



Bunbury City Council

Minutes

29 September 2015



CITY OF BUNBURY

4 Stephen Street
Bunbury WA 6230
Western Australia

Correspondence to:
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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

Minutes of the Ordinary Meeting of the Bunbury City Council be held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 29 September 2015 at 5.30pm.

Minutes

29 September 2015

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

1. Declaration of Opening / Announcements of Visitors

The meeting was declared open by the Mayor Mr Gary Brennan at 5:30pm.

2. Disclaimer

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

3. Announcements from the Presiding Member

The Mayor advised that the Men of Song Festival is scheduled to launch on Thursday 1 October 2015 with activities lasting over the weekend.

Also on Thursday 1 October 2015 at 6:00pm is the Public Meeting to enable the Hon John Castrilli MLA and representatives from the South West Development Committee to explain the Marine Development.

The Mayor took the opportunity to advise Councillors, in keeping with his practice, that the Mayoral Expenses for September were \$68.27 which had been for fuel.

4. Attendance

Present:

Council Members:	
Presiding Member	Mayor G Brennan
Deputy Presiding Member	Deputy Mayor Cr B Kelly
Members	Councillor B McCleary
	Councillor S Morris
	Councillor J Jones
	Councillor D Prosser
	Councillor M Steck
	Councillor K Steele
	Councillor J Hayward (via telephone link)
	Councillor J Miguel
	Councillor M Cook
	Councillor W Giles
	Councillor N McNeill
Executive Leadership Team (Non-Voting)	
Chief Executive Officer	Mr A Brien
Director Works and Services	Mr P Harris
Director Corporate and Community Services	Mrs S Addison-Brown
Director Planning, Development and Regulatory Services	Mr B Karaszewych
Council Officers (Non-Voting)	
Acting Media and Communications Officer	Mr J Tatham
Manager Community, Arts and Culture	Mr J Bowron
Manager Finance	Mr D Ransom
Manager Major Projects	Mrs F Anderson
Manager Sustainability, Planning and Development	Mr T Farnworth
Senior Planning Officer	Ms L Sabitzer
Manager Governance	Mr G Golinski
Council Meeting Support Officer	Mrs L Allan
Others (Non-Voting)	
Members of the Public	20
Members of the Press	2

4.1 Apologies

Nil

4.2 Approved Leave of Absence

Nil

4.3 Request by Cr Hayward to Participate by Phone

Summary/Background

Cr Hayward has submitted a request to participate in tonight's Ordinary Council Meeting via telephone. In order for Cr Hayward 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 Hayward has advised the he will be situated at 15 Ashton Avenue, Claremont 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.

This location 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 15 Ashton Avenue, Claremont as a suitable place for the purpose of regulations 14A(1)(b) and 14A(4).
2. Approves the participation of Cr Hayward at the Ordinary Council Meeting held 29 September 2015 via telephone pursuant to regulation 14A(1)(c).

An Absolute Majority Vote will be required.

Executive Recommendation

That Council:

1. Approves 15 Ashton Avenue, Claremont as a suitable place for the purpose of regulations 14A(1)(b) and 14A(4).
2. Approves the participation of Cr Hayward at the Ordinary Council Meeting held 29 September 2015 via telephone pursuant to regulation 14A(1)(c).

* ***Absolute Majority Vote Required***

Outcome – Council Meeting 26 May 2015

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

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

Council Decision 328/15

That Council:

- 1. Approves 15 Aston Avenue, Claremont as a suitable place for the purpose of regulations 14A(1)(b) and 14A(4).***
- 2. Approves the participation of Cr Hayward at the Ordinary Council Meeting held 29 September 2015 via telephone pursuant to regulation 14A(1)(c).***

CARRIED

12 votes "for" / Nil votes "against"

ABSOLUTE MAJORITY ATTAINED

At this time Cr Hayward became a Voting Member of the meeting.

5. Declaration of Interest

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

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

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

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

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

Cr Morris declared an impartiality interest in the item titled *“10.1.1 Review of the Advertising Devices Policy made under the Local Law Relating to Advertising Devices”* as he has signs on Council Rights of Way. Cr Morris will remain in the chamber for the discussion and the vote on the matter.

Cr Jones declared an impartiality interest in the item titled *“10.2.1 Proposed removal of Caveat - Bunbury Aged Persons Housing Collective (Inc.) over 139 Forrest Avenue, Carey Park”* as she is a member of the Bunbury Aged Persons’ Housing Collective Inc. Cr Jones will remain in the chamber for the discussion and the vote on the matter.

Cr Steele declared an impartiality interest in the item titled *“10.4.1 Application for Planning Approval for a Proposed Change of Use to Showroom at Unit 4 on Lot 1, 12 Stuart Street, Bunbury”* as she personally knows the Proponent. Cr Prosser will remain in the chamber for the duration of the discussion and the vote on the matter.

Cr Prosser declared a financial interest in the item titled *“10.4.2 Proposed Amendment to Planning Approval (Revised Floor Plan and Modification to Conditions) at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury, and Change of Use to ‘Trade Display’ at Lot 74, #33 Denning Road, East Bunbury”* as Citygate Properties own the properties in question which he is financially associated with. Cr Prosser will leave the chamber for the duration of the discussion and the vote on the matter.

Cr Steck declared a financial interest in the item titled *“10.4.2 Proposed Amendment to Planning Approval (Revised Floor Plan and Modification to Conditions) at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury, and Change of Use to ‘Trade Display’ at Lot 74, #33 Denning Road, East Bunbury”* as her partner is the proponent. Cr Prosser will leave the chamber for the duration of the discussion and the vote on the matter.

Cr Jones declared an impartiality interest in the item titled “10.5.4 Water Playground – Leschenault Inlet Construction Tender” as she is the Chairman of Aqwest. Cr Jones will remain in the chamber for the discussion and the vote on the matter.

6. Public Question Time

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

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

6.1 Public Question Time

Mr David Smith, of 8 Picton Crescent, Bunbury on 25 September 2015, submitted the following questions to Council:

Mr David Smith, 8 Picton Crescent, Bunbury

Question 1 Given the importance of the proposed Marina and Marine Services precinct to Bunbury, I ask:-

- (a) When was the \$1 million allocated to the project received by the City of Bunbury and how much has been spent to date?
- (b) Has any draft allocation of the funds been made between design of each facility and services infrastructure required, environmental studies, cost benefit analysis and
- (c) How many new pens are being planned in terms of extra finger jetties and berths in Casuarina Harbour and for Koombana Bay Sailing Club?

Answer: As this is not a City of Bunbury Project we refer you to the Hon. John Castrilli for a response.

Question 2: Can council please provide an update on TPS 8 and target dates for each aspect of the Gazettal process?

