully costed Activity Plan. An annual analysis of these figures include:

*	2013/2014	City of Bunbury contribution	\$4992.17
		State Library contribution	\$15222.01
*	2014/2015	City of Bunbury contribution	\$5303.00
		State Library contribution	\$12822.84

In 2015/2016, the proposed cost to the City of Bunbury will be \$5,615.00 and the State Library contributing \$15,928.00.

Other Libraries across the South West Region do not contribute to the cost of the Activity Plan as it is solely an agreement between the Regional Library and the State Library for the Regional Library to provide regional services on behalf of the State Library. In certain circumstances the other Libraries may be asked if they would like to contribute to 'Value-Add' activities, but this is not the case in 2015/2016 as no 'Value-Add' activities have been applied for by the City of Bunbury.

Community Consultation

Discussion about the continuation of this model has taken place with representatives from Libraries from in the south west region and the support for the City of Bunbury to continue has been positive. The Libraries across the south west each sign up to the Activity Plan each year to receive their support from the Regional Library.

Councillor/Officer Consultation

Not applicable.

Relevant Precedents

- * Council Decision 188/12 - "That Council support the signing of Schedule C of the Regional Model Agreement to continue as the Regional Library for the South West Region for 2012/13 and to share costs of a region specific Activity Plan."
- * Council Decision 122/13 - "That Council support the signing of Schedule C of the Regional Model Agreement to continue as the Regional Library for the South West Region for 2013/2014".
- * Council Decision 192/14 – "That Council endorse the signing of Schedule C of the Regional Model Agreement to continue as the Regional Library for the South West Region for 2014/15".

Outcome – Council Meeting 12 May 2015

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

Council Decision 152/15

That Council endorse the signing of the 2015/2016 Regional Activity Plan (as part of Schedule C of the Regional Model Agreement) to enable the Bunbury City Library to continue as the Regional Library for the South West Region for 2015/2016.

CARRIED

11 votes "for" / Nil votes "against"

10.12 Proposed Deed of Lease to Bunbury Tennis Club Inc. over portion of Reserve 30601, ‘Hay Park’, Lot 3001 on Deposited Plan 43554, Parade Road, Bunbury (was listed as item 10.2.3 of the Council Agenda)

File Ref:	CAP-COML-00001
Applicant/Proponent:	Bunbury Tennis Club Inc.
Author:	Kristen Anderson, Administration Officer Property
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-3 Location Plan Bunbury Tennis Club Inc Lease Area Appendix CRUSC-1: Landgate Valuation Appendix CEO-4: Request from Bunbury Tennis Club Appendix CEO-5: Venue Improvements

Summary

The Deed of Lease between the City of Bunbury (the “City”) and Bunbury Tennis Club Incorporated (the “Applicant”), over a portion of Reserve 30601, ‘Hay Park’, Lot 3001 on Deposited Plan 43554, Parade Road, Bunbury (the “Leased Premises”), expired on 30 November 2014. A new Deed of Lease has been prepared and a location plan of the Leased Premises is **attached** at Appendix CEO-3.

The Applicant has advised the City that they are unable to pay the annual rental fee that would apply if based on the Council Policy for Leases and Licenses.

The Applicant has advised they are in a position to pay a lesser amount of \$3,040.00 per annum and have formally requested Council to consider such a request.

Executive Recommendation

That Council agrees to grant a new Lease to the Applicant over portion of Reserve 30601, ‘Hay Park’, Lot 3001 on Deposited Plan 43554, Parade Road, Bunbury for a term of five (5) years with a further option of five (5) years subject to the terms and conditions as specified in the report, and the following:

1. The approval of the Minister for Lands;
2. The Applicant to pay all costs associated with the Lease application including document preparation, advertising and registration of the Lease on the Certificate of Title;
3. Rent payable is in accordance with the City’s Leases and Licenses Policy at \$9,120.00 ex GST per annum;
4. Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995.

Background

The Bunbury Tennis Club was established in 1911 where they occupied premises situated at Queens Gardens. In 1976 construction at the Leased Premises was completed with the City of Bunbury contributing to the cost of the complex.

Since the Leased Premises were established 38 years ago, the Applicant, in conjunction with the City, has upgraded facilities and expanded operations, with the Leased Premises now comprising of 27 grass courts and 6 plexipave courts under lights. The facilities, which cater for approximately 170 senior members and 130 junior members include a clubhouse which provides kitchen, bar and office facilities, a pro-shop and a pavilion for club functions.

