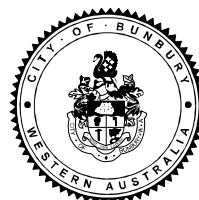


Bunbury City Council

Notice of Meeting and Agenda 26 May 2015



CITY OF BUNBURY

4 Stephen Street
Bunbury WA 6230
Western Australia

Correspondence to:
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Bunbury WA 6231

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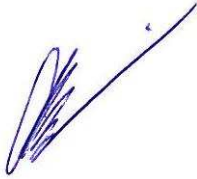
Nature of Council's Role in Decision Making

- 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 Notice of Meeting

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, 26 May 2015 at 5.30pm.



Andrew Brien
Chief Executive Officer
(Date of Issue: 22 May 2015)

Agenda

26 May 2015

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

Council Members:

Mayor Gary Brennan
Deputy Mayor Councillor Brendan Kelly
Councillor Murray Cook
Councillor Wendy Giles
Councillor James Hayward
Councillor Judy Jones
Councillor Betty McCleary
Councillor Neville McNeill
Councillor Jaysen Miguel
Councillor Sam Morris
Councillor David Prosser
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

4.2.1 Request for Leave of Absence – Cr Neville McNeill

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

Summary/Background

Cr McNeill requests leave of absence from all Council-related business from 25 May 2015 to 2 June 2015 inclusive.

Section 2.25 of the *Local Government Act 1995*, allows a council to grant leave of absence to one of its members provided that the period of leave does not exceed six (6) consecutive ordinary meetings of the Council.

Executive Recommendation

Pursuant to Section 2.25 of the *Local Government Act 1995*, Cr McNeill is granted leave of absence from all Council-related business from 25 May 2015 to 2 June 2015 inclusive.

4.3 Request by Cr Giles to Participate by Phone

Summary/Background

Cr Giles has submitted a request to participate in tonight's Ordinary Council Meeting via telephone. In order for Cr Giles to participate, three conditions must be met in accordance with regulation 14A(1) of the *Local Government (Administration) Regulations 1996*:

- a) the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and
- b) the person is in a suitable place; and
- c) the council has approved of the arrangement.

Cr Giles has advised she will be situated at the Joondalup Campus of Edith Cowan University for the duration of the meeting. Regulation 14A(4) defines a suitable place as a place that the council has approved as a suitable place for the purpose of this regulation and that is located:

- a) in a townsite or other residential area; and
- b) 150 km or further from the place at which the meeting is to be held under regulation 12, measured along the shortest road route ordinarily used for travelling.

The campus complies with the geographical requirements of regulation 14A(4)(b), being more than 150km from the place at which the meeting is being held.

To fulfil this request, Council consideration is required as follows:

That Council:

1. Approves the Joondalup Campus of Edith Cowan University as a suitable place for the purpose of regulations 14A(1)(b) and 14A(4).
2. Approves the participation of Cr Giles at the Ordinary Council Meeting held 26 May 2015 via telephone pursuant to regulation 14A(1)(c).

An Absolute Majority Vote will be required.

Executive Recommendation

That Council:

1. Approves the Joondalup Campus of Edith Cowan University as a suitable place for the purpose of regulations 14A(1)(b) and 14A(4).
2. Approves the participation of Cr Giles at the Ordinary Council Meeting held 26 May 2015 via telephone pursuant to regulation 14A(1)(c).

Note: Absolute Majority Vote Required

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.”*

The Mayor, Gary Brennan declared a financial interest in the item titled *“10.2.2 Proposed Road Closure – Moorlands Avenue”* as he has a business association with one or more of the syndicate members of Moorlands Pty Ltd. The Mayor will vacate the chamber for the discussion and vote on the matter.

Cr Jones declared an impartiality interest in the item titled *“10.2.2 Proposed Road Closure – Moorlands Avenue”* as the proponent for the subdivision and a Consultant for the Proponents are fellow Directors at Aqwest. Cr Jones will remain in the chamber for the discussion and vote on the matter.

Cr Jones declared an impartiality interest in the item titled *“10.2.8 (item 10.2.7 in the Briefing Agenda) Lot 21, 89 Beach Road, Bunbury”* as she is the Chairman of Alliance Housing and a Member of the Bunbury Aged Persons’ Housing Collective. Cr Jones will remain in the chamber for the discussion and vote on the matter.

Cr Steel declared an impartiality interest in the item titled *“10.2.11 (item 10.2.10 in the Briefing Agenda) 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 attend the Tennis Club for lessons. Cr Steele will remain in the chamber for the discussion and vote on the matter.

Cr Kelly declared an impartiality interest in the item titled *“10.4.3 Proposed Scheme Amendment 79 for Bunbury Plaza Shopping Centre Expansion”* as he owns a property at 2A Alexander Street which is approximately 500 metres away. Cr Kelly 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

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 12 May 2015 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 12 May 2015 be confirmed as a true and accurate record.

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

Nil.

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

10.1 *Recommendations from Advisory Committees*

Nil.

10.2 Chief Executive Officer Reports

10.2.1 Elected Member Representation Referendum

Applicant/Proponent:	Internal
Author:	Greg Golinski, Manager Governance
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-1: Proposed Referendum Question and Arguments

Summary

The purpose of this report is for Council to receive information relating to the question and arguments “for” and “against” that are proposed to be used for the Elected Member Representation Referendum to be held in conjunction with the 2015 City of Bunbury election on 17 October 2015.

Executive Recommendation

That Council:

1. Note the Elected Member Representation Referendum question and arguments as **attached** at Appendix CEO-1.
2. Endorse the detailed version of the arguments for inclusion with the ballot papers.
3. Request the Chief Executive Officer provide the question and arguments to the WA Electoral Commissioner in preparation for the poll to be held on 17 October 2015.

Background

Council has previously resolved (Decision 439/14) to conduct a referendum in conjunction with the 2015 City of Bunbury ordinary election to ascertain community views in relation to reduced Councillor numbers.

In a report presented to the 17 March 2015 meeting of Council regarding the appointment of the Electoral Commissioner to be responsible for the conduct of the 2015 ordinary election as well as any other polls that may be required, officers suggested that an independent party be engaged to draft the question and arguments “for” and “against”, to remove any perceived bias in the drafting of the referendum material.

As part of Council’s decision-making in this regard (refer decision 92/15), the “for and “against” arguments for the referendum are to be presented to Council for comment, prior to being provided to the WA Electoral Commissioner. This report satisfies the requirements of Council Decision 92/15.

Council Policy Compliance

There is no Council Policy applicable.

Legislative Compliance

Part 4 of the *Local Government Act 1995* deals with Elections and other polls.

Part 16 of the *Local Government (Elections) Regulations 1997* deals with Polls and referendums.

Officer Comments

As part of the process of appointing an independent party to draft the referendum question and arguments, Officers approached the Department of Local Government (the Department) to ascertain whether the Department was in a position to undertake this task on the City's behalf.

The Department advised that it was not in a position to undertake such a task; however they did provide the City with the contact particulars of a recommended consultant. As a result, the City engaged Localise Pty Ltd to undertake this task.

The proposed referendum question and arguments as developed by Localise Pty Ltd are **attached** at Appendix CEO-1.

As well as containing the proposed question, the Appendix also contains two (2) options for the presentation of the arguments "for" and "against"; one being a summary version, and the other being the same arguments but in more detail.

The two options are presented to Council for consideration as to which is considered more suitable for inclusion with the ballot papers. In the interests of openness and transparency, it is suggested that the more detailed arguments be selected for inclusion.

Analysis of Financial and Budget Implications

The costs associated with holding the 2015 election and referendum are contained within project PR-2428 in the City's recently adopted Corporate Business Plan, and will be ratified as part of Council's consideration of the 2015/16 budget.

Councillor/Officer Consultation

This report is presented to Council for consideration.

10.2.2 Proposed Road Closure – Moorlands Avenue

File Ref:	Moorlands Avenue
Applicant/Proponent:	Calibre Consulting on behalf of Moorlands Pty Ltd
Author:	Kristen Anderson – Administration Officer Property
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-2: Moorlands Avenue Location Plan

Summary

The City of Bunbury (the “City”) has received an application from TME Town Planning Management Engineering Pty Ltd (now known as Calibre Consulting (Aust) Pty Ltd), on behalf of their client Moorlands Pty Ltd (the “Applicant”), to close a portion of Moorlands Avenue, effectively removing access from the Forrest Highway. A location plan is **attached** at Appendix CEO-2.

The closure of Moorlands Avenue is a requirement of the Council-approved and Western Australia Planning Commission (WAPC) endorsed “Moorlands Structure Plan”, and is also a condition on the developer’s Riverlea Subdivision approval 148132. Main Roads Western Australia (MRWA) has stipulated to the City and the developer that to facilitate the recently cleared stage 2 of this subdivision, the Moorlands Avenue closure is required to be implemented.

If approved, the closure will proceed with an interim treatment to allow construction traffic to use this intersection to access the site via removable bollards, to the satisfaction of MRWA. A permanent treatment is to be implemented to the satisfaction of MRWA and the City that still allows provision for “emergency access” to the Forrest Highway.

Executive Recommendation:

Council agrees to close the portion of Moorlands Avenue which adjoins the Australind Bypass, 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.

Background

Calibre Consulting on behalf of their clients Moorlands Pty Ltd, have facilitated the required development approvals to subdivide a large area of land located between Moorlands Avenue, the Forrest Highway and Jeffrey Road, to allow for the development of a residential housing estate called ‘Riverlea Estate’.

The estate is within the Moorlands Structure Plan Area, and development is required to occur in accordance with the structure plan.

The requirement to close Moorlands Avenue is stipulated within the structure plan and has been applied, on WAPC approval, to develop the outlined land.

The City and the developer have been involved in discussions over a period of time with MRWA, to determine if there are any other viable options than to permanently close this intersection.

MRWA have consistently advised that the requirement is that the intersection be closed, with its most recent advice being as follows:

- * Current traffic forecasts for the Forrest Highway indicate significant increased traffic demands in the future which will further increase potential for traffic conflicts.
- * The intersection is located close to the Eelup roundabout which creates concerns for vehicles exiting and weaving across lanes to negotiate the roundabout.
- * The intersection is located with access from the left turn slip lane for Robertson Drive which creates potential for conflicts with vehicles turning left in the slip lane.
- * There have been a number of instances of vehicles inadvertently exiting into Moorlands Avenue from the left turn slip lane rather than Robertson Drive and then needing to find an exit from the area.
- * Closure of the existing median opening will require installation of barrier fencing in the median to prevent vehicles attempting unauthorised U-turns across the median.

Confirmation from MRWA received has advised that if Council do not support the closure, MRWA under its own legislation, are able to proceed with the closure of the road.

Legislative Compliance

Section 58 of the Land Administration Act 1997

Officer Comments

Through the application and approval process for the structure plan and subdivision, consultation has been undertaken between the Applicant, the City, WAPC, MRWA and service providers in regard to the road closure.

MRWA have been consistent with their advice throughout these processes, and now require the road closure, as per the endorsed structure plans and subdivision approvals.

Officers consider both the interim and ultimate treatments to close the road are consistent with the structure plan and subdivision approval requirements.

Analysis of Financial and Budget Implications

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

Community Consultation

As per Section 58 of the Land Administration Act 1997, the following service providers were contacted in writing and invited to submit any objections to the proposed amendment within thirty-five (35) days:

- * Alinta Gas
- * Aqwest

- * Western Australian Planning Commission
- * Water Corporation
- * Western Power
- * Telstra
- * Main Roads Western Australia

Advertising in accordance with the provisions of Section 58 of the Land Administration Act 1997 will be undertaken, should Council endorse the decision to close the road.

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 request has also been discussed through the City's Development Coordination Unit with no objections having been received.

This report has been written in consultation with the City's Development Engineer.

10.2.3 Quarterly Report – Delegation DAG2 – Power to Accept Tenders

Applicant/Proponent:	Internal
Author:	David Russell, Senior Contracts and Procurement Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Nil

Summary

In accordance with Delegation DAG2 (Power to Accept Tenders), the Chief Executive Officer is to provide a report to Council on all tenders accepted up to \$250,000.00 excluding GST. This agenda item complies with the conditions of delegation.

A summary of tenders accepted under this delegation for the six (6) month period from 1 October 2014 – 31 March 2015 is detailed below:

<i>Date</i>	<i>Tender Details</i>	<i>Contractor</i>	<i>Amount (excl. GST)</i>
01/10/2014	RFT1415-00001 Herbicide Application – 4 year contract renewable annually (signed by Acting Chief Executive Officer – Stephanie Addison Brown)	Sprayking WA	\$165,000.00 estimate (supply contract)
05/12/2014	RFT1415-00010 Koombana Drive Embankment Deterioration Consultancy (signed by Director Works and Services)	Cardno WA Pty Ltd	\$80,760.00
09/02/2015	RFT1415-00006 Reticulation Supplies and Parts – 3 year contract renewable annually.	Total Eden Pty Ltd	\$241,419.00 estimate (supply contract)
05/03/2015	RFT1415-00017 Horseshoe Lake Stormwater Drainage Network (signed by Director Works and Services)	GHD Pty Ltd	\$89,749.50
16/03/2015	RFT1415-00018 Stirling Street Car Park (boat ramp)	Picton Civil Pty Ltd	\$131,647.50

Executive Recommendation

That Council receives the information.