Answer: The City has referred both the draft Local Planning Strategy and draft Town Planning Scheme 8 to the Department of Planning for its review. Modifications are being undertaken to reflect the model scheme text, and new planning regulations coming into effect on 19 October 2015. The Department of Planning has yet to determine the gazettal process.

Question 3: Can council please provide a breakdown of:-The successful and unsuccessful applications for funding in the latest round of community funding by council showing the:

- * The name of the applicant.
- * The amount applied for
- * The cash and in kind amounts granted and
- * What major events have been recommended by the Events Committee and how much has been allocated to a major event other than Australia Day, Grooving the Moo and Cinefest Oz?

Answer: This will be considered as correspondence.

6.2 Responses to Public Questions Taken ‘On Notice’

At the Council Meeting held 15 September, a question was asked during Public Question Time that could not be fully answered during the meeting. A copy of the question and the written response forwarded to the questioner following the meeting is provided below for public information:

Question 2: Can Council please advise the Budget amounts received from various sports for ground use fees in each of the last three financial years, giving the total amounts for each type of sports?

Answer: Given the nature of this question, a summary table is provided for information and will be forwarded along with additional information to Mr Smith and will appear in the Minutes.

	2012/2013	2013/2014	2014/2015
Cricket	2,809.09	2,640.92	2,206.35
Touch Football	1,536.36	1,886.36	368.18
Frisbee	145.45	154.55	318.18
Soccer	13,308.00	13,386.20	14,769.00
Dog Club	3,340.90	2,431.81	2,545.46
Athletics	4,610.46	3,776.82	3,322.54
Football	11,892.30	12,000.20	13,360.90
Rugby League	1,372.73	1,036.36	1,850.00
Hockey	863.64	1,090.91	4,170.45
Rugby Union	927.27	904.54	927.27
Total	40,806.20	39,308.67	43,838.33

*Note all figures are ex GST

The following sports are all charged sports ground levies rates by the number of teams they have within their club, both senior and junior teams:

- * Cricket
- * Touch Football
- * Frisbee
- * Soccer

- * Football
- * Rugby League
- * Rugby Union
- * Hockey

The fee (GST Inc.) below shows what the charge per team of each sport for juniors and seniors was in the last financial year:

Sport	Junior Fee Per Team	Senior Fee Per Team	Additional comments
Cricket	\$82.00	\$307.00	Only one Senior Cricket Team charged in Bunbury as the other Cricket Clubs maintain the grounds
Touch Football	\$102.50	\$405.00	
Frisbee	\$67.00	\$175.00	
Soccer	\$102.50	\$405.00	
Football	\$102.50	\$405.00	
Rugby League	\$102.50	\$405.00	
Rugby Union	\$102.50	\$405.00	
Hockey	\$102.50	\$405.00	Only Junior Hockey Teams are charged as Senior Hockey is played on the synthetic turf in the Hockey Stadium

Sportsground Levies fees entitle each team to 2 training sessions a week + one match day game a week within their season.

The following sports are all charged sports ground levies rates by the number of members they have within their club, both senior and junior teams:

- * Athletics
- * Dog Club

The fee (GST Inc.) below shows what the charge per member of each sport for juniors and seniors was in the last financial year:

Sport	Junior Fee	Senior Fee
Athletics	\$8.70	\$41.00
Dog Club	\$18.00	\$56.00

The sports above that are charged sportsground levies by member are still entitled to 2 training sessions a week + one match day game a week within their season.

Clubs will also sometimes book additional training sessions or events and additional charges are then applied but they are not reflected in my sportsground levies charges/calculations.

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 15 September 2015 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 15 September 2015 be confirmed as a true and accurate record.

Outcome – Council Meeting 29 September 2015

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

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

Council Decision 329/15

The minutes of the Ordinary meeting of the Bunbury City Council held 15 September 2015 be confirmed as a true and accurate record.

CARRIED

13 votes "for" / Nil votes "against"

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Various
Attachments:	Appendix MTBN-1 – Community Access Committee Minutes 14/08/2015 Appendix MTBN-1 – Policy Review Development Committee Minutes 15/08/2015

Summary

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

1. Title: Community Access Committee Minutes 14/08/2015
Author: Elle Dixon, Community Development Officer
Appendix: MTBN-1
2. Title: Policy Review Development Committee Minutes 15/09/2015
Author: Greg Golinski, Manager Governance
Appendix: MTBN-2

Council Committee Recommendation

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

1. Community Access Committee Minutes 14/08/2015
2. Policy Review Development Committee Minutes 15/09/2015

Outcome – Council Meeting 29 September 2015

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

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

Council Decision 330/15

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

- 1. Community Access Committee Minutes 14/08/2015***
- 2. Policy Review Development Committee Minutes 15/09/2015***

CARRIED

13 votes "for" / Nil votes "against"

8. Petitions, Presentations, Deputations and Delegations

8.1 Petitions

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

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

Outcome – Council Meeting 29 September 2015

Cr Steck advised that she had received a petition containing 460 signatures which stated:

“We, the residents of Bunbury who have a particular interest in the ongoing welfare of our natural environment express our deep concern at the prospect of the land at 89 Beach Road, on the Tuart Street between Beach Road and Prince Phillip Drive being considered for rezoning by the city. The alienation of this important northern entry to the Big Swamp Nature and Recreation area is an affront to those of us who place high value on this important reserve. Therefore we seek the withdrawal of the “Residential” rezoning submission or, its failure to achieve approval under the Act.

Our strong objections to changing the zoning, already expressed verbally to the Council at a public meeting include the following. The land (89 Beach Road):

- * ***Is the important northern entry statement to the Big Swamp.***
The present and future value to the city of the Big Swamp, Wildlife Park, Children’s Playground and general recreation areas in the Big Swamp Precinct must not be underestimated. In fact, it is the Vision of the “Big Swamp precinct Concept Development Plan “that The Plan ‘..aims to transform the Big Swamp precinct into a regional social and environmental destination’. Rezoning of the subject land to Residential flies in the fact of this vision when one recognises its value as the Precinct entry nearest to the city.
- * ***Has a number of native trees.***
This land has been faithfully tended over the years by local residents. The Big Swamp entry welcoming plinth and stone. There is no honour of privilege in unnecessarily destroying a facility that has been demonstrably valued by the community in the past and will serve it well into the future.
- * ***Is an important visual roadside element in our streetscape***
The land, zoned “Parks & Recreation Reserve” is an important local area roadside feature that relates to our local area values and we do not wish to lose it.
- * ***Habitat. Is used by wide range of wildlife including ducks, tortoise, ringtail possums and a wide range of birds***
The land provides motorists in particular with a pre warning of the likelihood on the road ahead, of the presence of slow moving animals and birds.