Current Lease Details

Commencement:	1 December 2009
Term:	Five (5) years
Expiry Date:	30 November 2014
Rental:	\$1,500.00 + GST per annum
Rent Review:	CPI annually
Outgoings:	Responsibility of the Lessee
Insurance:	Lessee to maintain Public Risk and General Insurance cover over the premises with Public Liability to be set at \$10 million

Proposed New Lease Details

Commencement:	1 December 2014
Term:	Five (5) years with a further five (5) year option
Expiry Date:	30 November 2019
Rental:	\$9,120.00 + GST per annum
Rent Review:	CPI annually, Market Rent Review every third year
Outgoings:	Responsibility of the Lessee
Insurance:	Lessee to maintain Public Risk and General Insurance cover over the premises with Public Liability to be set at \$10 million
Special Conditions:	The Redevelopment Clause has been included The Lessee is responsible for all maintenance to the Leased Premises other than structural repairs.
Document preparation:	The Lessee to pay full cost of document preparation and advertising

Financial Implications

An updated market rental value for the Leased Premises has subsequently been obtained from Landgate, totalling \$38,000.00 ex GST per annum, as **attached** at Confidential Appendix CRUSC-1. The Officer has applied the recently adopted Leases and Licenses Policy, whereby using a rent tier matrix, a discount is applied taking into consideration the Applicant's individual circumstances.

The Leases and Licenses Policy allows a discount of 76%, reducing the rent payable by the Applicant to \$9,120.00 ex GST per annum.

The Applicant has advised the City that this increase in rent from what they are currently paying per annum (\$1,500.00 ex GST) is too great an increase for the Applicant to be able to accommodate at this present time and believe it would be detrimental to the viability of their club. The Applicant has advised the City they are able to pay \$3,040.00 ex GST per annum, which is a 92% discount of the valuation.

The Applicant has expressed their concerns during discussions and has provided a formal written request as **attached** at CEO-4 for Council's consideration, along with a breakdown of expenditure

for the maintenance and improvements for the venue as **attached** at Appendix CEO-5 Venue Improvements.

In total the Applicant has arranged \$254,789.00 worth of works in the past seven years, of which \$148,729.66 was contributed by the Applicant, with the remaining \$106,059.40 contributed by the Department of Sport and Recreation, Tennis Australia and the City of Bunbury.

When referring to the Venue Improvements it is noted that items such as the playground, bar upgrade and bi-fold doors and decking could be considered as an upgrade to the existing facilities. The Bunbury Tennis clubs expenditure on these items amounted to \$84,604.00.

The remaining items such as carpets, re-fencing and hard-court resurfacing could be considered as upkeep and maintenance for which the Applicant is responsible under the terms of the existing lease. The Bunbury Tennis Club's expenditure on these items amounted to \$64,125.66.

Council Policy

Council Policy Leases and Licenses.

Legislative Compliance

Section 3.58 of the Local Government Act 1995

Officer Comments

The Applicant has satisfactorily fulfilled its obligations and responsibilities under the current Lease. The Applicant provides like-minded participation from local community members and visitors and promotes a healthy and active lifestyle.

Community Consultation

Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995 will take place following Council endorsement.

Councillor/Officer Consultation

Comment was sought from the Development Coordination Unit with no objections having been received.

Outcome – Council Meeting 12 May 2015

Cr Steele declared an Impartiality Interest in the item as her children play tennis at the Club. Cr Steele will remain in the chamber for the discussion and vote on the matter.

Mr Alex Karatamoglou 15 Ashford Place, Bunbury addressed Council on behalf of the Bunbury Tennis Club speaking against the Executive Recommendation.

Cr Steck entered the meeting at 5:43pm.

The Mayor called for a Mover and Seconder for the Executive Recommendation (as printed). The Recommendation was lost for want of a Mover and Seconder.

Cr Cook moved the following alternate motion, which was seconded Cr Miguel.

That Council agrees to grant a new Lease to the Applicant over portion of Reserve 30601, 'Hay Park', Lot 3001 on Deposited Plan 43554, Parade Road, Bunbury for a term of five (5) years with a further option of five (5) years subject to the terms and conditions as specified in the report, and the following:

1. *The approval of the Minister for Lands;*
2. *The Applicant to pay all costs associated with the Lease application including document preparation, advertising and registration of the Lease on the Certificate of Title;*
3. *Rent payable is in accordance with the negotiated value of **\$3,040.00** ex GST per annum;*
4. *Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995.*

In accordance with clause 11.1(b) of the City of Bunbury's Standing Orders Local Law 2012, Cr McCleary moved, Cr Jones seconded the procedural motion *"In accordance with clause 11.1(b) of the City of Bunbury's Standing Orders Local Law 2012 the discussion on the item titled "Proposed Deed of Lease to Bunbury Tennis Club Inc. over portion of Reserve 30601, 'Hay Park', Lot 3001 on Deposited Plan 43554, Parade Road, Bunbury "be adjourned and the item be deferred to the next round of Council to give Councillors the opportunity to investigate the matter further given the points raised by Mr Karatamoglou."*

The Mayor put the procedural motion to the vote with the result being 6 votes "for", 6 votes "against". The Mayor then used his casting vote in support of the procedural motion which was then adopted to become Council's decision on the matter.