Background

Pursuant to Section 3.57 of the *Local Government Act 1995* and Regulations 11 to 24 of the *Local Government (Functions and General) Regulations 1996* ('the Regulations'), Council has delegated its authority to the Chief Executive Officer to accept tenders up to \$250,000.00, and up to \$500,000.00 (Council Decision 186/11) where a tender for the supply of products or services is procured through the Western Australian Local Government Association (WALGA), State or Commonwealth Governments, or any State or Commonwealth agencies that provide preferred supplier contracts or agreements.

The Chief Executive Officer is also delegated authority to undertake negotiations pursuant to regulation 20 of the Regulations with the person who in his opinion submitted the most advantageous tender, with the purpose of variation in respect of the required works or goods.

Conditions:

- * The Chief Executive Officer is to provide quarterly advice on all tenders accepted over \$250,000.00.
- * Where the goods or services so procured contain options to extend the contract for a further period(s), the delegated amounts shall be applied per annum to a maximum value not exceeding \$750, 000.00 excluding GST.
- * Each delegated officers capacity to approve an original tender is set at according to the schedule of purchasing limits.
- * Each delegated officers capacity to approve a variation is set as per delegation DAG4 – Contract Price Variation

Council Policy Compliance

Not applicable.

Legislative Compliance

Section 3.57 Local Government Act 1995

The recommendations accord with the provisions of the *Local Government (Functions and General) Regulations 1996*

Officer Comments

Where the delegation permits, the Chief Executive Officer may approve the acceptance of tenders. When the Chief Executive Officer approves tenders under delegation, internal and external reporting and compliance requirements regarding procurement remain the same as if Council had approved the tender.

Any tenders over the delegated threshold are presented to Council for endorsement.

Analysis of Financial and Budget Implications

Any tenders approved under the Power to Accept Tenders Delegation have budget funds approved and secured prior to the procurement process commencing.

Community Consultation

Not applicable.

Councillor/Officer Consultation

Not applicable.

10.2.4 Financial Assistance Grants to Local Governments

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

Summary

The Australian Local Government Association (ALGA) and Western Australian Local Government Association (WALGA) have written to all Councils seeking the support for advocacy to have the Federal Government reverse the decision to freeze the indexation of Financial Assistance Grants (FAGs).

Council is also being asked to acknowledge the receipt of Financial Assistance Grants from the Commonwealth in media releases and council publications, including our annual report and to highlight to the media a council project costing a similar size to the FAGs received by Council so that the importance and impact of the grants can be more broadly appreciated.

Executive Recommendation

That Council:

1. Acknowledges the importance of federal funding through the Financial Assistance Grants program for the continued delivery of Councils services and infrastructure;
2. Acknowledges that the City of Bunbury will receive \$1,550,369 in 2014/15; and
3. Ensure that this federal funding, and other funding provided by the Federal Government under relevant grant programs, is appropriately identified as Commonwealth grant funding in Council publications including annual reports.

Background

FAGs are a vital part of the revenue base of all councils, with Councils receiving payments totalling \$2.3 billion from the Australian Government under this important program this year.

The Government's decision in the 2014 Federal Budget to freeze the indexation of FAGs for three (3) years beginning in 2014-15 will unfortunately cost councils across Australia an estimated \$925 million by 2017-18.

While the FAGs are paid through each state's Local Government Grants Commission, the funding originates with the Commonwealth and it is important it is recognised as such. The City of Bunbury and every other council in Australia, have been asked to pass a resolution acknowledging the importance of the Commonwealth's Financial Assistance Grants in assisting Council to provide important community infrastructure.

Council Policy Compliance

Not applicable.

Legislative Compliance

Not Applicable

Officer Comments

From the information provided, the City of Bunbury has some grave concerns in relation to the Commission of Audits recommendation to change the way in which Financial Assistance Grants (FAGs) are disbursed. The decision to freeze the indexation of the grants, announced in the Budget, will cost Councils an estimated \$925 million in FAGs by 2017-2018, and it is noted that the impact will continue beyond that date because the base level of FAGs will be permanently reduced by over 12%.

By 2017-2018 the estimated reduction in FAGs will be \$321 million. Even if indexation is restored in 2017-18 (at an estimated 4.2%, which reflects CPI and population growth), the gap will continue to widen and FAGs will be about \$334M less in 2018-2019 and almost \$350M less in 2019-2020.

It is noted that the current extension of Roads to Recovery (R2R) is due to end by 2018-2019, and by this time, the loss of FAGs will be the equivalent of 95% of R2R funding. Almost the entire value of the R2R program will be lost.

FAGs are absolutely essential to allow local communities across Australia to provide a reasonable level of services and infrastructure to local residents. These grants are used to maintain a great range of infrastructure including local roads, bridges, parks, swimming pools, libraries and community halls as well as services to the young, the elderly and community groups of all kinds.

The Government's decision will have a major impact on local services and infrastructure and it is possible that the Government has not fully comprehended the likely impact on communities and the unintended consequences of such a decision.

Analysis of Financial and Budget Implications

As mentioned, the payments to be made for the 2014/15 year for the City equal \$1,550,369 which is made up of \$851,355 of Special Road Works and \$699,014 of General Purpose Funds.

For the City of Bunbury, the loss of indexation will mean the loss of around \$331K over the next three (3) years.

This may see an increase to City of Bunbury ratepayers to cover these funds or would require the City to further reduce expenditure by an equivalent amount. If the latter is required, any reduction in expenditure is seen as a reduction in services to our community or to the effective management of essential infrastructure assets.

Community Consultation

In October 2014, the City of Bunbury expressed concerns and wrote to members of Parliament in relation to the Commission of Audits recommendation to change the way in which Financial Assistance Grants (FAGs) are disbursed and the decision to freeze the indexation of the grants.

Councillor/Officer Consultation

This report serves to bring this to the attention of Elected Members and show support of the importance of the Commonwealth's Financial Assistance Grants.

10.2.5 Shark Hazard – City of Bunbury Response Protocols

Applicant/Proponent:	Internal
Author:	Chris Widmer, Team Leader Community Safety and Emergency Management
Executive:	Andrew Brien, Chief Executive Officer
Attachments	Appendix DPDS-4: Response Flowchart Appendix DPDS-5: Responsibility Matrix

Summary

Shark attacks have the potential to negatively impact upon Bunbury's image as a preferred destination for marine-based activities and therefore may significantly impact on both the economic and community viability of the City.

There is currently no agency that is charged with the responsibility to manage community engagement/information for this hazard, therefore the media currently play a significant role in distributing information to the public that is obtained from various sources.

It is proposed that Council endorses the Shark Hazard Response Protocol and to provide this to other local governments and relevant state agencies, to declare the City's response to shark sightings and incidents, to encourage consistency of response.

This report also proposes that the matter be referred for inclusion in the Western Australian Local Government Association (WALGA) Annual General Meeting Agenda to seek WALGA support in having the State Emergency Management Committee declare the shark hazard as a prescribed hazard, within the emergency management regulations (2006), together with a declared Hazard Management Agency.

Executive Recommendation

1. Council endorses the City of Bunbury Shark response flowchart and responsibility matrix to ensure that effective risk-based and safe responses occur for the provision of community safety with respect to the shark hazard.
2. Council notes the draft Policy titled "Shark Hazard Management" which accompanies the response flowchart and responsibility matrix will be referred to next Policy Review and Development Committee Meeting of 18 June 2015

Background

In July of 2012, the Department of Fisheries (DoF) developed a shark hazard plan that placed significant responsibility onto Local Governments within the South West region. The five (5) impacted Local Governments were not engaged in the development of this plan, despite having significant responsibilities.

As a result, the CEO wrote to the Local Governments involved, seeking a collaborative response to this situation. This collaboration ultimately led all local governments to an agreed shark hazard response flowchart and responsibility matrix.

A copy of the response flowchart is **attached** at Appendix DPDS-4 and responsibility matrix is **attached** at Appendix DPDS-5.

This collaboration sought the involvement of DoF, Department of Premier and Cabinet, Police and Department of Parks and Wildlife (DPaW) to ensure a workable, universally acceptable solution was developed. This included a multi-agency workshop that was held in Bunbury, which included senior managers of the above-mentioned departments.

The DoF and DPC did not show active interest in accepting the locally developed agreements. Rather, they appeared to be adamant that the responsibility sat with the local government, even though much of the coast within the region is within DPaW jurisdiction. This impasse made it all but impossible to reach some meaningful, common agreed outcomes.

The response flowchart and responsibility matrix are the result of a careful risk analysis and consultation with other SW local governments. It is felt the process is prescriptive yet, flexible enough to enable an effective decision making environment, while providing minimal risk to those taking the prescribed actions. It is now suggested that the City of Bunbury adopt the process in concert with the other south west local governments and define its own decision framework, so that the community and city staff are afforded the best protection.

Council Policy Compliance

There are no Council Policy documents relating to the subject of this report.

Legislative Compliance

Currently there is no legislation that deals with the issues surrounding shark sightings and shark attacks. If there is a fatality from a shark attack, WA Police immediately take charge.

In accordance with the Emergency Management Act 2005 (EM Act), WAPOL are also responsible for any “hazard” that is not a declared hazard under the EM Act.

Officer Comments

It is proposed to use a risk based assessment to underpin decisions and actions of City of Bunbury staff, in response to and management of shark sightings and incidents. The DoF is presuming City responses that leave the City and staff with unreasonable exposure to risk, as a result of inferred actions or inaction.

The current arrangements do not allow City staff to be involved in shark hazard without the request of police. It is felt this may leave the City at risk of criticism for not working to provide for community safety, especially as other SW local governments have now developed interim protocols for the management of shark hazard.

Officers of the City do not have any jurisdiction over the marine environment beyond the high water mark, nor would they be considered to be subject matter experts in shark behaviour. Therefore, any response protocol must use a risk management ‘due diligence’ basis, to prescribe the correct responses to protect staff and the City from the risk of their decisions and actions, in the event of misadventure.

It is felt the community would expect that the city would do what it could, to minimise any risk to them. A policy framework from the City would assist with community engagement to ensure only the correct information was provided to the public via the media and other outlets to ensure community confidence was maintained.

It has been our experience that the shark hazard has the potential to create a media frenzy that may result in some public hysteria. The result of which may potentially impact tourist orientated businesses and activities including the Dolphin Discovery Centre, cruises, surfing, fishing and diving.

Analysis of Financial and Budget Implications

The cost of the management of beach closures (staff time and signage) over the summer season of 2012/13, was approximately \$10,000. This response was largely ad-hoc and difficult, if not impossible to forecast a budget.

The proposed system would streamline the process, if agreement can be gained for the other agencies to follow these arrangements. That would give some surety that the City would only respond to situations that were found to be credible and therefore, a community safety risk was known to exist, as a result of the previous stages of the process.

Community Consultation

Under the current situation there is no policy or framework to advise the community in relation to shark activity or lead agency responsible for shark hazard communication.

If the City was to formalise a policy leading to an agreed shark hazard management protocols and procedure, this could then provide the basis for information to be provided to the community. The City would also promote the City's new shark hazard management protocols via a community communications strategy.

Councillor/Officer Consultation

In February of 2014, the CEO wrote to the Director General of the DoF , with the endorsement of the five South West Local Government CEO's, advising him that collectively, they were dissatisfied with the presumption that local government should be involved in decision-making, with respect to the shark hazard.

The City of Bunbury Executive Leadership Team and staff have consulted over the potential impacts of managing this hazard. All parties are in agreement that a risk management focus needed to be adopted, to provide the necessary outcomes.

External consultation has occurred with the various government agencies associated with this hazard as has with WALGA and LGIS risk managers.

Delegation of Authority

Not Applicable.

10.2.6 West Australian Local Government Association – 2015 WA Local Government Convention – Perth 5 August to 7 August Inclusive

Applicant/Proponent:	Internal Report
Author:	Andrew Brien, Chief Executive Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-3: 2015 Convention Program Appendix CEO-14: Motion – Bushfire (Planning) Regulations – Local Government Impacts Appendix CEO-23: Motion - Shark Hazard Response Protocol

Summary

The West Australian Local Government Association (WALGA) has advised that the Annual WA Local Government Convention will be held in Perth from Wednesday 5 August to Friday 7 August 2015 inclusive.

Held in conjunction with Local Government week is the Annual General Meeting of the WA Local Government Association, all Member Councils are entitled to be represented by two (2) voting delegates at the meeting.

The Annual Convention provides one of the few professional development and networking opportunities for both elected members and CEOs and attendance at the Convention is considered appropriate.

Executive Recommendation

That Council:

1. Endorses Councillors _____ and _____ as voting delegates, and the Chief Executive Officer as Proxy, for attendance at the WALGA Annual General Meeting and Local Government Convention to be held in Perth from Wednesday 5 August to Friday 7 August 2015 inclusive.
2. Endorses the two motions titled:
 - (a) *“Bushfire (Planning) Regulations – Local Government Impacts”*
 - (b) *“Shark Hazard Response Protocol”*

as distributed for consideration at the 2015 WALGA Annual General Meeting.