- * ***Constitutes part of the Weekly Walk to School Day walk by 430 Bunbury Primary School students as well as other regular walks to and from Big Swamp.***
These organised regular walks to and from the Big Swamp and this land provides a safe and convenient and delightful access environment for young children.
- * ***If developed will, through additional access constitute an increased traffic hazard.***
- * ***Part of the System 6 Wetlands***

We strongly urge Council to reconsider its position on this matter and pray that the existing zoning of the land be retained.

Council Decision 331/15

Pursuant to clause 6.10(2) of the City of Bunbury Standing Orders 2012, that Council receive the petition with regard to Lot 89 Beach Road and refer to the relevant officer for a report to be submitted within the next two (2) rounds of Council meetings.

CARRIED

13 votes “for” / Nil votes “against”

8.2 Presentations

Nil

8.3 Deputations

Mr David Smith of Picton Crescent, Bunbury

Mr Smith requested to address items 10.3.1 titled “*Bunbury Regional Art Galleries Governance Review 2015*”, 10.4.3 titled “*Proposed Construction Site Fence Sign, Lot 500 #16 Victoria Street, Bunbury*” and 10.5.2 titled “*Petition Report – Request for half basketball court at Garvey Park*”.

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Smith’s deputation request to address items 10.3.1 titled “Bunbury Regional Art Galleries Governance Review 2015”, 10.4.3 titled “Proposed Construction Site Fence Sign, Lot 500 #16 Victoria Street, Bunbury” and 10.5.2 titled “Petition Report – Request for half basketball court at Garvey Park” and allows a period of up to 5 minutes to present to Council on each item.

MOTION WAS LOST

Mr Ross Underwood of Planning Solutions, 296 Fitzgerald Street, Perth

Mr Underwood requested to address item 10.4.2 titled “*Application for Planning Approval (Revised Floor Plan and Modification to Conditions) at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury, and Change of Use to 'Trade Display' at Lot 74, #33 Denning Road, East Bunbury*”.

Council Decision 332/15

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Underwood’s deputation request to address items 10.4.2 titled “Application for Planning Approval (Revised Floor Plan and Modification to Conditions) at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury, and Change of Use to 'Trade Display' at Lot 74, #33 Denning Road, East Bunbury” and allows a period of up to 5 minutes to present to Council.

CARRIED

8.4 Council Delegates’ Reports

8.5 Conference Delegates' Reports

8.5.1 Conference Delegates Report – Councillor Murray Cook – 2015 Emergency Management Conference held in Bunbury on 28 August 2015

Applicant/Proponent:	Internal Report
Author:	Councillor Murray Cook
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix DEL-1: Report – 2015 Emergency Management Conference, Bunbury, August 28

Councillor Murray Cook represented the City of Bunbury at the 2015 Emergency Management Conference on 28 August 2015. Cr Cook's Report is **attached** at Appendix DEL-1

Cr Cook's Comments

This report relates to the Emergency management conference I attended on August 28 in Bunbury with the theme "A Collaborative Journey". I would like to thank Council and the City's Ratepayers for facilitating and paying for this opportunity. The conference ran from 8:00am to 4:15pm and was competently MC'd by Jon Doust. Jon is a very articulate and interesting MC and I would recommend his recruitment for any similar event; he resides in Albany.

The organisers have placed most of the presentations on the City's website. If you would like to study the full detail, please use this hyperlink - <http://www.bunbury.wa.gov.au/Pages/SWLGEMA-Conference-2015.aspx>.

The programme was put together by the South West Local Government Emergency Management Alliance and the City of Bunbury team led by John Kowal, Chris Widmer and Erin Hutchins.

Recommendation

The report from Cr Murray Cook on the 2015 Emergency management Conference held 28 September 2015 be received and noted.

Outcome – Council Meeting 29 September 2015

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

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

Council Decision 333/15

The report from Cr Murray Cook on the 2015 Emergency management Conference held 28 August 2015 be received and noted.

CARRIED

13 votes "for" / Nil votes "against"

9. Method of Dealing with Agenda Business

Standing Order 5.5 permits the Council to adopt the recommendations “by exception” (en-bloc).

Pursuant to Standing Order 5.5, the Council “*adopted by exception*” (i.e. without discussion) those recommendations listed for items 10.1.3, 10.2.2, 10.3.1, 10.5.1, 10.5.2 and 10.5.3.

Items 10.1.1, 10.1.2, 10.2.1, 10.4.1, 10.4.2, 10.4.3 and 10.5.4 of the meeting agenda were then discussed and voted on separately and in the order that they appeared on the agenda. The items have been renumbered with the items voted “by exception” listed first.

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

10. Reports

10.1 *Recommendation from Policy Review and Development Committee (was listed as item 10.1.3 of the Council Agenda)*

Applicant/Proponent:	Policy Review and Development Committee
Author:	Greg Golinski, Manager Governance
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Nil

Summary

The Policy Review and Development Committee have recommended that Council initiate a review of the current Local Planning Policy: Signage and Advertising, with a specific emphasis on LED illuminated electronic graphic display screens.

Policy Review and Development Committee Recommendation

That Council:

1. Note that the Policy Review and Development Committee cannot consider referred item 10.1 "Proposed Electronic Graphic Display Screen Sign and Increased Height to Existing Limestone Wall Base at Lot 100 (#121) King Road, East Bunbury" of its agenda dated 15 September 2015, as consideration of a development application is inconsistent with the terms of reference of the Committee.
2. Request the Chief Executive Officer initiate a review of the current Local Planning Policy: Signage and Advertising in consultation with the Policy Review and Development Committee, with specific emphasis on LED illuminated electronic graphic display screens.

Background

At its meeting held 1 September 2015, Council resolved to defer consideration of the matter to replace an existing billboard sign near the intersection of King Road, Picton Road and Sandridge Road in East Bunbury with an LED illuminated electronic graphic display screen, referring it to the Policy Review and Development Committee (the Committee) for review:

Council Decision 307/15

That the item titled "Proposed Electronic Graphic Display Screen Sign and Increased Height to Existing Limestone Wall Base at Lot 100 (#121) King Road, East Bunbury" be referred to the Policy Review Committee on the following grounds:

- * *There are some perceived inconsistencies between this proposal and at least one other which could be regarded as similar and has been approved by the City of Bunbury;*
- * *The issue of "electronic graphic display screens" as a means of signage in locations other than the CBD given the prospect of greater use of such signs in future;*
- * *A qualification in the relevant policy that the City of Bunbury recognises that advertising by means of signage is a legitimate function of business and is enshrined in the policy as such.*

and then referred back to the Council Meeting to be held 29 September 2015 for consideration.