Council Decision 153/15

In accordance with clause 11.1(b) of the City of Bunbury's Standing Orders Local Law 2012 the discussion on the item titled "Proposed Deed of Lease to Bunbury Tennis Club Inc. over portion of Reserve 30601, 'Hay Park', Lot 3001 on Deposited Plan 43554, Parade Road, Bunbury "be adjourned and the item be deferred to the next round of Council to give Councillors the opportunity to investigate the matter further given the points raised by Mr Karatamoglou.

CARRIED

6 votes "for" / 6 votes "against"

THE MAYOR USED HIS CASTING VOTE IN SUPPORT OF THE MOTION

10.13 Attendance at the ICTC Mainstreet 2015 Conference – “People, Places and Partnerships - Creating Liveable & Loveable Place” (was listed as item 10.2.4 of the Council Agenda)

Applicant/Proponent:	Internal Report
Author:	Andrew Brien, Chief Executive Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Nil

Summary

Advice has been received that Registrations are now open for the ICTC Mainstreet 2015 conference People, Places and Partnerships - Creating liveable & loveable places being held in Wollongong, New South Wales. The 2015 conference will be held from 21 – 24 July 2015 inclusive.

Councillor Steele has expressed an interest in attending this conference and it is felt that with the current focus on the development opportunities within the City of Bunbury, the attendance of the Chief Executive Officer at the Conference is deemed appropriate.

Executive Recommendation

Council approve the attendance of Cr _____ and the Chief Executive Officer at the ICTC Mainstreet 2015 Conference – “People, Places and Partnerships - Creating Liveable & Loveable Place” to be held in New South Wales, from 21 July to 24 July 2015 inclusive.

Background

Registrations are now open for the ICTC Mainstreet 2015 conference People, Places and Partnerships - Creating liveable & loveable places being held in Wollongong, from 21 - 24 July, 2015. World-wide speakers will discuss a range of topics covering:

- * Place Making, Marketing, Main streets, Retail and Town Centres
- * Planning, Urban Design, Development, Property, Economic Development
- * Architecture, Landscape, Environment, Infrastructure, Transport
- * Engineering, Public Works, Finance, Technology, Demography and Consumer Behaviour

Attendance at the conference would enable discussion on key strategies that may influence investment in tourism infrastructure, facilitate strategic projects, and further to develop a stronger position when dealing with the Shanghai Hippo Group Proposal.

It will also provide further opportunity gain further insight on how to address a number of above topics and may assist to market Bunbury as a competitive business and tourism destination.

Council Policy Compliance

Attendance at this conference will be facilitated through the provisions and conditions of Council Policy CEO1 “Conferences, Seminars, Training and Induction Courses – Attendance by Elected Members.”

Legislative Compliance

The endorsement of this proposal will ensure that compliance has been met with all legislative matters including policy.

Officer Comments

It is felt that attendance at the conference will enable further insight on key matters that the City of Bunbury is considering or may face in the future, and in particular the following:

- * Activation: Exploring the design and implementation of initiatives that work with creative to help energise places.
- * Smart Cities: Discussion around digital strategies and identifying if systems and infrastructure is working smarter.
- * BIDS: This matter has been before Council previously and discussions will explore how governments facilitate the programs and explain how businesses and property owners have actively embraced, funded and supported them.
- * Using Place Brand Strategy to Create Liveable and Loveable Cities: place-making and destination development and the renewal of city and town centres and in developing the offer of the tourism and culture sectors.
- * Place Design – exploring essential elements for creating great places and reinventing centres to fulfil the needs of the 21st century citizen and the role of centres to offer more than everyday shopping in a main street setting.
- * Revitalization, economic development, and enterprises in both the public and private sectors
- * Urban Policy, sustainable urban design and urban renewal and infill
- * Activating main streets: how government and industry can develop food precincts of the future and how Councils can maintain and further enhance the food opportunities on Main Streets to beat off the shopping centres and bring life and activation to the main street across all day parts. This may assist in determining what makes some main street restaurant precincts fire; what is required to support food operators and fuel activation; the role that public spaces of the main street have in building a vibrant restaurant precinct and how to attract successful restaurateurs to operate and invest in the area.
- * How to build resilience in main street strips and large scale master planning, urban, landscape and infrastructure projects, integrated environmental, landscape and urban design aspects for projects across a diverse field of typologies including green and brownfield residential development, activity centres, public facilities, campuses, transport and infrastructure corridors.