Background

Elected Members and Chief Executive Officers from Local Governments have been invited to the Annual West Australian Local Government Association Convention to be held at the Perth Convention and Exhibition Centre between Wednesday 5 August and Friday 7 August 2015.

The theme for the 2015 Local Government Convention this year is “Switched On” which will aim to inspire new ways of thinking, innovative ways of working and assist the Local Government sector in shaping our future. A copy of the program is **attached** at Appendix CEO-3.

Previous conference programs have explored issues relevant to the City of Bunbury including Financing Local Government, Financial Assistance Grants, Expenditure Priorities and Constitutional Recognition of Local Government.

Held in conjunction with Local Government week is the Annual General Meeting of the WA Local Government Association. All Member Councils are entitled to be represented by two (2) voting delegates at the meeting. In the event that a Voting Delegate is unable to attend, provision is made for proxy delegates to be registered.

Following a briefing to Elected Members, ***attached*** at Appendix CEO-14 is the proposed motion for consideration at the Annual General Meeting which is titled *“Bushfire (Planning) Regulations – Local Government Impacts”*.

Attached at appendix CEO-23 is a copy of the Motion titled *“Shark Hazard Response Protocol”* which is also proposed to be referred for inclusion the WALGA AGM.

Only registered delegates or proxy registered delegates will be permitted to exercise voting entitlements on behalf of Member Councils. Delegates may be Elected Members or serving officers.

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 expected that Council’s attendance at this convention will only serve to benefit the determination of future long term strategic economic, social, environmental and sustainability issues including infrastructure.

Council’s representation at the WALGA Annual General Meeting will contribute to the potential development of policy and future planning processes to assist the City’s strategic capacity to provide good governance, service and facilities for its greater community.

Last year, Cr McNeill and Cr Kelly were appointed as the City’s voting delegates with the Chief Executive Officer nominated at Proxy.

It is considered vital in assisting the Local Government Association to maintain the renewed focus on local government and to drive improved outcomes for the sector at the national level.

Analysis of Financial and Budget Implications

As at May 2015, Councils Elected Member Training Budget contains sufficient funding to accommodate attendance at this conference. There is currently funding in of approximately \$35,500 available. The cost for attending the conference, including parking, registration and accommodation is approximately \$2,600 per elected member.

Community Consultation

There is no requirement for community consultation on this proposal.

Councillor/Officer Consultation

This report serves to bring the matter to the attention of all elected members.

10.2.7 Schedule of Accounts Paid for the Period 1 April 2015 to 30 April 2015

Applicant/Proponent:	Internal Report
Author:	David Ransom, Manager Finance
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-4: Schedule of Accounts Paid

The City of Bunbury "Schedule of Accounts Paid" covering the period 1 April 2015 to 30 April 2015 has been issued to elected members under separate cover. The schedule contains details of the following transactions:

1. Municipal Account – payments totalling \$4,804,866.52
2. Advance Account – payments totalling \$2,631,325.44
3. Trust Account – payments totalling \$29,717.69
4. Visitor Information Centre Trust Account – payments totalling \$13,065.01
5. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$738,574.92
6. Bunbury-Harvey Regional Council Advance Account – payments totalling \$704,901.89

Executive Recommendation

The Schedule of Accounts Paid for the period 1 April 2015 to 30 April 2015 be received.

10.2.8 Lot 21, 89 Beach Road, Bunbury

File Ref:	Various
Applicant/Proponent:	Internal Report
Author:	Felicity Anderson, Manager Corporate Projects
Executive:	Chief Executive Officer Andrew Brien
Attachments:	Appendix CEO-5: Lot 21 Beach Road Draft Amending Pages and Map Appendix CEO-6: Scheme Amendment Lot 21 Beach Road Appendix CEO-7: Lot21 or 89 Beach Road Title Appendix CEO-8: Lot 21 #89 Beach Road Superseded Title information and sketch Appendix CEO-9: Sketch - Amendment of land for Tuart Street extension Appendix CEO-10: Schedule of submissions for Lot 21 89 Beach Road with submitters comments Appendix CEO-11: Individual submissions - scanned copies Appendix CEO-12: Lot 21 89 Beach Road Mail Merge Map Appendix CEO-13: Lot 21 Public Meeting notes

Summary

At its meeting held 17 February 2015 Council decided that consultation with surrounding residents and property owners take place regarding the proposed rezoning and disposal of Lot 21, 89 Beach Road. This report identifies the outcomes of that consultation and seeks Council approval to proceed to rezone the land to R15.

Executive Recommendation

That Council:

1. Acknowledges comment made through submissions provided by the residents and land owners in the immediate area;
2. In accordance with the Planning and Development Act 2005, resolves to initiate a scheme amendment to the City of Bunbury Town Planning Scheme No. 7 by amending the Scheme Map by rezoning Lot 21 #89 Beach Road Bunbury, from 'Parks and Recreation Reserve' to 'Residential Zone' with an R-Code density of 'R15', in accordance with the draft Amending Pages and Amendment Map **attached** at Appendices CEO-5 and CEO-6.
3. Instructs City of Bunbury officers to prepare scheme amending documentation to accompany the proposal;
4. Advise the Western Australian Planning Commission (WAPC) of Council's decision to initiate the proposed scheme amendment and provide the Commission with a copy of the scheme amending documentation prior to proceeding to public advertising;
5. Refer a copy of the proposed scheme amendment documentation to the Environmental Protection Authority (EPA) and any other relevant public authority, for consideration and comment;

6. Subject to formal assessment not being required by the EPA and no objection received from the WAPC, proceed to advertise the proposed scheme amendment for public comment with a submission period of not less than forty two (42) days;
7. Further consider the proposal together with any public submissions lodged with the City of Bunbury following the conclusion of the statutory public advertising period.

Background

Lot 21, 89 Beach Road was transferred to the City in December 1970 from Mr John and Mary Wood. The City owns the land in freehold.

Under the town planning of the time and during the development of Tuart Street, the lot was determined to be an unacceptable size for development and subdivision and it was zoned "Parks and Recreation Reserve". Please refer to the information **attached** at Appendices CEO-7, CEO-8 and CEO-9.

Over time expectations of developable land size have changed and this land is now considered acceptable for development. Subject to rezoning of the lot, although narrow, this would not preclude future residential development in accordance with the requirements of the R-Codes.

On Wednesday 3 December 2014 Councillors undertook a tour of specific lots being land owned in freehold by the City of Bunbury. Council identified several lots for potential land rationalisation, inclusive of Lot 21, 89 Beach Road which is currently zoned a "Parks and Recreation Reserve". Process can be undertaken to rezone to this lot to "Residential Zone".

Following a report to Council at the 17 February 2015 Ordinary meeting Council Decided (52/15) that the Chief Executive Officer consult with surrounding residents and property owners about the potential rezoning of the Lot 21, 89 Beach Road:

- "1 Council authorise the Chief Executive Officer to consult with the residents and property owners immediately surrounding the land.*
- 2. Subject to outcomes of the consultation the Chief Executive Officer to Commence the process to rezone Lot 21, 89 Beach Road from "Parks and Recreation Reserve" to "Residential Zone" and to undertake all steps necessary to dispose of Lot 21, 89 Beach Road Bunbury in accordance with Section 3.58 of the Local Government Act."*

To action consultation with immediate residents and property owners, notification was provided via mail out and letterbox drop advising of a public meeting to take place on Thursday 9 April 2015, with a request for any written submissions to be provided to the City by Friday 17 April 2015. Nineteen (19) people were in attendance at the public meeting and twenty-nine (29) written submissions were received.

A summary and copy of the submissions are **attached** at Appendices CEO-10 and CEO-11.

Some key concerns raised by residents were increased density, public safety and traffic concerns in relation to a proposed zoning of R40 which would have allowed multiple dwellings (approx. 5) on the site.

Proposed zoning to R15 is a considerably lower density than R40. Under R15 two lots would be possible. Lot 21, 89 Beach Road is 1456.86m² and R15 would enable two lots being approx. 728m² each.

It is noted the adjacent and majority of surrounding land is zoned at a higher density being R20/R30/R40.

Other concerns were raised in relation to the wildlife and their habitat along with trees on the site. The City's environmental staff have advised that the lot is cleared, with planted vegetation, there is no or very limited habitat value with the wildlife very unlikely to be solely reliant on this site as they are likely to use terrestrial Regional Open Space (ROS) areas, e.g. other parts of Big Swamp Precinct, Big Swamp islands and peoples gardens.

Council Policy Compliance

Council Policy – Land Rationalisation and Property

Legislative Compliance

Section 3.58 of the *Local Government Act 1995* ("the Act") deals this with the matter of disposing of property.

Officer Comments

In February 2015 the Manager Sustainability, Planning and Development advised that the lot can be rezoned from "Parks and Recreation Reserve" to "Residential Zone" with a maximum residential density coding of R40 under a revised new Scheme (or at any time as an amendment to the existing Scheme), however following community consultation and with further investigation a residential density coding of R15 (which would potentially accommodate 2 dwellings) is recommended.

Analysis of Financial and Budget Implications

There is no direct cost or implication to budget at present. The land is valued at \$500,000. It has the potential to provide an initial capital income upon sale and then provide recurring revenue through rates.

Should the City choose to undertake development of the Lot there would be some costs incurred that would be offset from the sale of the lots.

Community Consultation

Letters seeking comment (written submissions) and advising of a public meeting were sent to all land owners. A letter drop was also undertaken to ensure all residents had the same opportunity to attend the meeting and provide submissions. Refer to map identifying the residents and landowners contacted attached at Appendix CEO-12.

Consultation with immediate residents and land owners was undertaken in the form of a public meeting, held Thursday 9 April 2015 at the Bunbury Wildlife Park with the immediately surrounding property owners and residents to determine the community feedback on this proposal. Nineteen (19) people attended the meeting that was facilitated by the Chief Executive Officer.

Notes from the meeting were taken and a copy provided to all attendees that provided contact details at that meeting. A copy of these notes are **attached** at Appendix CEO-13.

Written submission were also sought as part of the consultation process. At the closure date being 17 April 2015, twenty-nine (29) submissions had been received.

A summary and copy of the submissions are **attached** at Appendices CEO-10 and CEO-11.

Councillor/Officer Consultation

The Chief Executive Officer, Manager Sustainability, Planning and Development, Manager Major Projects, Major Projects and Property Officers, Corporate Marketing Officer, Team Leader Strategic Planning and Urban Design, and Team Leader Sustainability and Integrated Land Use Planning, have been involved in investigations and elements of the community consultation process.

Councillors have been involved through the site tour and review of land held in freehold. Eight (8) Councillors provided comment and feedback between 3 December 2014 and 13 January 2015. Councillors addressed this matter at the Ordinary meeting 17 February 2015.

10.2.9 Financial Management Report for the Period Ending 30 April 2015

Applicant/Proponent:	Internal Report
Author:	David Ransom, Manager Finance
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-15: Statement of Comprehensive Income Appendix CEO-16: Statement of Financial Activity April 2015 Appendix CEO-17: Statement of Net Current Assets April 2015 Appendix CEO-18: Balance Sheet April 2015 Appendix CEO-19: Capital Works Expenditure Summary April 2015 Appendix CEO-20: Operating Project Summary April 2015

Summary

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

- Statement of Comprehensive Income (**attached** at Appendix CEO-15)
 Actual Financial Performance to 30 April 2015
 - Actual income of \$48.82M is \$500K greater than the year-to-date budgeted income of \$48.32M.
 - Actual expenditure of \$34.14M is \$2.1M less than the year-to-date budgeted expenditure of \$36.24M (refer explanation on next page).
 - Actual operating surplus of \$14.68M is \$2.6M greater than the year-to-date budgeted operating surplus of \$12.08M.

- Balance Sheet (**attached** at Appendix CEO-18)

Council's year-to-date and forecast balances are as follows:

	Year-to-date	Forecast
• Current Assets of \$24.31M includes:		
- Cash and Investments	\$22.64M	\$14.38M
- Rates	\$ 0.88M	\$0.22M
- Other Current Assets	\$ 0.79M	\$2.04M
• Current Liabilities of \$6.87M includes:		
- Trade and Other Payables	\$1.82M	\$4.30M
- Annual Leave and LSL Provisions	\$3.22M	\$3.70M
• Working Capital (Current Assets less Current Liabilities)	\$17.43M	\$6.63M
• Equity (Total Assets less Total Liabilities)	\$441.73M	\$428.12M

- Statement of Financial Activity (**attached** at Appendix CEO-16)
 - Closing Funding Surplus to 30 June 2015 is forecast at \$1.12M, which is \$577K more than the Current Budget Closing Funding Surplus of \$539K. Note that the forecast closing funds of \$1.12M includes \$565K of operating and capital projects carried

forward to 2015/16 Budget. Forecast closing funds net of carried forward projects is \$551K.

4. Capital Works (**attached** at Appendix CEO-19)
 - Actual capital works of \$9.15M (which excludes \$2.40M of committed expenditure) is \$7.84M less than the year-to-date budgeted capital works of \$16.99M, (refer explanation within report).