The matter was tabled at a meeting of the Committee held 15 September 2015, however the Committee determined not to deal with the matter of the Development Application itself, as it wasn't within the terms of reference of the Committee.

In lieu of considering the matter, the Committee has made an alternate recommendation to Council to initiate a review of the applicable Local Planning Policy: Signage and Advertising.

Council Policy and Legislative Compliance

The recommendation contained within this report seeks a review of the current Local Planning Policy: Signage and Advertising.

Officer Comments

Should Council ratify the Committee recommendation, Officers will initiate a review of the Local Planning Policy: Signage and Advertising in consultation with the Policy Review and Development Committee.

Analysis of Financial and Budget Implications

Any advertising costs relating to public consultation can be accommodated within the 2015/16 budget.

Community Consultation

Public consultation will be undertaken as part of the review of the current Local Planning Policy: Signage and Advertising.

Councillor/Officer Consultation

The Policy Review and Development Committee have recommended that Council initiate a review of the current Local Planning Policy: Signage and Advertising.

Outcome – Council Meeting 29 September 2015

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

Council Decision 334/15

That Council:

- 1. Note that the Policy Review and Development Committee cannot consider referred item 10.1 "Proposed Electronic Graphic Display Screen Sign and Increased Height to Existing Limestone Wall Base at Lot 100 (#121) King Road, East Bunbury" of its agenda dated 15 September 2015, as consideration of a development application is inconsistent with the terms of reference of the Committee.***

- 2. Request the Chief Executive Officer initiate a review of the current Local Planning Policy: Signage and Advertising in consultation with the Policy Review and Development Committee, with specific emphasis on LED illuminated electronic graphic display screens.***

CARRIED

13 votes "for" / Nil votes "against"

10.2 Schedule of Accounts Paid for the Period 1 August 2015 to 31 August 2015 (was listed as item 10.2.2 of the Council Agenda)

Applicant/Proponent:	Internal Report
Author:	David Ransom, Manager Finance
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-6: Schedule of Accounts Paid

Summary

The City of Bunbury "Schedule of Accounts Paid" covering the period 1 August 2015 to 31 August 2015 has been issued to elected members under separate cover. The schedule contains details of the following transactions:

1. Municipal Account – payments totalling \$4,777,978.63
2. Advance Account – payments totalling \$3,136,097.05
3. Trust Account – payments totalling \$22,849.14
4. Visitor Information Centre Trust Account – payments totalling \$4,010.00
5. Bunbury-Harvey-Regional Council Municipal Account – payments totalling \$242,134.76
6. Bunbury-Harvey Regional Council Advance Account – payments totalling \$152,684.89

Executive Recommendation

The Schedule of Accounts Paid for the Period 1 August 2015 to 31 August 2015 be received.

Outcome – Council Meeting 29 September 2015

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

Council Decision 335/15

The Schedule of Accounts Paid for the Period 1 August 2015 to 31 August 2015 be received.

CARRIED

13 votes "for" / Nil votes "against"

10.3 Bunbury Regional Art Galleries Governance Review 2015 (was listed as item 10.3.1 of the Council Agenda)

Applicant/Proponent:	Internal
Author:	Julian Bowron, Manager Community, Arts and Culture
Executive:	Stephanie Addison-Brown, Director Corporate and Community Services
Attachments:	Appendix DCCS-1: BRAG Governance Review 2015

Summary

The purpose of this report is for Council to be informed about best practice models for the governance of regional arts facilities and in particular art galleries. This is in response to Council Decision 35/14 which requested a review of governance models relating to the management of art galleries.

Recommendation

That Council:

1. Note the Bunbury Regional Art Galleries Governance Review.
2. Continues to manage the Bunbury Regional Art Galleries under the current arrangements.
3. Request the Chief Executive Officer to consider the establishment of a Greater Bunbury Regional Arts Advisory Group as part of the review and future direction for the Creative Bunbury Strategy.
4. Supports the establishment of an independent trust or foundation for the Bunbury Regional Art Galleries with the aim of seeking and maintaining funds for acquisition of art works for the City collection and support of the gallery.

Background

Council resolved in February 2014 to no longer fund the Bunbury Regional Arts Management Board (BRAMB) from 1 July 2014 and undertake management of Bunbury Regional Art Galleries itself (Decision 35/14). As part of the resolution the following commitment was made:

“The CEO of the Bunbury City Council, in conjunction with Art Gallery of Western Australia, arrange in-house regional consultation and national research to be conducted of contemporary governance models of Art Galleries, or related Boards and constitutions, that enables an independent Board to effectively and proactively oversee the management and functions of the Bunbury Regional Art Gallery, including management of the City of Bunbury Art Collection”

Accordingly, the Manager Community Arts and Culture has been carrying out consultation and research towards this report including discussions with the Department of Culture and the Arts and the Art Gallery of WA.

In a recent meeting with staff the Director General of the Department for Culture and the Arts identified Bunbury as a possible pilot site for a new regional hub model for delivery of arts services.

With the City of Bunbury's Creative Strategy due to be reviewed at the end of 2015 there is an opportunity to expand the scope of the strategy to recognise Bunbury's regional service provision role. It is proposed that a Greater Bunbury regional arts advisory group should be formed to facilitate that review.

Council Policy Compliance

City of Bunbury Art Collection Policy refers to the current arrangement in regard to the acquisition of art works.

Legislative Compliance

Income Tax Assessment Act 1997 Division 376 – Gifts or Contributions
Cultural Bequests Program Guidelines (no 1) 1997
Cultural Bequests Program (Maximum Approval Amounts) Determination (No 1) 1997
Australian Government's Cultural Gifts Program
Museums Australia, Code of Ethics for Art, History and Science Museums (1990)
National Standards for Australian Museums and Galleries (Version 1.2)

Officer Comments

The BRAG Governance Review is **attached** at Appendix DCCS-1.

Analysis of Financial and Budget Implications

There are no direct financial or budget implications from this report, however, the intent of the recommendation is to enable BRAG to be able to raise additional revenue.

Community Consultation

Consultation has been undertaken with the Department of Culture and the Arts and the Art Gallery of Western Australia

Councillor/Officer Consultation

Not applicable

Outcome – Council Meeting 29 September 2015

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

Council Decision 336/15

That Council:

- 1. Note the Bunbury Regional Art Galleries Governance Review.***
- 2. Continues to manage the Bunbury Regional Art Galleries under the current arrangements.***
- 3. Request the Chief Executive Officer to consider the establishment of a Greater Bunbury Regional Arts Advisory Group as part of the review and future direction for the Creative Bunbury Strategy.***
- 4. Supports the establishment of an independent trust or foundation for the Bunbury Regional Art Galleries with the aim of seeking and maintaining funds for acquisition of art works for the City collection and support of the gallery.***

CARRIED

13 votes “for” / Nil votes “against”

10.4 Naming of Reserve 45593 Glen Iris (was listed as item 10.5.1 of the Council Agenda)

Applicant/Proponent:	Internal report
Author:	Alison Baker, Executive Assistant Works and Services
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix DWS-1: Location Plan Appendix DWS-2: Distributed Flyer

Summary

Council has received a request through Councillor Judy Jones to formally name Reserve 45593 in Glen Iris.