Analysis of Financial and Budget Implications

The estimated cost per attendee is \$2,500. Council's 2014/2015 Budget contains sufficient funding allocations to accommodate attendance at this conference.

Community Consultation

The BCCI has been advised and we are awaiting a response at the time of preparation of the Agenda.

Councillor/Officer Consultation

The Mayor and Chief Executive Officer are aware of this proposal. Cr Steele has previously expressed an interest in these topics and has been consulted about attending this event.

This report serves to bring the matter to the attention of all elected members and seek their support for Cr Steele and the Chief Executive Officer to attend.

Outcome – Council Meeting 12 May 2015

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

Cr Kelly moved an Amendment to the Recommendation, Cr Cook seconded:

Council approve the attendance of Cr _____ ~~and the Chief Executive Officer~~ at the ICTC Mainstreet 2015 Conference – “People, Places and Partnerships - Creating Liveable & Loveable Place” to be held in New South Wales, from 21 July to 24 July 2015 inclusive.

The Mayor put the Amendment to the vote and it was adopted nine votes “for”, three votes “against” to become the Substantive Motion on the matter.

Substantive Motion

Council approve the attendance of Cr _____ at the ICTC Mainstreet 2015 Conference – “People, Places and Partnerships - Creating Liveable & Loveable Place” to be held in New South Wales, from 21 July to 24 July 2015 inclusive.

CARRIED

9 votes “for” / 3 votes “against”

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

Council Decision 154/15

Council approve the attendance of Cr _____ at the ICTC Mainstreet 2015 Conference – “People, Places and Partnerships - Creating Liveable & Loveable Place” to be held in New South Wales, from 21 July to 24 July 2015 inclusive.

CARRIED

12 votes “for” / Nil votes “against”

The Mayor called for Councillor nominations to attend the Conference with Cr Kelly moving and Cr Giles seconding that Cr Steel be nominated. The vote was subsequently carried unanimously.

Revised Council Decision 154/15

Council approve the attendance of Cr Steele at the ICTC Mainstreet 2015 Conference – “People, Places and Partnerships - Creating Liveable & Loveable Place” to be held in New South Wales, from 21 July to 24 July 2015 inclusive.

CARRIED

12 votes “for” / Nil votes “against”

10.14 Traffic Flow Modifications Proposal Bolton Street, Fielder Street and Joseph Buswell Drive (was listed as item 10.5.1 of the Council Agenda)

File Ref:	R00157
Applicant/Proponent:	Internal Report
Author:	Nigel Archibald, Acting Manager Engineering and Civil Operations
Executive:	Phil Harris, Director Works & Services
Attachments:	Appendix DWS-1: Consultation Letter Appendix DWS-2: Consultation Area Plan Appendix DWS-3: Summary of Submission Responses

Summary

Council is in receipt of a number of complaints about the narrow width of Bolton and Fielder Streets and Joseph Buswell Drive and the need to drive over the kerb to pass oncoming vehicles. Public consultation has occurred with the nearby property owners seeking feedback on a proposal to establish a 'one way pair'.

Executive Recommendation

That Council support the conversion of:

1. Bolton Street into a one-way road, in an east to west direction;
2. Fielder Street into a one-way road, in a west to east direction; and
3. Joseph Buswell Drive, between Bolton Street and Beach Road, into a one-way road, in a north to south direction.

Background

Bolton Street, Fielder Street and the northern section of Joseph Buswell Drive, between Bolton Street and Beach Road, have been constructed with a pavement width of 4 metres and are designated for two way traffic. Current standards nominate the acceptable pavement width for two way narrow suburban access streets as 5.5m to 6.0m.

Recent rezoning of the area now permits subdivision of land into smaller blocks with single road frontage. Subdivisions are expected to accelerate over the next five to 10 years resulting in increased traffic volumes on Bolton Street, Fielder Street and Joseph Buswell Drive.