5. Operating Project Expenditure (**attached** at Appendix CEO-20)
 - Actual operating project expenditure of \$2.35M (which excludes \$453K of committed expenditure) is \$959K less than the year-to-date budgeted operating project expenditure of \$3.31M, (refer explanation within report).

Executive Recommendation

The Financial Management Report for the period ending 30 April 2015 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 CEO-15)
- Statement of Financial Activity (**attached** at Appendix CEO-16)
- Statement of Net Current Assets (**attached** at Appendix CEO-17)
- Balance Sheet (**attached** at Appendix CEO-18)
- Capital Works Expenditure Summary (**attached** at Appendix CEO-19)
- Operating Projects Summary (**attached** at Appendix CEO-20)

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.

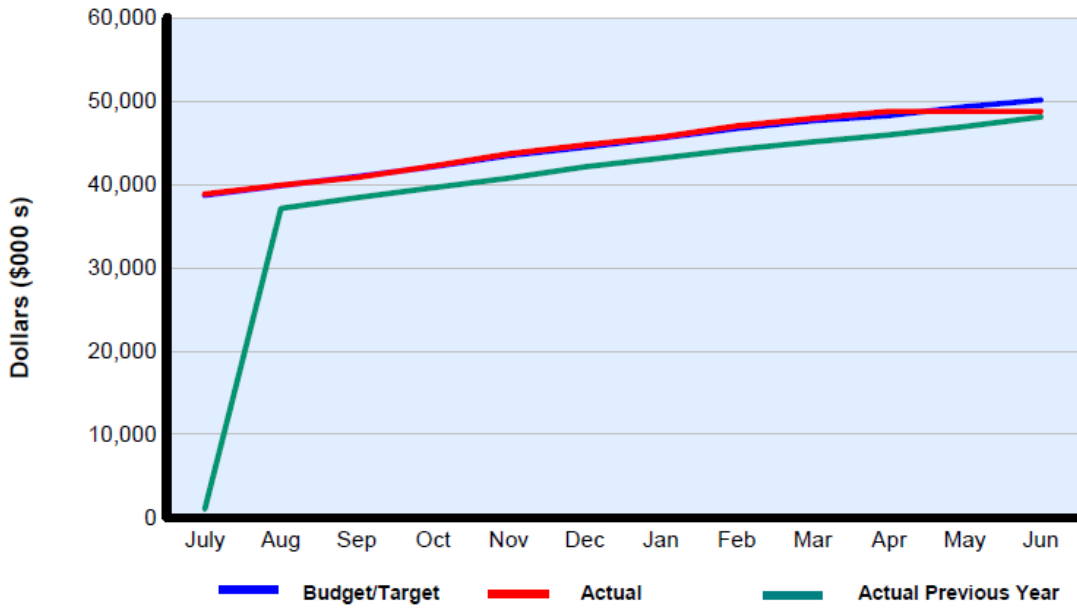
Legislative Compliance

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

Officer Comments

The Operating Income, Operating Expenditure and Capital Expenditure graphs provide an overview on how actual income/expenditure is tracking to budget and the previous financial year. Comments are provided on each graph regarding the current financial position

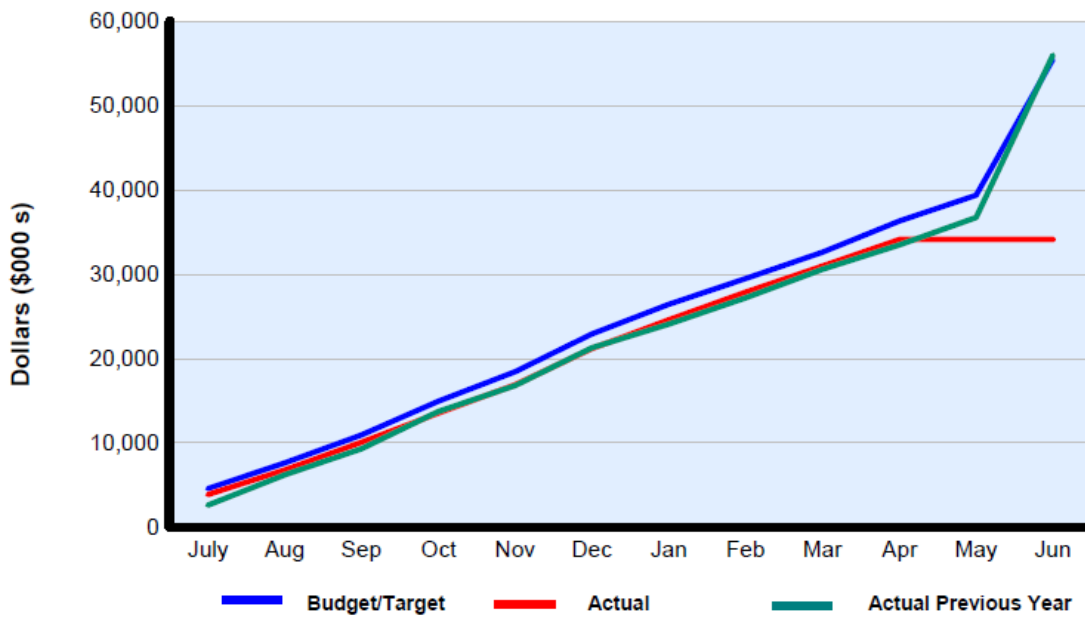
Operating income (\$000's)



Note: Operating income includes: rates, fees and charges, operating grants and subsidies, contributions reimbursements and donataions, interest and other revenue.

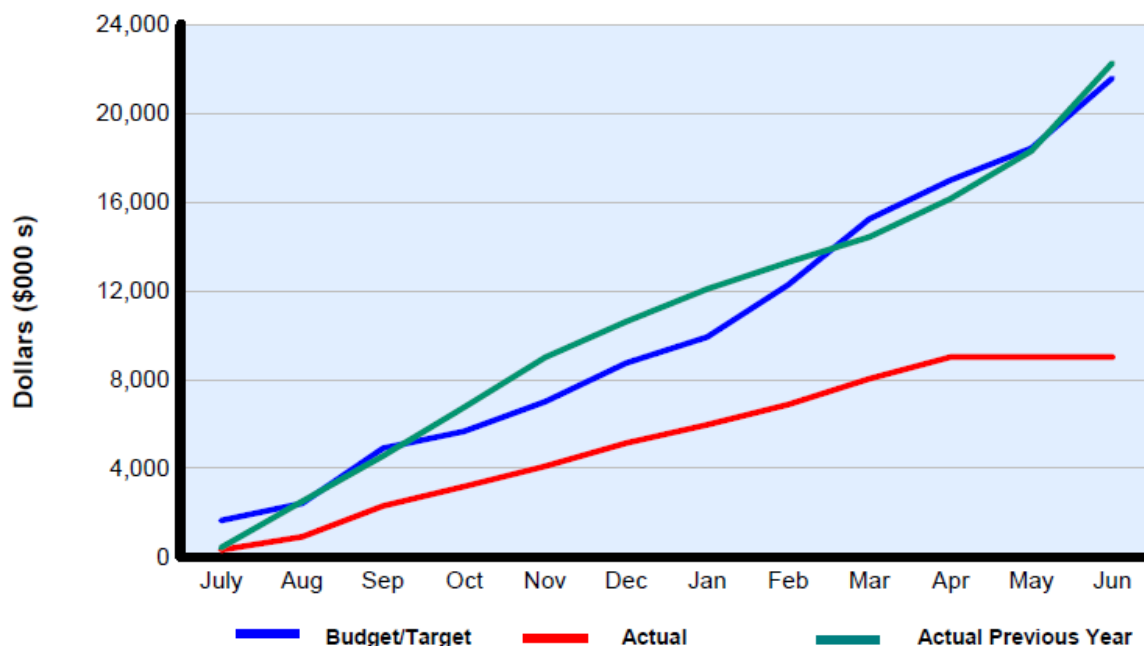
There is a favourable actual to budget variance of \$499,773 due to \$20K favourable variance in interim rating, \$143K favourable variance from contribuion and reimbursement income, \$300K favourable variance from fees and charges, \$83K favourable variance from interest received and a \$39K favourable variance from other revenue, which is offset by an unfavourable variance of \$83K operating grants and subsidies.

Operating expenditure (\$000's)



Note: Actual operating expenditure for both base and operating projects is \$2.11M under the year-to-date budget due to timing of works commencing. This is monitored on a monthly basis. Note that there is operating project committed expenditure of \$453K.

Capital Expenditure (\$ 000's)



Note: The capital expenditure variance to the end of April 2015 of \$7.84M is due to the delay in commencement or progress of various projects as reported in the monthly Capital Works Expenditure Summary Report to Council. Note that there is committed expenditure of \$2.40M.

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

Statement of Comprehensive Income	YTD Actual to Budget Variance
Operating Income	
Rates <i>Rate Interim Income</i> – Additional interim rate income of \$19,851 received. The end of year forecast has been adjusted accordingly.	\$16,968 0.05%
Contributions Reimbursements and Donations <i>Reimbursement Income</i> – Favourable year-to-date variance of \$137,331, due to \$66K additional insurance claims paid to date, higher than anticipated legal reimbursements received of \$21K (\$13K associated with parking and \$8K associated with Dog Act), \$15K additional government paid parental leave received, \$14K additional utilities recouped, \$10K reimbursements for the upgrade of parking machines and towing fees, higher than anticipated workers compensation claims of \$8K. <i>Donation Income</i> – Unfavourable year-to-date variance of \$2,457, due to budgeted donations for the Bunbury Wildlife Park, Bunbury Regional Art Galleries and the Setagaya conference not being received.	\$143,497 19%

<p>Fees and Charges <i>General Hire Fee Income</i> – Unfavourable year-to-date variance of \$14,655 due to the hiring of art gallery space and sports and recreation facilities not being utilised. <i>Fine and Penalty Fee Income</i> – Favourable variance of \$70,336 due to higher than anticipated parking fines received year-to-date of \$43K, (note that any additional income is transferred into reserves), higher than anticipated dog registration fines of \$14K, higher than expected year-to-date bush fire fines of \$6K, higher than expected year-to-date local law fines of \$3K, higher than expected library fines \$3K.</p>	<p>\$300,689 2%</p>
<p>Interest Received <i>Cash and Investment Interest Income</i> – Favourable year-to-date variance of \$73,861. This will continue to be monitored on a monthly basis.</p>	<p>\$82,527 9%</p>
<p>Other Revenue <i>Miscellaneous Income</i> – Favourable year-to-date variance of \$39,026, mainly due to \$20k received in museum donations (note that this income is transferred into reserves), higher than anticipated year-to-date private works income of \$9K received, additional employee reimbursements of \$8K received, higher than anticipated year-to-date visitor centre commissions of \$5K received.</p>	<p>\$39,026 14%</p>
<p>Operating Expenditure</p>	
<p>Materials and Contracts <i>Materials Expense</i> – Favourable variance of \$652,947 mainly due to the timing of operating projects. Refer to Operating Expenditure report for project details. This will continue to be monitored on a monthly basis. <i>Consultants Expense</i> – Favourable year-to-date variance of \$367,572 mainly due to the timing of operating projects. Refer to Operating Expenditure report for project details. This will continue to be monitored on a monthly basis. <i>Contractors Expense</i> – Favourable year-to-date variance of \$1,012,677 due to timing of operating projects. Refer to Operating Expenditure report for project details. This will continue to be monitored on a monthly basis.</p>	<p>\$2,067,661 17%</p>
<p>Other Expenditure <i>Contributions, Donations and Sponsorship Expense</i> – Favourable year-to-date budget variance of \$209,006. This is mainly due to the events funding allocation (PR-3510) not fully spent, an end of year forecast has been entered to reduce expected expenditure. Refer to Operating Expenditure report for project details. The will continue to be monitored on a monthly basis. <i>Miscellaneous Expense</i> – Favourable year-to-date budget variance of \$70,227 due to employee training and conferences that have not yet occurred.</p>	<p>\$306,083 15%</p>

Statement of Financial Activity	YTD Actual to Budget Variance
Operating Revenues	
See explanation above included in the Statement of Comprehensive Income variances.	\$482,805 3%
Operating Expenses	
See explanation above included in the Statement of Comprehensive Income variances.	\$2,108,842 6%
Capital Expenses	
Acquisition of Assets – Variance due to delay in progress of various projects including: PR-1021 Construct Hay Park Sports Pavilion \$2.1M PR-1324 Replace Ocean Drive Pump Station \$625K PR-2123 Construct replacement animal care facility \$385K PR-2421 Drainage Improvements – Horseshoe Lake \$355K PR-1373 Upgrade access road to new Rescue Helicopter Base and Airport Hangers \$300K PR-2625 Widen Formation and reconstruct embankment Koombana Drive \$284K PR-1798 Rehabilitate Paisley Centre \$253K Note that there is committed expenditure of \$2.40M. Refer to Capital Expenditure report for project details.	\$7,841,940 46%

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 Finance staff monitor the City’s monthly revenue and expenditure and (as required) refers 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.

10.2.10 2015/16 Fees and Charges

Applicant/Proponent:	Internal Report
Author:	David Ransom, Manager Finance
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-21: Public Submissions: 2015/16 Fees and Charges Appendix CEO-22: 2015/16 Fees and Charges

Summary

At the Council Meeting held 14 April 2015, Council decided as follows:

1. Council gives in principal support to the 2015/16 fees and charges to assist in the preparation of the 2015/16 draft budget.
2. The proposed 2015/16 fees and charges are advertised for public comment.