Executive Recommendation

That Council:

1. Endorse the name 'Sundew Park' for Reserve 45593 Glen Iris
2. Approved that the name be submitted to the Geographic Names Committee for approval.

Background

Council has received a request from a local resident near Reserve 45593 in Glen Iris to officially name the reserve. It was suggested to name the reserve 'Vittoria Heights Park' as it is in the development known as Vittoria Heights and Council staff have historically referred to the reserve as Vittoria Playground. Contact was made with Landgate's Geographic Names Committee (GNC) regarding the suitability of the name. The GNC advised that 'Vittoria Heights Park' does not meet GNC policy as the reserve is not bordered by Vittoria Road or in the locality of Vittoria. A location plan showing Reserve 45593 is attached at DWS-1.

The GNC has suggested that the reserve be named by one of the roads that border the reserve – Isandra Bend, Sundew Trail, Neptunia Row, Iris Way or a relevant indigenous / pioneering name.

Council Policy Compliance

Council Policy: Naming of Roads, Reserves, Bridges and Other Places applies.

Legislative Compliance

Nil

Officer Comments

Council received 14 responses from a letter box drop of approximately 250 residences. The results were:

- * Isandra Park 3
- * Sundew Park 6
- * Neptunia Park 0

*	Iris Park	3
*	Babich Park	1
*	Wass Park	1

NB: one respondent choose both Isandra Park and Iris Park.

Wass Park and Babich Park were received to honour local pioneering families. The Wass family is honoured by Wass Drive in Glen Iris. The Babich family will be honoured by Babich Lane to be constructed in Riverlea Estate Glen Iris, approved by GNC on 13 May 2015. As the families are or will be honoured by road names and GNC policy not to have official names that are not related to the immediate area it is suggested that Reserve 45593 be named 'Sundew Park' as it was the most popular response. Neither Wass Drive nor Babich Lane are bordering the reserve but are still within Glen Iris which could cause confusion if the reserve was named Wass or Babich Park.

Analysis of Financial and Budget Implications

The cost of a sign will be \$500 and can be funded from Building and Trades signage budget.

Community Consultation

Council staff hand-delivered approximately 250 flyers to the area surrounding the reserve on 19 May 2015 requesting feedback regarding the name of the park with a response date of 4 September 2015. A copy of the information distributed is **attached** at Appendix DWS-2.

Councillor/Officer Consultation

Councillors were advised of consultation in Executive Weekly Update 21 August 2015.

Outcome – Council Meeting 29 September 2015

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

Council Decision 337/15

That Council:

- 1. Endorse the name 'Sundew Park' for Reserve 45593 Glen Iris***
- 2. Approved that the name be submitted to the Geographic Names Committee for approval.***

CARRIED

13 votes "for" / Nil votes "against"

10.5 Petition Report – Request for half basketball court at Garvey Park (was listed as item 10.5.2 of the Council Agenda)

Applicant/Proponent:	Internal Report
Author:	Kristy Tillett, Manager Landscape and Open Space
Executive:	Phil Harris, Director Works and Services
Attachments:	Nil

Summary

At the Council Meeting held 1 September 2015, Council decided (288/15) as follows:

“Pursuant to clause 6.10(2) of the City of Bunbury Standing Orders 2012, that Council receive the petition with regard to a basketball pad and ring in the Garvey Place Park and refer to the relevant officer for a report to be submitted within the next two (2) rounds of Council meetings.”

Executive Recommendation

That Council:

1. Note that Garvey Park is scheduled, subject to budget deliberations, for upgrade in the 2016/17 year.
2. Note that a basketball pad and ring will be considered as part of the upgrade.
3. Request the author of the report advise the author of the petition of Council’s decision.

Background

Garvey Place Park is a small irrigated park of approximately 1600m². The park has a shade sail, barbeque, swings, combination play unit, seesaw, slide, hardwood picnic setting, three hardwood bench seats and nine trees. The park is mainly utilised by residents of Garvey Place, who historically have been actively involved in matters relating to the park. Landscape and Open Space has the Garvey Place playground scheduled for upgrade in 2016/17 as part of the Playground Replacement Program.

Council Policy Compliance

There is no Council Policy applicable to this matter.

Legislative Compliance

There is no Legislative Compliance applicable to this matter.

Officer Comments

Garvey Place Park playground equipment currently comprises a combination unit with some components significantly affected by rust, a wavy slide unit with rusting at weld points, a spring seesaw with significant rust present, and double swings with a short soft fall zone. An audit completed in June 2014 suggested that the combination unit be replaced in 2016 and the double

swings be replaced in 2017. Further asset condition assessment inspections in 2015 suggest that all of the playground equipment is due for replacement.

The closest public basketball courts are located on Ocean Drive, approximately 2km away, and at Mangles Playground, approximately 3km away. A basketball pad and ring will be considered for inclusion in the upgrade of the playground equipment as part of Replace Playground Equipment

As Garvey Place Park is one of the playgrounds scheduled for upgrade in 2016/17, it is suggested that the basketball pad and ring be considered for inclusion as part of the upgrade works, subject to sufficient funding for the three scheduled playground upgrades through the annual Replace Playground Equipment project (PR-1300) in 2016/17.

Analysis of Financial and Budget Implications

It is estimated that the installation of an 8 metre by 8 metre concrete pad with a basketball hoop will cost in the vicinity of \$11,500.

While Garvey Place Park is one of three parks identified for playground equipment replacement in 2016/17, the inclusion of a basketball pad may result in other items of equipment that are non-compliant with current standards not being replaced in Garvey Place Park, in order to remain within predicted budgetary allowances.

Community Consultation

This report results from a petition received by Council on 1 September 2015.

Councillor/Officer Consultation

The Landscape and Open Space Team has discussed the petition request and are in agreement that current usage of the park indicates that a basketball pad will be well utilised.

Outcome – Council Meeting 29 September 2015

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

Council Decision 338/15

That Council:

- 1. Note that Garvey Park is scheduled, subject to budget deliberations, for upgrade in the 2016/17 year.***
- 2. Note that a basketball pad and ring will be considered as part of the upgrade.***
- 3. Request the author of the report advise the author of the petition of Council's decision.***

CARRIED

13 votes "for" / Nil votes "against"

10.6 Change of date Withers Advisory Committee Meeting (was listed as item 10.5.3 of the Council Agenda)

Applicant/Proponent:	Internal Report
Author:	Phil Harris, Director Works and Services
Executive:	Phil Harris, Director Works and Services
Attachments:	Nil

Summary

Council Decision 302/15 endorsed the change of date for the next Withers Advisory Committee meeting from 9 October 2015 to 16 October 2015. This report is to request that the meeting date be changed to 13 November 2015.