Several complaints have been received regarding the need for passing vehicles to mount the kerbs, thereby increasing the hazard to pedestrians. The Road Reserve width is only 8.0m which limits the City's ability to undertake any road widening without impacting on pedestrian access and services corridors. Service relocation would also involve considerable expense as the existing wooden power poles would need to be converted to underground power supply. Council commissioned a traffic study by Opus which investigated various one-way scenarios. Opus recommended that a 'one way pair' be implemented with Bolton Street westbound only and Fielder Street eastbound only without commenting on the status of Joseph Buswell Drive. Council Officers initially proposed to convert Joseph Buswell Drive, between Bolton Street and Beach Road, into northbound only however several of the responses received have advocated having Joseph Buswell Drive being

southbound only, due to concerns that motorists were currently using Bolton Street as a short cut between Spencer Street and Beach Road to avoid the adjacent traffic signals. In hindsight, the comments provided by the property owners contain strong logic and so the Executive Recommendation reflects the comments received.

On 1 April 2015, letters were posted to the 63 affected property owners (plan **attached** at DWS-2). Four advertisements also appeared in the City Focus column advising the broader community of the proposal. By closure of the consultation period on 24 April 2015, a total of 30 comments had been received (**attached** at DWS-3) with 19 comments supporting the proposal, 10 comments opposed to the proposal and one comment providing neither support nor opposition.

Council Policy Compliance

Not applicable.

Legislative Compliance

A Council Resolution and advertising is required under Regulation 291 of the Road Traffic Code 2000. Evidence of Council and community support is required by the Minister for Transport.

Officer Comments

Widening Bolton Street, Fielder Street and the northern section of Joseph Buswell Drive is considered unachievable due to the restricted Road Reserve width of 8.0m. Existing overhead power cables and wooden poles would need to be converted to underground power at considerable expense. Widening the road pavement would also reduce Council's ability to provide pedestrian facilities and prohibit the planting of street trees.

Several of the comments received oppose the proposal due to the original proposal preventing access from Beach Road onto Joseph Buswell Drive. As stated above, the argument to reverse the suggested traffic flow on Joseph Buswell Drive contains strong logic and the Executive Recommendation reflects the comments received.

Analysis of Financial and Budget Implications

It is recommended that a small concrete island be installed at the north eastern corner of Bolton Street and Joseph Buswell Drive to delineate traffic movement. It is also recommended that modifications occur to the drainage pit at the corner of Spencer Street and Bolton Street to provide easier access. Along with the installation of 'ONE WAY' and 'NO ENTRY' signage it is anticipated that the total cost of the project would be approximately \$6,000.

Community Consultation

Letters describing the proposal, and accompanied by a plan and return form (**attached** at Appendix DWS-2) were posted to affected property owners on the 1 April 2015 with the comment period closing at 4:00pm on Friday 24 April 2015.

An advertisement describing the proposal appeared in the City Focus column in the Bunbury Mail on the 1st, 8th, 15th & 22nd April 2015.

Councillor/Officer Consultation

The proposal to convert Bolton Street, Fielder Street and Joseph Buswell Drive to one-way traffic flow originated from ratepayer contact with Cr Cook who then raised the issue with the Director of Works and Services and previous Manager Engineering.

Outcome – Council Meeting 12 May 2015

Cr Steele declared an Impartiality Interest as her General Practitioner is located on Fielder Street. Cr Steele will remain in the chamber for the discussion and vote on the matter.

Mr Mark James of 105 Stirling Street, Bunbury addressed Council speaking against the Executive Recommendation.

In accordance with clause 11.1(b) of the City of Bunbury's Standing Orders Local Law 2012, Cr Steele moved, Cr Giles seconded the procedural motion *"In accordance with clause 11.1(b) of the City of Bunbury's Standing Orders Local Law 2012 the discussion on the item titled "Traffic Flow Modifications Proposal Bolton Street, Fielder Street and Joseph Buswell Drive" be adjourned and the item be deferred for one month to enable further discussion to be held on the implications of what is proposed."*

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

Council Decision 155/15

In accordance with clause 11.1(b) of the City of Bunbury's Standing Orders Local Law 2012 the discussion on the item titled "Traffic Flow Modifications Proposal Bolton Street, Fielder Street and Joseph Buswell Drive" be adjourned and the item be deferred for one month to enable further discussion to be held on the implications of what is proposed.

CARRIED

11 votes "for" / 1 vote "against"

11. Applications for Leave of Absence

Nil.

12. Motions on Notice

Nil.

13. Questions on Notice

13.1 Response to Previous Questions from Members taken on Notice

Nil.

13.2 Questions from Members

Nil.

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

Nil.

15. Meeting Closed to Public

15.1 Matters for which the Meeting may be Closed

Nil.

15.2 Public Reading of Resolutions that may be made Public

16. Closure

The meeting was declared closed at 5:56 pm.