The draft fees and charges were advertised in the Bunbury Mail on 22 and 29 April, and 6 May 2015; and also appeared in the City Beat newsletter which is emailed to subscribers and the Household Panel. At the close of the advertising period two (2) submissions were received which are **attached** at Appendix CEO-21.

The fees and charges imposed by Council form part of the annual budget which is expected to be adopted by Council in late July 2015. However, subject to providing public notice of the new fees and charges, these are able to be implemented earlier.

The new fees and charges (**attached** at Appendix CEO-22) will be advertised in the Bunbury Mail on 3 June 2015, and after giving 27 days public notice will be effective from 1 July 2015.

Executive Recommendation

That:

1. The Schedule of Fees and Charges (which forms part of the 2015/16 Budget) be adopted effective 1 July 2015.
2. The 2015/16 Fees and Charges be advertised in the Bunbury Mail on 3 June 2015.

Note: Absolute majority required.

Background

The 2015/16 Fees and Charges which form part of the 2015/16 Budget was endorsed by Council on 14 April 2015 for public consultation after being discussed at numerous Councillor budget workshops.

The fees and charges were advertised in April and May 2015 for 17 days and received two (2) public submissions.

Council Policy Compliance

Not applicable.

Legislative Compliance

Section 6.19 requires that Council gives public notice of its intention to impose any new fees and charges if this is not considered at the time of adopting the annual budget. Council is also required to advise the date which the proposed fees and charges will be imposed.

Officer Comments

By adopting the 2015/16 Fees and Charges now will allow the fees and charges to be effective earlier (i.e. 1 July 2015) instead of waiting to the end of July 2015 when the annual budget is proposed to be adopted.

Subsequent to the advertising of the draft 2015/16 Fees and Charges for public comment the Minister for Commerce announced changes to the Building Services Levy which will come into effect on 1 July 2015. This change has been included in the fees and charges document on page 22.

Analysis of Financial and Budget Implications

Adopting the 2015/16 Fees and Charges separate to the annual budget will allow the earlier introduction of the new fees and charges. Revenue from fees and charges will increase by 4.2% in 2015/16 to \$11,583,925.

Community Consultation

Community consultation has taken place with advertising in the local newspaper and the City Beat newsletter. Copies of the proposed fees and charges were available on the City's website, libraries and Customer Service Centre. At the close of the advertising period two (2) submissions were received.

Councillor/Officer Consultation

The draft 2015/16 Fees and Charges report was provided to Councillors at Council Workshops on 3 and 17 March 2015, and reviewed at the Council Briefing Session on 7 April 2015. Council approved the draft 2015/16 Fees and Charges for advertising on 14 April 2015.

10.2.11 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

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-24 Location Plan Bunbury Tennis Club Inc Lease Area Appendix CRUSC-3: Landgate Valuation Appendix CEO-25: Request from Bunbury Tennis Club Appendix CEO-26: Venue Improvements Appendix CEO-27: Email from the City of Bunbury Appendix CEO-28: Email trail between the City of Bunbury and the Tennis Club Appendix CEO-29: Letter from the City of Bunbury

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-24.

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.

The Executive Recommendation which was provided to the Meeting of Council held 12 May 2015 prior to the deferral of the item is also included.

Procedural Motion

In accordance with clause 11.1(b) of the City of Bunbury’s Standing Orders Local Law 2012 that 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 “ recommence.

Original 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.

Alternative Executive Recommendation

That Council:

1. 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:
 - (a) The approval of the Minister for Lands;
 - (b) 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;
 - (c) Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995;
 - (d) Rent payable is to reflect the City's Lease and Licenses Policy, however the increase will be incremental during the first term as follows:
 - i. 1 December 2014 – 30 November 2015 - \$3040.00 ex GST
 - ii. 1 December 2015 – 30 November 2016 - \$4560.00 ex GST
 - iii. 1 December 2016 – 30 November 2017 - \$6080.00 ex GST
 - iv. 1 December 2017 – 30 November 2018 - \$7600.00 ex GST
 - v. December 2018 – 30 November 2019 - \$9120.00 ex GST
2. Request the Chief Executive Officer undertake a review of the rent tier matrix to allow for a phased introduction of the lease payments where there is a significant increase in the renewal of a community lease agreement along with the inclusion of an additional component to address potential disparity identified through commercial valuations.

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:	1 December 2014 – 30 November 2015 - \$3040.00 ex GST 1 December 2015 – 30 November 2016 - \$4560.00 ex GST 1 December 2016 – 30 November 2017 - \$6080.00 ex GST 1 December 2017 – 30 November 2018 - \$7600.00 ex GST 1 December 2018 – 30 November 2019 - \$9120.00 ex GST
Rent Review:	CPI annually, Market Rent Review every third year will only apply to the Further Term if effected
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

A further review of past records indicate that that discussions took place in August 2014 around lease fee payable, with the Applicant advised via email on the 19 August that the City was considering a rate of \$3040 per annum and advice that the City would continue with Lease negotiations (**attached** at Appendix CEO-27)

On 3 October 2014 the Officer sent a draft Deed of Lease for consideration to the Applicants representative. Advice was received on the 8th October 2014 from the representative that the Board had agreed in principle to the new proposed fee and that they would have signed documents to the Officer on Monday 13 October 2014 (**attached** at Appendix CEO-28).

The Officer received an apology on the 15 October 2014 from the Applicants representative for not meeting the proposed Monday deadline. The Officer then replied to the representative advising that City was currently undertaking a policy review in regards to Leases/Licences and Rent Payable and that she had been asked to postpone the proposed agenda item until after the City had reviewed the Policy and that subject to the review she would be in a position to take the lease

forward to Council in November. The Officer also asked for any concerns to be brought to her attention for discussion (**attached** at Appendix CEO-28).

On 13 November 2014, the then Manager Contracts and Property sent a letter (**attached** at Appendix CEO-29) to all Lessees, including the Applicant that advised:

“In accordance with the Council Decision, the Policy will be applied to all new leases and licenses (this includes any leases/licenses that have expired, including any further term, extension or option that has also expired and where there are no further terms, extensions or options available) and will be implemented with immediate effect”

There was no further recorded request or action from the Applicant or from the Officer until the matter was addressed again with the representative on the 13 March 2015 to prepare the Lease (under the new Policy and Matrix) to be considered by Council. (**attached** at Appendix CEO-28).

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 provided **under separate cover** at Confidential Appendix CRUSC-3. 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 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-25 for Council’s consideration, along with a breakdown of expenditure for the maintenance and improvements for the venue as **attached** at Appendix CEO-26 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.

The amended option of incremental increase, outside of the Lease and Licenses Policy, could be applied whereby the rent payable starts with the agreed sum of \$3040.00 ex GST for the first year and then increases by \$1,520.00 annually until the end of the Term in 2019.

An annual increase of the fixed sum of \$1,520.00 would increase the rent in line with the Leases and Licenses Policy over a 5 year period. If the Further Term is effected at the end of the initial Term, the Applicant would be subject to the full consideration of the Leases and Licenses Policy, plus CPI increases annually and a rent review every 3 years.

This option would allow the Club the opportunity to develop appropriate funding strategy going forward with the knowledge of what the lease fee will be over the life of the lease. This phased implementation could potentially be expanded over a longer period, however the recommendation is based on moving achieving the identified rate over the first term of the lease.

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.

The alternative Executive Recommendation allows progress towards the Council meeting the income requirements to help off-set the costs associated with the ongoing provision of sporting facilities in line with the Council adopted Rent Tier Matrix.

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.

10.3 Director Corporate and Community Services

10.3.1 Hay Park South Multi Sports Pavilion Management Plan

Applicant/Proponent:	Internal Report
Author:	Garry Stokes, Manager Sport and Recreation
Executive:	Stephanie Addison-Brown, Director Corporate and Community Services
Attachments:	Appendix DCCS-1: Royalties for Regions Funding Application Appendix DCCS-2: Draft Management Plan Appendix DCCS-3: Meeting and correspondence logs

Summary

It was requested by Council that prior to awarding the tender for the Hay Park South Multi Sports Pavilion, the Hay Park South Multi Sports Pavilion Management Plan be brought to Council for endorsement.

As a result of the previous Council direction and the original funding application aim for cost recovery, a management model is proposed which has been developed following ongoing consultation with user groups, key stakeholders and City staff.

It is proposed that the two primary users (South West Phoenix and South West Warriors) are to be given a full lease(s) of the facility with the leases to contain a comprehensive list of terms and conditions in order to ensure appropriate management of the facility and to ensure accessibility and affordability to the broader community in accordance with the original funding application. This model would mean clubs would be responsible for all aspects of the building apart from maintenance and they would control access and usage of the facility. The lease fee under this management plan would be determined using the “Rent Tier Matrix” adopted by Council in November 2014.

Executive Recommendation

That Council:

1. Authorise the Chief Executive Officer to negotiate a Draft Lease in accordance with Council’s Leases and Licenses Policy for the Hay Park South Multi Sports Pavilion noting that there will be a transitional period over the five year lease to meet the funding requirements to cover the ongoing lifecycle and operating costs as outlined in the RBB Report.
2. Requires the leases to contain a comprehensive list of terms and conditions to ensure appropriate management of, and access to, the facility in accordance with the original funding agreement with these leases collectively forming the management model for the facility.
3. Note that in the event that an Agreement cannot be reached the matter will be referred to Council for Resolution.

Background

Throughout the consultation process, both the South West Phoenix and South West Warriors have requested and expected that they will be given a full lease over the facility to enable them to operate commercially, generate revenue to support the operation of their clubs and to cover their lease payments. It was noted that some other sporting clubs within the City of Bunbury have been afforded this arrangement.

It was highlighted that this project is significantly unique compared with the other sporting club leases in the City because:

1. No contribution to the cost of building the facility has been made from any sporting club/user group, state or national sporting body.
2. The scope of the project in both size and cost is significantly higher than other sporting club projects undertaken by the City previously.
3. The lifecycle costs of the facility are estimated, at time of printing, to be in the order of \$320,000 per annum plus loan repayments and interest and Council needs to be able to recover these costs through leases to reduce the financial burden on its ratepayers.

These points were discussed in a stakeholder meeting on 5 August 2014 when the Mayor requested both clubs provide a proposal to Council with suggestions about how they could contribute to the project, both up front and on an ongoing basis to support ongoing lifecycle costs. A summary of the consultation process is **attached** at Appendix DCCS-3.

Following the adoption of Council Policy “Leases and Licenses” in November 2014, which effectively applies the “Rent Tier Matrix” to the application of sporting club leases, an estimation of fees was provided to the clubs who in return raised concern about their ability to afford such fees.

Through ongoing consultation, club representatives have raised the prospect of attracting a naming right sponsor for the facility in order to generate revenue for their clubs and it is clear they expect Council to significantly reduce the lease fees applicable to them to well below the estimates from the Rent Tier Matrix.

Further consultation has also taken place in regard to an alternative option whereby leases are developed based on percentage of use throughout the year in order to lower the cost to the clubs but with the City managing the facility the rest of the time (see the Draft Management Plan **attached** at Appendix DCCS-2). To date, the clubs have not provided feedback on this option and have not provided an estimated percentage use of the facility to assist staff to further explore this option.

Council Policy Compliance

Council Policy “**Asset Management**” is applicable to this item and the Policy Statement is as follows:

The purpose of this policy is to provide clear direction in the management of all City assets, including land, buildings, parks and landscaping, natural environment and infrastructure assets to deliver best value outcomes for the community.

Council Policy “**Recreation Facilities**” is applicable to this item and the Policy Statement is as follows:

The purpose of this policy is 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 active and passive recreational activities and/or facilities.

Council Policy “**Lease and Licenses**” is applicable to this item and the Policy Statement is as follows:

The purpose of this policy is to ensure Lease and license rentals are determined in a fair, equitable and transparent manner in accordance with a valuation provided by an independent market rental evaluation and are assessed according to the City’s Rent Tier Matrix structure.

Legislative Compliance

Not Applicable

Officer Comments

The Hay Park South Pavilion will become the City’s second largest Council-built sport and recreation facility and as such, any management model needs to be structured to ensure appropriate management and maintenance of the facility while also appropriate levels of access to multiple clubs and user groups in accordance with the funding application.

Both clubs have raised concerns in regard to their ability to pay fees which might be applicable through the Rent Tier Matrix.

Council has 3 options:

1. Apply the Rent Tier Matrix value to the full lease (Executive Recommendation)
2. Apply discretion and apply a lesser value to the full lease
3. Request the CEO to manage the facility with leases offered to clubs and user groups designed around their percentage usage of the facility.

With Option 3, the two primary users (South West Phoenix and South West Warriors) would have leases designed around their anticipated seasonal usage giving them full access and control of the facility during these times. Usage by other user groups outside of the prescribed times would be managed by the City.