Executive Recommendation

That Council:

1. Approve the change in date for the next Withers Advisory Committee Meeting from Friday 16 October 2015 to Friday 13 November 2015 at 1:00pm to be held in the Community Room of the Withers Library.
2. Approve the date of the Community Stakeholder Meeting endorsed by Withers Advisory Committee Meeting on 14 August 2015 scheduled for Friday 16 October 2015 be changed to 13 November 2015 at 11:00am to be held in the Community Room of the Withers Library.

Background

At the Withers Advisory Committee meeting on 14 August 2015 the Committee resolved to change the date of the next meeting from Friday 9 October 2015 to Friday 13 November 2015. The date was changed to follow the planned Community Stakeholder Meeting to address after school activities for children and youth in Withers. Due to the proximity to the Council Elections on Saturday 17 October and Committee members' availability the date will need to be changed to Friday 13 November 2015 which is in line with current meeting schedules of the second Friday in the month. The date of the planned Community Stakeholder Meeting will also be changed to precede the meeting.

Council Policy Compliance

Not Applicable

Legislative Compliance

Not Applicable

Officer Comments

The WAC meeting and community consultation was originally scheduled for 9 October 2015 and then rescheduled to 16 October 2015. Given the proximity to Council elections and availability of

Committee members it is suggested that the meeting be further rescheduled until after the elections when the composition of the WAC is ratified and outcomes of the Withers Local Area Plan have been endorsed by Council and the South West Development Commission.

Analysis of Financial and Budget Implications

Not Applicable

Community Consultation

Not Applicable

Councillor/Officer Consultation

The presiding member Cr James Hayward is aware of the proposed change of date of the meeting

Outcome – Council Meeting 29 September 2015

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

Council Decision 339/15

That Council:

- 1. Approve the change in date for the next Withers Advisory Committee Meeting from Friday 16 October 2015 to Friday 13 November 2015 at 1:00pm to be held in the Community Room of the Withers Library.***
- 2. Approve the date of the Community Stakeholder Meeting endorsed by Withers Advisory Committee Meeting on 14 August 2015 scheduled for Friday 16 October 2015 be changed to 13 November 2015 at 11:00am to be held in the Community Room of the Withers Library.***

CARRIED

13 votes "for" / Nil votes "against"

10.7 Review of the Advertising Devices Policy made under the Local Law Relating to Advertising Devices (was listed as item 10.1.1 of the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Author:	Ann-Kristin Jank, Team Leader Development Assessment and Compliance
Executive:	Bob Karaszekwych, Director Planning, Development and Regulatory Services
Attachments:	Appendix RAC-1: Proposed Local Law Policy Relating to Advertising Devices on Public Land (2015) Appendix RAC-2: Current Advertising Devices Policy (2003)

Summary

The existing 'City of Bunbury Advertising Devices Policy' (2003) adopted by Council under the head of power created by the 'City of Bunbury Local Law Relating to Advertising Devices' has been reviewed. The aim of this review was to:

- * provide clearer guidance on the management of signage and advertising devices located on publicly owned and managed reserved land; and
- * minimise the requirements for sign licences in relation to community purposes and public events.

Policy Review and Development Committee Recommendation

That Council resolves to:

1. Publicly advertise the revised draft City of Bunbury Local Law Policy Relating to Advertising Devices on Public Land (2015) for a period of not less than 21 days for community comment.
2. Publicly advertise the proposed amendment to the City of Bunbury Schedule of Fees and Charges for the 2015/2016 financial year to include the standard fee of \$147.00 to be charged for the granting of a sign licence, in accordance with the *Local Government Act 1995*.
3. Following public advertising of the proposed revised draft City of Bunbury Local Law Policy Relating to Advertising Devices on Public Land (2015), the proposal and any public submissions lodged with the City of Bunbury during the advertising period is to be returned to Council for further consideration.
4. Subject to the final adoption by Council of the revised draft City of Bunbury Local Law Policy Relating to Advertising Devices on Public Land (2015), resolves to revoke the existing City of Bunbury Advertising Devices Policy (2003).

Background

Consistent with many local governments in Western Australia, signage has been historically regulated through the *Local Government Act 1995* by subsidiary local laws appropriate to each municipality's local conditions and circumstances.

In the case of the City of Bunbury from 2003 until 2012, signage and advertising devices have been regulated through its Local Law Relating to Advertising Devices and its associated City of Bunbury Advertising Devices Policy (2003), (current policy **attached** at Appendix RAC-1). As such, the local law and policy provided a framework for the granting of sign licences irrespective of its location.

However, advice given in 2010 by the Director General of the Department of Local Government stated that local laws made under the *Local Government Act 1995* must only apply to signs located on public land managed by the local government, such as public open spaces (POS) and road reserves.

Whereas, the *Planning and Development Act 2005* was identified as providing the more appropriate statutory framework for regulating signs and advertisements located on zoned land that is privately owned.

Since then, amendments to the City of Bunbury Town Planning Scheme No. 7 (TPS7) and a new 'Local Planning Policy: Signage and Advertisements' (adopted 10 June 2014, Council Decision: 199/14) have been implemented to address this matter with respect to privately owned zoned land.

Council Policy and Legislative Compliance

The proposed draft City of Bunbury Local Law Policy Relating to Advertising Devices on Public Land (2015) **attached** at Appendix RAC-2, is made pursuant to the Local Law Relating to Advertising Devices, which was gazetted on 24 March 2003 and then amended on 10 August 2007.

Officer Comments

The following is a summary of the proposed changes made to the existing Advertising Devices Policy:

- * The revised draft policy clearly outlines that it applies only to signs and advertising devices located on local government property and reserved land within the district.
- * The types of advertising devices applicable to public reserves have been rationalised.
- * Application requirements, dimensions of sign face area, maximum luminance levels, advertisement definitions and standards, as well as approval categories have been generally translated into the revised draft policy.
- * The format has been changed to reflect the style of current corporate documents.
- * Objectives have been updated.
- * General definitions have been added to provide clarity on the meaning of terms used.
- * Standards in relation to referrals to relevant agencies, sponsorship content and currently leased illuminated road verge signs have been added.
- * Development requirements have been consolidated and expanded.

The revised policy now sets out more simply the types of signage that would be exempt from the need for a sign licence (e.g. flags, banners and signs located on fences), with only major signage (e.g. billboards and other permanent structures) requiring the approval of the local government through the granting of a sign licence.