This option is in line with the management model outline in the Royalties for Regions funding application for this facility (**attached** at Appendix DCCS-1)

“The Management plan for the facility proposes that the City of Bunbury manage the booking, maintenance and ‘use’ of the building, this ensures that clubs are not burdened with the financial cost of management and the community has access to the building through a formal booking process and this will also ensure fair and equitable facility use across all user groups.”

This allows the City to manage, promote and encourage utilisation of the facility outside of the primary users' times of use and significantly reduces the financial implications for the primary users.

A draft management plan is **attached** at Appendix DCCS-2 that will outline the operation of the facility under this arrangement.

This alternate management plan and proposed lease arrangements also provide an opportunity for the major stakeholders to effectively only pay a lease fee for the actual times that they use the facility, rather than the standard lease model. Under standard lease arrangements, giving full access and control of the facility, and with the application of the Rent Tier Matrix, the projected fees are significantly higher.

This proposal was discussed at the stakeholder meeting on 16 February 2015, during which details relating to anticipated usage of the facilities from South West Phoenix and South West Warriors was requested. It was explained that this information was required for the development of draft lease documents as a usage based lease would provide a more affordable lease option for both clubs.

To date neither the South West Phoenix nor South West Warriors have provided information regarding their anticipated usage and it is clear from discussion that they would prefer Option 2 (full lease over the entire facility 100% of the time but with a lease of a lesser value to the fees anticipated from the Rent Tier Matrix).

It should be noted that the alternate management plan would not limit the capacity of the clubs utilise the facility to generate funds to support their operations as they would still have the opportunity to provide canteen, food and bar services to their members and associated supporters. They would also be able to provide these services to other hirers of the facility should the opportunity arise.

The alternate management plan under Option 3 is designed to accommodate the needs and requirements of the major stakeholders whilst at the same time still allowing broader community access. It is intended that the proposed associated leases for the facility would be further developed and reviewed regularly in the early stages to ensure effective and efficient use of the facility as demand and usage patterns develop.

Analysis of Financial and Budget Implications

The lease income will be determined once the Lease arrangements are finalised by Council and will be focused on minimising whole of life costing for Council.

At the time that this report was being prepared the indicative Whole of Life Cycle costs were estimated to be \$320,000 per year with further analysis based on the recommended tenderers price pending.

The loan repayments (based on \$1.77M borrowing) will be approximately \$224,000 annually for ten (10) years.

Annual payment by clubs to be determined by Council and will be incorporated into future budgets once determined.

Any shortfall between the revenue generated from lease payments and the ongoing cost of operating and maintaining the facility will need to be reflected in Council's annual operating budget commencing 2016/17.

Community Consultation

The meeting and correspondence logs attached at Appendix DCCS-3 and provide a summary of the consultation undertaken. Key dates are as follows:

1. September 2014 – South West Phoenix and South West Warriors Rugby League Club attended a stakeholders meeting and were presented with a draft copy of the management plan which suggested the City would manage the facility.
2. October 2014 – South West Phoenix and South West Warriors Rugby League Club attended a stakeholders meeting with the purpose of gaining feedback from both clubs on the draft management plan that they were presented with in September 2014.
3. January 2015 – The City of Bunbury emailed the South West Phoenix and South West Warriors Rugby League Club to follow up on the original request for feedback on the draft management plan.
4. February 2015 – Hay Park South user groups attended a stakeholder meeting and were presented with another copy of the draft management plan and were asked to provide feedback.
5. March 2015 – The South West Warriors Rugby League Club attended a stakeholder meeting to discuss all matters relating to the Hay Park South Multi Sports Pavilion, such as draft management plan, draft leases, hypothetical lease and rate fees and naming opportunities for pavilion.

Councillor/Officer Consultation

The consultation process involved relevant City Officers:

- * Manager Sport and Recreation
- * Sport and Recreation Liaison Officer
- * Manager Building and Trades
- * Manager Civil and Open Space
- * Manager Environmental Health
- * Manager Major Projects
- * Senior Property Officer Contracts and Property

The Executive Leadership Team and Elected Members were also briefed as follows:

- * 19th August 2013 - Presentation to ELT on the draft Hay Park South Multi Sports Pavilion draft management plan and discussion about next steps.
- * 3rd September 2013 - Presentation on the Hay Park South Multi Sports Pavilion draft management plan was provided at the Council Briefing Session.

- * February 2015 the Executive Leadership Team Members, Cr Cook, Cr McCleary, Cr Miguel and Cr Jones, attended the Hay Park South Multi Sports Pavilion Stakeholder meeting where the draft management plan for the Hay Park South Multi Sports Pavilion was presented to other Council Departments and sporting group Stakeholders.

- * 31st March 2015 – ELT Members and Councillors

10.4 Director Planning, Development and Regulatory Services Reports

10.4.1 Adoption of proposed Scheme Amendment 75 - Modification of Special Use Zone No. 20 (Lot 20 Lyons Cove)

File Ref:	A06008
Applicant/Proponent:	HMA Architects Pty Ltd
Author:	Teshome Tadesse, Senior Planning Officer
Executive:	Bob Karaszekwych, Director Planning, Development and Regulatory Services
Attachments:	Appendix DPDS-1: Agenda Item Report on Scheme Amendment and Minute Excerpt 9 December 2014 Appendix DPDS-2: Schedule of Submissions Appendix DPDS-3: Harbourside Resort Bunbury Koombana Bay Development

Summary

Council, at its Ordinary Meeting of 9 December 2014, resolved (decision 450/14) to initiate proposed Scheme Amendment 75 and to publicly advertise the proposal for comment.

HMA Architects have submitted a Scheme Amendment on behalf of the Landowners of Lot 20 Lyons Cove. The submission only related to Lot 20 Lyons Cove, whereas the City has prepared the proposed Scheme Amendment for the entire “Special Use Zone No. 20 – Resort Accommodation, Mixed Use and Residential Development” area (SU 20) that includes Lot 20 Lyons Cove.

The proposed amendment was advertised for public comment for 42 days and closed on 6 March 2015. In total, ten (10) public submissions and three (3) service authority submissions were received.

In summary, the issues raised in the submissions related to the land ownership of Lot 3 Lyons Cove that currently comprises a tennis court and objection to the proposed maximum 18m building height at Lot 20 Lyons Cove. The land ownership issue has been addressed by modifying Condition 9 of Special Use Zone No. 20. The building height matter has been thoroughly considered, and it is determined that a minor variation to the proposed building height standard can be accepted given that Lot 20 Lyons Cove is in a prime location that can accommodate a high rise building without any adverse impact on the low rise dwellings in the locality.

It is recommended that Council resolves to adopt Scheme Amendment 75.

Executive Recommendation

That Council:

1. In accordance with the *Planning and Development Act 2005 (as amended)*, resolves to adopt Scheme Amendment 75 to the City of Bunbury Town Planning Scheme No. 7 to replace the existing text under Schedule 2 – Special Use Zone No. 20, as detailed in the scheme amendment report, in order to:
 - (a) rationalise and update the provisions of the special use zone in accordance with designated precinct areas; and

- (b) support the development of Lot 20 Lyons Cove (street number 2), Bunbury, for multiple dwellings as an “unrestricted residential accommodation” use.
2. Modify proposed Condition 9 of the Special Use Zone No.20 to read as follows:
 - ‘9. Lot 3 Lyons Cove (Tennis court) is a privately owned property as depicted on Strata Plan 36941 and as such should be open for use by strata owners and Quest Apartments tenants only, and Lot 55 Marabank Loop to be kept as communal recreation area at all times.’
3. Refer the modified Scheme Amendment 75 documentation to the Western Australian Planning Commission (WAPC) for approval in accordance with the provisions of the Town Planning Regulations 1967 (as amended).
4. Advise the applicant and submitters of Council’s decision.

Background

At its meeting held 9 December 2014 Council Decided (450/14):

“That Council:

1. *In accordance with the Planning and Development Act 2005, resolves to initiate Scheme Amendment 75 to the City of Bunbury Town Planning Scheme No. 7 to replace the existing text under Schedule 2 – Special Use Zone No. 20, as detailed in the scheme amendment report, in order to:*
 - (a) *rationalise and update the provisions of the special use zone in accordance with designated precinct areas; and*
 - (b) *permit the development of Lot 20 Lyons Cove (street number 2), Bunbury, for multiple dwellings as an “unrestricted residential accommodation” use.*
2. *Notify the Western Australian Planning Commission (WAPC) of Council’s decision to initiate the proposed scheme amendment, and to furnish the Commission with a copy of the scheme amending documentation prior to proceeding to public advertising.*
3. *Refer a copy of the proposed scheme amendment documentation to the Environmental Protection Authority (EPA) and any other relevant public authority, for consideration and comment.*
4. *Subject to formal assessment not being required by the EPA and no objection received from the WAPC, proceed to advertise the proposed scheme amendment for public comment with a submission period of not less than forty two (42) days.*
5. *Following public advertising of the proposed scheme amendment, the proposal together with any public submissions lodged with the City of Bunbury to be presented to Council for further consideration and determination.”*

The agenda item report on this Scheme Amendment proposal can be found **attached** at Appendix DPDS-1 in Council’s Minutes dated 9 December 2014.

Legislative Compliance

Proposals to amend a Town Planning Scheme are required to be undertaken in accordance with the *Planning and Development Act 2005 (as amended)* and associated Town Planning Regulations 1967 (as amended).

Should the Council resolve to adopt the proposed scheme amendment, documentation together with the schedule of submissions and Council's resolution will be referred to the WAPC for its endorsement then referral to the Minister for Planning for approval and gazettal.

Strategic Relevance

The subject site is located within the Inlet North Strategic Tourism Location under the City's Local Planning Strategy for Tourism (LPS-T). Moreover, the strategy specifically identifies a portion of Special Use Zone No. 20 site (Quest Apartments) as a 'non-strategic tourism site'. In general, it is considered that the status of the site is essential in terms of promoting its current and future tourism functions. Specifically, it provides short stay accommodation and, as such this type of accommodation should be encouraged at this location. Development controls contained within Special Use Zone No. 20 encourage the use of the site for tourist oriented developments.

Council Policy Compliance

The most relevant LPPs relating to Amendment 75 include the following:

- * LPP - Unrestricted Residential Accommodation (URA)
- * LPP - Unrestricted Residential Occupation (URO)
- * LPP – Building Height
- * LPP – Koombana Cove Design Guidelines

The provisions and development standards listed under Special Use Zone No. 20 are nominated with a view to address and reflect the contents of the City's LPP's. Detailed information on the above mentioned policies and their relevance to the proposed Amendment 75 can be found in Council's Minutes dated 9 December 2014 **attached** at Appendix DPDS-1 to this report.

Officer Comments

Scheme Amendment 75 proposes to modify the development provisions and standards contained in Schedule 2, Special Use Zone No. 20 of City of Bunbury Town Planning Scheme No.7 (TPS 7).

Land use

Scheme Amendment 75 identifies three (3) precincts within the Special Use area in line with the residential typology of each precinct to facilitate additional short-stay accommodations in the Koombana locality (Special Use Zone No. 20). The proposed short-stay accommodations include the following:

- * Unrestricted Residential Accommodation (single house, grouped dwelling, multiple dwelling); and
- * Short-stay multiple unit.

The nominated land uses for Lot 20 Lyons Cove include: Hotel, Motel, Short-Stay Multiple Unit and Multiple Dwelling – Unrestricted Residential Accommodation.

It is considered that the addition of Multiple Dwelling Unrestricted Residential Accommodation land use allows for the development to be flexible and adapt to market conditions.

It is also considered that short-stay tourism accommodations on this location enhance the importance of the locality as a 'non-strategic tourism site'. In general, the mix of permanent and short-stay dwellings on this location promotes the use of the site for tourism oriented development and at the same time maintains its residential character.

Residential Density Coding

The amendment also proposes residential density codes in line with the existing residential characteristics of the precincts. In addition, it nominates R100 density for Precinct 2 (Lot 20 Lyons Cove), currently vacant.

Plot Ratio

The R-Codes prescribe a maximum plot ratio limitation for multiple dwellings in areas coded R30 or greater. In this case, the subject site is coded R100 that specifies a maximum plot ratio of 1.25 (refer to Table 4 of the R-Codes). It is considered that Lot 20 Lyons Cove will be developed for high quality Multiple Dwelling Unrestricted Residential Accommodation, and therefore the proposed scheme amendment specifies a maximum plot ratio of 1.50 over the subject site as an acceptable variation to the R-Codes.

For further information and officer comments on the proposed changes, refer the Scheme Amendment initiation report **attached** at Appendix DPDS-1.

Proposed Condition 9

Under Amendment 75, the proposed Condition 9 of Special Use Zone No. 20 reads as follows:

'9. Lot 3 Lyons Cove (Tennis Court), and Lot 55 Marabank Loop to be kept as communal recreation areas.'

Through the consultation process, submitters have indicated that Lot 3 Lyons Cove (Tennis Court) is a privately owned land under Strata Plan 36941 and recommended that the lot should not be referred as a communal recreation area.

Following a title search, it has been confirmed that the subject land is owned by strata owners collectively. As a result, Condition 9 has been modified to reflect the ownership and use of the facility existing on the land in the following terms:

'9. Lot 3 Lyons Cove (Tennis court) is a privately owned property as depicted on Strata Plan 36941 and as such should be open for use by strata owners and Quest Apartments tenants only, Lot 55 Marabank Loop is to be kept as communal recreation area at all times.'

The objectors have also indicated that they would like to sell the land for further development, as the land (Tennis Court) is currently underutilised and costly to maintain. It has been raised that the land cannot be supervised, managed and no funds will be available to run the facility on the land.

The ongoing maintenance of the tennis court is the responsibility of the landowners (strata owners under Strata Plan 36941). It should be noted that the tennis court was created as part of the original Development Concept Plan for the site (*Harbour side Resort Bunbury: Koombana Bay Development*). It is considered that the use of the land as tennis court is appropriate at this location as envisaged in the original development concept plan. However, the City of Bunbury may consider the tennis court being replaced with another recreational focal point provided that alternate plans put forward by the landowners for formal consideration as required. In this case, it should be noted that the original concept plan may be required to be amended or revised.

Attached at Appendix DPDS-3 is Harbour side Resort Bunbury Koombana Bay Development (Development Concept Plan)

Building Height

The Amendment proposes a maximum building height of 18m. The proposed maximum building height (18m) on this location is inconsistent with Local Planning Policy: Building Height and Table 4 of the Residential Design Codes (R-Codes). These documents respectively assign a maximum building height of 16m and 15m. However, having regards to the principles and objectives of the building height policy, the Development Assessment Team recommends that a maximum building height of 18m may be supported as a variation to the policy position, given:

- * suitability as a location for a landmark building, and
- * adequate separation distance to development within the lower rise/ density residential precinct to the west.

Amendment 75 proposes a maximum building height of 18m on Lot 20 Lyons Cove (Precinct 2) within Special Use Zone No. 20 site as follows:

‘(ii) No buildings within the subject site shall exceed 18m high in height above the natural ground level.’

Three (3) objectors are against the proposed 18m building height on Lot 20 Lyons Cove on the following grounds:

- * Overshadowing
- * Loss/ obstruction of sea breezes
- * Not compatible to the existing building format in the locality; and
- * Devaluation of property value.

The current proposal is a Scheme Amendment not a development proposal. Future development proposal on this location will be assessed in line with TPS7 and R-Codes requirements. At this point in time, it is considered that some of the issues raised by the objectors will be dealt at development application stage. Devaluation of property value(s) cannot be considered as a valid planning ground for objection. This is an established SAT ‘planning principle’.

Analysis of Financial and Budget Implications

The recommendation will not impact on the existing Annual Budget, nor is it expected to result in any costs to Council. It should result in additional rate revenue once constructed.

Community Consultation

Amendment 75 was advertised in accordance with the Town Planning Regulations 1967 (as amended) and a total of 13 submissions were received out of which 3 were from government agencies and service providers and 10 submissions were from the public. Out of the 10 submissions from the public, 8 objections were received on the basis of landownership matter (Lot 3, Tennis Court) and 3 objections were listed against the proposed 18m building height on Lot 20 Lyons Cove.

The schedule of submissions and officer comments for the Scheme Amendment is **attached** at Appendix DPDS-2.

Councillor/ Officer Consultation

Officers representing all directorates have assessed and recommended the proposal.

Delegation of Authority

In accordance with Regulation 25 of the Town Planning Regulations 1967, a Council resolution is required to adopt the proposed scheme amendment.

Relevant Precedent

Council at its Ordinary Meeting of 14 October 2014, dealt with the building height matter in relation to the proposed Scheme Amendment 70 – Rezoning Lot 8 #135 Ocean Drive, Bunbury to “Special Use Zone No.32 - Tourism Mixed Use”. The Council Decision 387/14 specified a maximum building height of 15m above natural ground level.

10.4.2 Proposed Scheme Amendment 79 for Bunbury Plaza Shopping Centre Expansion

File Ref:	A06298
Applicant/Proponent:	Tecon Australia
Author:	Kelvin Storey, Team Leader Strategic Planning and Urban Design
Executive:	Bob Karaszewych, Director Planning, Development and Regulatory Services
Attachments:	Appendix DPDS-6: Scheme Amendment 79 Report

Summary

In conjunction with the intended redevelopment of the Bunbury Plaza, Tecon Australia acting on behalf of the landowners of the Bunbury Plaza shopping centre have submitted a proposed scheme amendment (refer to attached Appendix DPDS-6) to rezone Lots 1, 18 and portion of 166 Prosser Street from 'Residential Zone' to 'Shopping Centre Zone' and Lot 5 Forrest Avenue from 'Mixed Business Zone' to 'Shopping Centre Zone' with a residential density code (R-Code) of R-AC3.

A draft Local Development Plan (LDP) incorporating the proposed extended boundary of the 'Shopping Centre Zone' has also been submitted to the City of Bunbury for subsequent consideration.

Following the conclusion of ongoing assessment and further discussion with the proponent, the draft LDP is expected to be presented to the next available meeting of Council. Considering the proposed scheme amendment in advance of the draft LDP would allow the required consultation with the Environmental Protection Authority (EPA) and Western Australian Planning Commission (WAPC) to occur during the intervening period.

On the premise that Council considers the draft LDP to be satisfactory for public advertising, the intent is that the proposed scheme amendment and draft LDP documents be publicly advertised concurrently and returned, with all submissions received, to Council for final consideration at the conclusion of the public advertising period.

Executive Recommendation

That Council:

1. In accordance with the *Planning and Development Act 2005*, resolves to initiate proposed Scheme Amendment 79 to the City of Bunbury Town Planning Scheme No. 7 by modifying the Scheme Map to rezone:
 - (a) Lot 1, Lot 18 and portion Lot 166 Prosser Street from 'Residential Zone' with a residential density code of 'R60' to 'Shopping Centre Zone';
 - (b) Lot 5 Forrest Avenue from 'Mixed Business Zone' to 'Shopping Centre Zone'; and
 - (c) applying a residential density code of R-AC3 over the 'Shopping Centre Zone' comprising of Lots 3, 5 and 36 Forrest Avenue, Lots 6 and 8 Spencer Street, and Lots 1, 18, 31, 32 and portion of 166 Prosser Street, Bunbury,

in accordance with the scheme amending pages and scheme amendment map prepared by the City of Bunbury as part of the draft scheme amendment report **attached** at Appendix DPDS-6.

2. Notify the Western Australian Planning Commission of Council's decision to initiate proposed Scheme Amendment 79, and provide the Commission with a copy of the scheme amending documentation prior to proceeding to public advertising.
3. Refer a copy of the proposed Scheme Amendment 79 documentation to the Environmental Protection Authority, and any other relevant public authority, for consideration and comment.
4. Subject to formal assessment not being required by the Environmental Protection Authority and no objection received from the Western Australian Planning Commission, proceed to advertise proposed Scheme Amendment 79 for public comment with a submission period of not less than 42 days in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
5. Further consider the proposal together with any public submissions lodged with the City of Bunbury following the conclusion of the statutory public advertising period.

Background

The lots that are the subject of the scheme amendment proposal are situated directly to the south of the existing Bunbury Plaza 'Shopping Centre Zone', which currently comprises of a number of separate lots that make up a total area of approximately 12,000m² accordingly:

- * Lot 5 Forrest Avenue (1,011m²), is currently included in the 'Mixed Business Zone' and accommodates three grouped dwellings. This lot is owned by Manjimup Bakery Pty Ltd.
- * Lot 1 Prosser Street (789m²) is currently included in the 'Residential Zone' with a residential density code of 'R60'. The front portion of the site accommodates part of the Lady Mitchell Memorial Child Health Centre, which extends into the existing 'Shopping Centre Zone', whilst the rear provides car parking and is linked to the Bunbury Plaza car park. This lot is owned by the City of Bunbury. The Lady Mitchell building and immediate surrounds are the subject of a Conservation Management Plan and the premises is currently being assessed by the Heritage Council of Western Australian for entry onto the State Heritage Register.
- * Lot 18 Prosser Street (1,160m²) is currently included in the 'Residential Zone' with a residential density code of 'R60' and is occupied by a single residential dwelling. This lot is owned by the Manjimup Bakery Pty Ltd.
- * Lot 166 Prosser Street is a long narrow lot that accommodates a laneway/path that leads from Alexander Street into the Bunbury Plaza car park and runs behind and between properties fronting Forrest Avenue and Prosser Street. A section of this lot (approximately 60m²), situated directly behind Lot 5 Forrest Avenue, is proposed to be rezoned and incorporated into the 'Shopping Centre Zone'.

Options to redevelop and expand the commercial floorspace of the shopping centre (with supporting parking and services) within the confines of the existing zone are constrained by limited space. The scheme amendment submission lodged with the City of Bunbury identifies the purpose of the scheme amendment proposal as being to:

“facilitate a minor expansion/refurbishment of the existing Plaza Shopping Centre”, and “the ability of the existing supermarket to marginally expand its current floor space as well as provide the ability to include a small expansion to the speciality shops”.

Further detail regarding the scheme amendment proposal is contained within the proponent’s submission document, which is incorporated into the draft scheme amendment report prepared by the City of Bunbury.

It is recommended that an R-Code density of R-AC3 also be applied to the entire ‘Shopping Centre Zone’ area as part of this proposal. Whilst no residential or mixed use development is currently associated with the Bunbury Plaza, applying the density coding acknowledges and regularises the fact that residential developments (e.g. multiple dwellings) are permissible within the Shopping Centre Zone’.

This approach ensures consistency with existing provisions of the R-Codes, which states that residential elements of mixed use development occurring within non R-Coded land is to be assessed against R-AC3 requirements. Such an approach also ensures consistency with the WAPC’s strategic intent to encourage ‘activity centres’ that are multi-functional and incorporate mixed use components, as evidenced within the Greater Bunbury Strategy 2013 and associated Activity Centres for Greater Bunbury Policy (2012).

Council Policy Compliance

In 2010, Council adopted the Local Planning Strategy for Activity Centres and Neighbourhoods (LPS-ACN). The principal aim of the strategy is to facilitate a network of mutually supportive residential neighbourhoods and hierarchy of activity centres. The strategy identifies Bunbury Plaza as a Neighbourhood Centre and recognises potential for an increase retail floor space of to up to 6,000m² in net lettable area (nla). The strategy whilst not endorsed by the WAPC was noted as an informing strategy for the preparation of a draft Local Planning Strategy and revised Local Planning Scheme No. 8.

As such, it should be noted that the drafted LPS8 Scheme Map proposes a small increase in the size of the zoned area of the Bunbury Plaza, in order to accommodate its expansion as a neighbourhood centre, in a manner similar to that now proposed - incorporating an R-Code density of R-AC3 and fringed by new mixed use zonings that would extend along Forrest Avenue and Prosser Street. Accordingly, the scheme amendment proposal is not inconsistent with the strategic approach adopted within the draft LSP recently initiated by Council.

Legislative Compliance

Proposals to amend a Local Planning Scheme are required to be undertaken in accordance with the Planning and Development Act 2005 and associated Town Planning Regulations 1967, and are to be advertised for public comment with a submission period of not less than 42 days.

Under the Planning and Development Act 2005 and associated Town Planning Regulations 1967, scheme amendment proposals are required to be referred to the EPA and the WAPC for their review prior to any formal public advertising period.

Once public advertising is concluded, should Council then resolve to adopt the scheme amendment, the scheme amending documentation together with the schedule of submissions and

Council's resolution is to be referred to the WAPC for its endorsement and to the Minister for Planning for final approval to gazette.

Officer Comments

The WAPC's Activity Centres for Greater Bunbury Policy (2012) recognises Bunbury Plaza as a 'Neighbourhood Centre' within the overall activity centres hierarchy. This policy requires that a Retail Sustainability Assessment (RSA) be undertaken for any proposal that would result in the total shop-retail floorspace area of a neighbourhood centre exceeding 6,000m² nla or expanding by more than 3,000m² nla. It is understood that the scale of redevelopment envisaged, which would be facilitated by the proposed rezoning, will not exceed these floorspace thresholds. Therefore, a RSA has not been required to be undertaken at this stage by the proponent to support the proposed scheme amendment.

The LPS-ACN also recognises the Bunbury Plaza as a 'Neighbourhood Centre', embedded within the Spencer Street activity corridor. Whilst acknowledging the future potential for the corridor to significantly increase in the amount of commercial floorspace provision, the LPS-CAN states that the amount of shop-retail floorspace associated with the shopping centre should not exceed 6,000m² nla. The anticipated redevelopment works that will follow on from the scheme amendment, currently being discussed between the proponent and staff of the City of Bunbury, fall within this maximum and would not be inconsistent with the adopted LPS-ACN.

If the scheme amendment proceeds and the boundary of the 'Shopping Centre Zone' is extended in the manner proposed, the new zone boundary would lie adjacent to 'Residential Zone' properties located on Prosser Street and 'Mixed Business Zone' properties on Forrest Avenue, all with an R-Code of 'R60', which is similar to the current arrangement of zones along this interface.

Matters regarding the future redevelopment of those lots, including boundary treatments, access and servicing arrangements, built form, heritage considerations (noting the status of the Lady Mitchell Memorial premises), and measures that may be introduced to mitigate undesirable impacts upon adjacent properties are recognised as important issues that will need to be satisfactorily addressed and captured as part of an adopted LDP.