Analysis of Financial and Budget Implications

Currently there exists an ad-hoc process for the administration of signage and advertising devices located on publicly owned reserved land - with a myriad of signs of different sizes, appearance and placement occurring on public reserves and road verges throughout the city.

It is therefore proposed that signage and advertising devices to be located on public reserves requiring approval should be administered by the Planning, Development and Regulatory Services directorate.

Notwithstanding, the Corporate and Community Services directorate will retain responsibility for the managing of any lease agreements that may be required for the installation of signs or advertising devices on reserves managed by the local government.

The current Advertising Devices Policy outlines fees and charges for the making of an application for a sign licence (i.e. \$211.20). Hence, it is recommended that a nominal fee of \$147.00 be charged for the granting of a signage licence under the revised policy, which is consistent with the minimum fee charged for an application for development approval. If approved, this will require an amendment to be made to Council's adopted Schedule of Fees and Charges.

Community Consultation

Subject to Council approval, the proposed draft City of Bunbury Local Law Policy Relating to Advertising Devices on Public Land (2015), along with the new fee, will be publicly advertised for community comment.

Councillor/Officer Consultation

Elected Members have been made aware of the need to have an improved process for regulating the display of community events signage and advertisements within the City of Bunbury. This matter has been recommended to Council by the Policy Review and Development Committee.

Outcome – Council Meeting 29 September 2015

Cr Morris declared an impartiality interest and remained in the chamber for the duration of discussion and vote on the matter.

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

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

Council Decision 340/15

That Council resolves to:

- 1. Publicly advertise the revised draft City of Bunbury Local Law Policy Relating to Advertising Devices on Public Land (2015) for a period of not less than 21 days for community comment.***
- 2. Publicly advertise the proposed amendment to the City of Bunbury Schedule of Fees and Charges for the 2015/2016 financial year to include the standard fee of \$147.00 to be charged for the granting of a sign licence, in accordance with the Local Government Act 1995.***
- 3. Following public advertising of the proposed revised draft City of Bunbury Local Law Policy Relating to Advertising Devices on Public Land (2015), the proposal and any public submissions lodged with the City of Bunbury during the advertising period is to be returned to Council for further consideration.***
- 4. Subject to the final adoption by Council of the revised draft City of Bunbury Local Law Policy Relating to Advertising Devices on Public Land (2015), resolves to revoke the existing City of Bunbury Advertising Devices Policy (2003).***

CARRIED

13 votes “for” / Nil votes “against”

10.8 Proposed Draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures (was listed as item 10.1.2 of the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Author:	Thor Farnworth, Manager Sustainability, Planning and Development
Executive:	Bob Karaszekwych, Director Planning, Development and Regulatory Services
Attachments:	Appendix RAC-3: Proposed Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures

Summary

Currently there is no statutory guidance for the development control of sea containers and other transportable or relocatable types of storage containers and structures within the City of Bunbury.

The City of Bunbury is receiving an increasing number of inquiries, with six pending applications for development approval to permit sea containers in and around residential areas, as they are increasingly seen as a cheaper alternative to constructing purpose built sheds or outbuildings.

Consequently, the draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures has been prepared in order to provide guidance on the regulation of sea containers and other transportable or relocatable storage containers and structures with respect to:

- * allowing for their unhindered use for port related activities and shipping in suitable locations where environmental and public health standards can be met;
- * enabling their temporary use for storage purposes in appropriate locations provided that they do not create a potential risk to public safety, detract from the streetscape, character, amenity or environmental attributes of the local area; and
- * permitting them to be converted and used as outbuildings in residential, mixed use and commercial areas in a manner that is sympathetic with dwellings.

Policy Review and Development Committee Recommendation

That Council resolves to:

1. In accordance with to clause 4 of 'Division 2 - Local planning policies' under 'Part 2 - Local planning framework' of 'Schedule 2 - Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015, advertise the draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures for public comment for a period of not less than 21 days.
2. Following public advertising of the draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures, the proposal and any submissions lodged with the City of Bunbury during the public advertising period are to be returned to Council for further consideration.

Background

The City of Bunbury does not presently have an adopted local planning policy position with respect to the development control of sea containers and other transportable or relocatable types of storage containers and structures within the Scheme area.

Council Policy and Legislative Compliance

The draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures, (**attached** at Appendix RAC-3), has been prepared in accordance with the provisions of 'Division 2 - Local planning policies' under 'Part 2 - Local planning framework' of 'Schedule 2 - Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015.

Officer Comments

The draft local planning policy was formulated to satisfy local conditions and circumstances, but was informed by a literature review of other local government policies dealing with sea containers and other transportable or relocatable types of storage containers and structures.

Analysis of Financial and Budget Implications

The draft local planning policy relates to the regulation of development on private property, and therefore, the effect of the recommendation has no direct budgetary or financial implications for the City of Bunbury.

Community Consultation

Subject to Council approval, the draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures will be publicly advertised for community comment for a period of not less than 21 days, in accordance with clause 4 of 'Division 2 - Local planning policies' under 'Part 2 - Local planning framework' of 'Schedule 2 - Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015.

Councillor/Officer Consultation

The proposal has been referred to the City of Bunbury's Development Coordination Unit (DCU) for professional advice and technical assessment prior to the finalisation of this report. This proposal is now recommended to Council by the Policy Review and Development Committee for its consideration.

Delegation of Authority

The draft policy will be referred to Council for its determination, as the making or amending of a local planning policy involves a statutory public advertising procedure, and hence, requires a decision of Council in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015.

Outcome – Council Meeting 29 September 2015

The Executive Recommendation with amendment was moved Cr Prosser, seconded Cr Miguel:

That Council resolves to:

1. In accordance with to clause 4 of 'Division 2 - Local planning policies' under 'Part 2 - Local planning framework' of 'Schedule 2 - Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015, advertise the draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures for public comment for a period of not less than 21 days.
2. Following public advertising of the draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures, the proposal and any submissions lodged with the City of Bunbury during the public advertising period are to be returned to Council for further consideration.
3. Refer the Draft Policy to the Housing Industry Association and Master Builders Association for comment.
4. Include a user-friendly FAQ Sheet, accompanied with a procedure flowchart, in the advertised content.

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

Council Decision 341/15

That Council resolves to:

1. ***In accordance with to clause 4 of 'Division 2 - Local planning policies' under 'Part 2 - Local planning framework' of 'Schedule 2 - Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015, advertise the draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures for public comment for a period of not less than 21 days.***
2. ***Following public advertising of the draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures, the proposal and any submissions lodged with the City of Bunbury during the public advertising period are to be returned to Council for further consideration.***
3. ***Refer the Draft Policy to the Housing Industry Association and Master Builders Association for comment.***
4. ***Include a user-friendly FAQ Sheet, accompanied with a procedure flowchart, in the advertised content.***

CARRIED

13 votes "for" / Nil votes "against"

Note: The Executive Recommendation was amended to:

- * allow for input by the Housing Industry Association and Master Builders Association;
- * and to ensure that once approved it would be user-friendly for ratepayers.