Analysis of Financial and Budget Implications

The procedure for considering a scheme amendment or draft proposed structure plan has no associated financial or budgetary implications other than meeting the costs of public advertising.

Community Consultation

Scheme amendments are required to be advertised for public comment for a minimum period of 42 days in accordance with the provisions of the Planning and Development Act 2005 and associated Town Planning Regulations 1967. The public advertising period occurs once the scheme amendment has been initiated by Council and a notice is published in a local circulated newspaper.

It is currently the intent to publicly advertise the draft scheme amendment documents together with the draft LDP once this has been presented to Council for its consideration.

Councillor/Officer Consultation

The proposed scheme amendment was been referred to the Development Coordination Unit (DCU) for professional advice and technical assessment. No significant issues have been raised in respect of the scheme amendment proposal.

10.5 Director Works and Services Reports

10.5.1 Café 140 – Alfresco Structure

File Ref:	WSL-CBD-00004
Applicant/Proponent:	Alex and Kristy Garbelini – Café 140
Author:	Phil Harris, Director Works and Services
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix DWS-1: Sea Container

Summary

On 3 February 2015 Council Decision 42/15 approved in principal the development of an On Road Alfresco Dining area in Stirling Street for Café 140. The proponents, Alex and Kristy Garbelini have reviewed a range of options and now seek Council endorsement for the use of a modified sea container (**attached** at Appendix DWS-1) for the purposes of On Road Alfresco dining.

Executive Recommendation

That Council approve in-principle the use of modified sea containers for Alfresco Dining structures subject to the provisions of the 'Use of Car Parking Bays for Outdoor Eating Areas in the CBD Policy'.

Background

The proponents have explored a range of options for alfresco structures that complement their business on the corner of Stirling and Victoria Streets in the CBD. The use of modified sea containers is widely utilised in the Eastern States and more recently several of the modified structures have appeared in the coastal suburbs of Perth.

The proponent has chosen the sea container concept as it is synonymous with Bunbury being a port city, can be constructed off site and installed / removed generally within a day.

Council Decision 42/15 stated:

"That Council

- 1. Approve in principal the establishment of an On Road Dining area at Café 140, Stirling Street Bunbury*
- 2. Approve funding of \$13,928 repayable over a five (5) year period in accordance with the arrangement with the Victoria Street Cappuccino Strip arrangements.*
- 3. Request the Chief Executive Officer establish documentation that defines repayment conditions*
- 4. Fund the request from PR-3725*
- 5. That the final on-road dining design shall be reviewed by the Director Works and Services to ensure that road safety issues are addressed adequately."*

Council Policy Compliance

Council has approved Use of Car Parking Bays for Outdoor Eating Areas in the CBD Policy at its 12 May 2015 meeting.

Legislative Compliance

Schedule 9.1 of the Local Government Act and the Local Government (Uniform Local Provisions) Regulations apply.

Officer Comments

Subject to Council endorsement the use of modified sea containers will be unique in the South West and limited only by imagination. The ability to build a suitable structure off site consistent with the adjoining buildings and fit out ready for use will minimise the potential disruption to one of the busiest intersections in the CBD and provide almost instant occupation.

A modified container can be set back sufficiently to address any road safety concerns including preventing children and pedestrians from exiting direct from the dining area onto Stirling Street carriageway, be accessible yet strong enough to withstand errant motorists. With an East - West orientation the proposed container design will allow protection from prevailing weather by a system on louvers and blinds and be consistent with Councils vision of a vibrant CBD.

Analysis of Financial and Budget Implications

The project is partly funded from PR- 3725 with the proponent indicating that the level of funding required from Council has the potential to be reduced from the allocated \$13,928.

Community Consultation

No Community consultation has occurred relating to this matter however the BCCI were engaged in consultation during the development of the policy.

Councillor/Officer Consultation

The use of modified containers for On Road Dining opportunities has been discussed by the Executive Leadership Team, Planning and Engineering staff.

10.5.2 Caf-fez Alfresco Shade Structure

File Ref:	WSL-CBD-00002
Applicant/Proponent:	Michael & Georgina Grove of Caf-fez
Author:	Phil Harris, Director Works and Services
Executive:	Phil Harris, Director Works and Services
Attachments:	Nil

Summary

Council is progressing Council Decision 455/14 to establish alfresco area for Caf-fez. Caf-fez have approached Council to part fund the installation of a shade structure over the area by a loan repayable over a five (5) year period similar to that which has previously been brokered on the Cappuccino Strip and at Café 140.

Executive Recommendation

That Council:

1. Approve in-principle the shade structure at Caf-fez, 18-20 Prinsep Street, Bunbury
2. Approve funding of \$7,500 repayable over a five (5) year period in accordance with the arrangement with the Victoria Street Cappuccino Strip arrangements and subject to a formal quote.
3. Request the Chief Executive Officer establish documentation that defines repayment conditions
4. Fund the request from PR-3725 - Establishment of Alfresco Dining in CBD.

Background

Council Decision (455/14) stated:

“That Council

- 1 *Approve in principal the establishment of an alfresco area at Caf-Fez, 18-20 Prinsep Street, Bunbury*
2. *Bring forward proposed streetscape works in the immediate vicinity of Caf-Fez.*
3. *Approve the transfer of \$50,000 from PR-2625 Koombana Drive Upgrade to PR- 1218 Prinsep Street Streetscape Project.*
4. *That officers continue to work with Traders to identify increased opportunities to enhance the CBD.*
5. *Note that this may be a short term solution pending redevelopment of the Stirling Centre precinct.”*

The contract for the work has been awarded and is due to commence 18 May 2015. Caf-fez has obtained a verbal quote from Weathersafe WA for 10 metre x 4 metre shade structure similar to the structures on Victoria Street. The cost of the construction and installation of the structure is \$15,000. Caf-fez has requested Council assistance via the means of a loan to the value of \$7,500, repayable over a five (5) year period in accordance with the Victoria Street Cappuccino Strip arrangements.

Council Policy Compliance

Council has approved Use of Car Parking Bays for Outdoor Eating Areas in the CBD Policy at its 12 May 2015 meeting. Caf-fez on road dining was approved as per Council Decision 455/14.

Legislative Compliance

Schedule 9.1 of the Local Government Act and the Local Government (Uniform Local Provisions) Regulations apply.

Officer Comments

The Shade Structure will complement work that Council is doing to establish the alfresco area. The 2013 precedent was set when the Cappuccino Strip shade structures were part funded for the procurement, installation and repayable over a five (5) year period.

Analysis of Financial and Budget Implications

Subject to Council endorsement it is proposed that the \$7,500 will be funded from PR-3725 - Establishment of Alfresco Dining in CBD.

Community Consultation

No Community consultation has occurred relating to this matter however the BCCI were engaged in consultation during the development of the policy.

Councillor/Officer Consultation

There has been no Councillor/Officer consultation however this application fits with Council's vision of a vibrant CBD.

10.5.3 Mojo's Restaurant and Café Alfresco Shade Structure

File Ref:	WSL-CBD-00002
Applicant/Proponent:	Mojo's Restaurant and Cafe
Author:	Phil Harris, Director Works and Services
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix DWS-3: Application from Mojo's Restaurant and Café to install shade structure

Summary

Mojo's Restaurant and Café have approached Council to establish a shade structure over their existing alfresco on road dining area on Victoria Street. The proposal also requested that Council provide partial funding for the establishment repayable over a five (5) year period.

Executive Recommendation

That Council:

1. Approve in principal the converted sea container shade structure for existing on road dining area at Mojo Restaurant and Café, Victoria Street, Bunbury.
2. Approve funding of \$14,571.00 repayable over a five (5) year period in accordance with the Victoria Street Cappuccino Strip arrangements.
3. Request the Chief Executive Officer establish documentation that defines repayment conditions.
4. Fund the request from PR-3725 - Establishment of Alfresco Dining in CBD.

Background

Mojo's Restaurant and Café have requested the installation of a converted sea container as shade structure over their existing on road dining alfresco area. A copy of the application and quote are **attached** at Appendix DWS-3 - Application from Mojo's Restaurant and Café to install shade structure.

No changes will be required to the road layout as the on-road dining area was established in December 2014. The cost of the construction and installation of the structure is \$29,142.00. Mojo's have requested Council assistance via the means of a loan to the value of \$14,571.00, repayable over a five (5) year period in accordance with the Victoria Street Cappuccino Strip arrangements.

Council Policy Compliance

Council has approved Use of Car Parking Bays for Outdoor Eating Areas in the CBD Policy at its 12 May 2015 meeting. Mojo's have had prior approval to use two (2) car parking bays for on-road/alfresco dining.

Legislative Compliance

Schedule 9.1 of the Local Government Act and the Local Government (Uniform Local Provisions) Regulations apply.

Officer Comments

Council officers have been working with CBD traders to establish alfresco dining in the CBD and is aware of one (1) other business proposing to use converted sea container as a shade structure. The 2013 precedent was set when the Cappuccino Strip shade structures were to part funded for the procurement and installation repayable over a five (5) year period.

There is an increasing range of converted sea containers being utilised for alfresco in the Perth metropolitan area and many areas on the east coast.

Analysis of Financial and Budget Implications

Subject to Council endorsement it is proposed that the \$14,571 will be funded from savings achieved in PR-2381 Rehabilitate foreshore marine walls 2014/15. Remaining budget in PR-2381 will be transferred to PR-3725 - Establishment of Alfresco Dining in CBD.

Community Consultation

No Community consultation has occurred relating to this matter however the BCCI were engaged in consultation during the development of the Policy.

Councillor/Officer Consultation

The use of modified containers for On Road Dining opportunities has been discussed by the Executive Leadership Team, Planning and Engineering staff.

11. Applications for Leave of Absence

12. Motions on Notice

No Motions on Notice had been received at the time of printing.

13. Questions on Notice

13.1 Response to Previous Questions from Members taken on Notice

Nil.

13.2 Questions from Members

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

14.1 Attendance at the ICTC Mainstreet 2015 Conference – “People, Places and Partnerships - Creating Liveable & Loveable Place”

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

Summary

At the Ordinary Council Meeting held 12 May 2015, Council Decided (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.

Cr Steele has advised she is no-longer able to attend the conference.

Executive Recommendation

That Council note that Cr Steele is no-longer able to attend the Conference and that the registration will be transferred to a staff member as no other Elected Member is able to attend.

Background

A Report was put to the Ordinary Meeting of Council on 12 May 2015 seeking approval for Cr Steele to attend the ICTC Mainstreet 2015 conference People, Places and Partnerships - Creating liveable & loveable places being held in Wollongong, from 21 - 24 July, 2015.

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.

Following Decision 154/15 at the Ordinary Meeting held 12 May 2015, a booking was made for Elected Member attendance at the Conference.

At the Agenda Briefing Meeting held 19 May 2015 Cr Steele advised that she is no-longer able to attend the ICTC Conference and on 20 May 2015 the Chief Executive Officer called for expressions of interest from elected members as the cancellation policy for the Conference is as follows:

Cancellation – Registration and additional tickets

Registration cancellations will only be accepted in writing. Cancellations made prior to 19 June, 2015 will be refunded less \$125.00 to cover administration costs. No refunds

will be made after this date. As an alternative to cancellation, your registration may be transferred to another person without incurring any penalty.

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.

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 was advised prior to the presentation of the Report to the Ordinary Meeting of Council held 12 May 2015

Councillor/Officer Consultation

The Mayor, Elected Members and Chief Executive Officer are aware of this proposal.

15. Meeting Closed to Public

15.1 Matters for which the Meeting may be Closed

There are two (2) reports for consideration which are confidential in accordance with section 5.23(2)(e) of the Local Government Act 1995.

Recommendation

In accordance with sections 5.23(2)(e) of the *Local Government Act 1995* and clause 6.2 of the City of Bunbury's Standing Orders Local Law 2012, Council resolves to close the meeting to members of the public to consider the items titled:

- a) 15.1.1 Hay Park Multi Sports Pavilion Construction Tender
- b) 15.1.2 Regional Animal Shelter Construction Tender

The motion was moved Cr Jones, seconded Cr Cook.

15.1.1 Hay Park Multi Sports Pavilion Construction Tender

File Ref:	RFT1415 - 00016
Applicant/Proponent:	Internal
Author:	David Russell, Senior Contracts and Procurement Officer
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix CRUSC-1-1: Confidential Tender Evaluation

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

- (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,**where the trade secret or information is held by, or is about, a person other than the local government; and*

A confidential report and recommendation has been circulated to members **under separate cover** (Confidential Report CRUSC-1). The report is not for circulation.

15.1.2 Regional Animal Shelter Construction Tender

File Ref:	RFT1415 - 00011
Applicant/Proponent:	Internal
Author:	David Russell, Senior Contracts and Procurement Officer
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix CRUSC-2-1: Confidential Tender Evaluation

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

- (e) *a matter that if disclosed, would reveal —*
- (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,*
where the trade secret or information is held by, or is about, a person other than the local government; and

A confidential report and recommendation has been circulated to members under separate cover (Confidential Report CRUSC-1). The report is not for circulation.

15.2 Public Reading of Resolutions that may be made Public

16. Closure