10.9 Proposed removal of Caveat - Bunbury Aged Persons Housing Collective (Inc.) over 139 Forrest Avenue, Carey Park (was listed as item 10.2.1 of the Council Agenda)

Applicant/Proponent:	Bunbury Aged Persons Housing Collective (Inc.)
Author:	Felicity Anderson, Manager Major Projects
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-1: Location Plan - 139 Forrest Avenue Appendix CEO-2: Caveat Appendix CEO-3: Copy of Land Gift and Rates Deed Appendix CEO-4: Letter from Bunbury Aged Persons Housing Collective Appendix CEO-5: Deed of Covenant 1995

Summary

Bunbury Aged Persons Housing Collective (Inc.) (“the Applicant”) have requested the City of Bunbury investigate the possibility of removing the Caveat over 139 Forrest Avenue, Carey Park, which currently ensures the current and future use of the land is for Charitable purposes only, with the view that the Collective could then return the property to the City in the future. A location plan is **attached** at Appendix CEO-1.

Executive Recommendation

Council agrees to the removal of the Caveat on 139 Forrest Avenue, Bunbury subject to:

1. The terms and conditions as specified in the report; and
2. The applicant to pay all costs associated with the removal of the Caveat.

Background

Lot 27 and Lot 28 on Plan 344, being the whole of the land comprised in Certificate of Title Volume 1166 Folio 344, was gifted to the City of Bunbury on 28 June 1976 by Mrs Marjorie Joy Verran.

The subject land is now comprised in Certificate of Title Volume 1920 Folio 465 on Diagram 82073, with an interest being listed by the City of Bunbury as Caveat F937957 **attached** at Appendix CEO-2.

Mrs Verran vested, transferred and assigned all her estate to the City of Bunbury subject to the terms and conditions as stated on the Land Gift and Rates Deed **attached** at Appendix CEO-3.

Council resolved at its meeting on 4 October 1994 (in part):

- “d Council agrees to transfer the title of Lots 27 and 28 Forrest Avenue to the City of Bunbury Aged Persons accommodation and that the Trust be made aware of the terms in Mrs Verran’s deed.*
- e) A constrictive covenant be placed on the Title of Lots 27 and 28 Forrest Avenue to protect the Deed on the properties in ensuring future use is for Charitable purposes only.*

The Collective has since obtained Planning approval to build 8 x 2 bedroom units and secured a \$400,000 loan from Home Building Society on favourable terms.

Home Building Society and other banks contacted, advise the covenant (which is required under the terms of the bequest) makes it impossible for them to mortgage the property.

They have indicated two options are available:

- 1. Council guarantee the loan, Collective borrow the money.*
- 2. Council borrow the money and on-loan it to the Collective.*

Mr Brian Jones, Chairman of the Collective, has indicated the most cost effective option is for Council to retain ownership of the property (therefore avoiding transfer costs) and for Council to borrow the money – presumably from Home Building Society (avoiding mortgage costs) and for the Collective to pay it back as a self-supporting loan.

Resolved: Mover Cr Jones Secunder Cr Major

Council agree to a self-supporting loan of up to \$400,000 to the Bunbury Aged Persons Housing Collective.

CARRIED

Council at its meeting of 29 May 1995 resolved (in part):

“Council agree to a self-supporting loan of up to \$400,000 to the Bunbury Aged Persons Housing Collective.”

The Collectives constitution does not make allowances for banking with Building Societies. Clause 246 provides to “pay all monies into such account or accounts in the name of the Association at such bank or banks as the Board may from time to time direct.”

The Collective is also having problems in achieving its quorum of 4 of the 6 Board members as 2 of the tenants representative Board members cannot be appointed until the units at Lot 7 Forrest Avenue are completed (February 1996). As two Councillors are appointed by the City of Bunbury, and the Director Community Services is currently Secretary to the Board, the Collective has asked that the Constitution be amended to allow a Councillor to appoint a proxy, who may be a Councillor or Officer of the City of Bunbury.

Resolved: Mover Cr Sullivan Secunder Cr Castrilli

The Bunbury Aged Persons Housing Collective be allowed to change their constitution to provide for:

- 1. Financial dealings with a Building Society; and*
- 2. For the Councillors appointed to the Board to nominate a proxy who can be either a Councillor or Officer of the City of Bunbury.*

CARRIED

Further to the above the City received a request from Bunbury Aged Persons Housing Collective on 1 September 2015 to investigate the possibility of removing the Caveat over 139 Forrest Avenue (**attached** at Appendix CEO-4).

Officers undertook investigations which included considering the application of the Deed and its assignment to 139 Forrest Avenue (**attached** at Appendix CEO-5). During investigations with Landgate the Senior Property Officer was advised that this deed was never registered or lodged with the department and that the City, as the Caveator, may approve the removal of the Caveat.

Council Policy Compliance

Not applicable.

Legislative Compliance

Not applicable.

Officer Comments

The Senior Officer Property advises that Landgate Midland (Head Office) confirmed on 1 September 2015, by phone, that the Land Gift and Rates Deed was not registered or lodged with Landgate. It is up to the City, as the Caveator, to approve the removal of the Caveat.

There are no other limitations on the Title in regards to the Land Gift and conditions.

Analysis of Financial and Budget Implications

The applicant is responsible to pay all costs associated with the removal of the Caveat.

Community Consultation

Not applicable.

Councillor/Officer Consultation

The Executive Leadership Team, Manager of Major Projects and Senior Property Officer have been involved in the investigations and preparation of this item.

Outcome – Council Meeting 29 September 2015

Cr Jones declared an impartiality interest and remained in the chamber for the duration of discussion and vote on the matter.

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

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

Council Decision 342/15

Council agrees to the removal of the Caveat on 139 Forrest Avenue, Bunbury subject to:

- 1. The terms and conditions as specified in the report; and***
- 2. The applicant to pay all costs associated with the removal of the Caveat.***

CARRIED

13 votes “for” / Nil votes “against”

10.10 Application for Planning Approval for a Proposed Change of Use to Showroom at Unit 4 on Lot 1, 12 Stuart Street, Bunbury (was listed as item 10.4.1 of the Council Agenda)

File Ref:	P09360, DA/2015/157/1
Applicant/Proponent:	Kim Yvette Rossiter
Author:	Anthony Pick, Planning Officer
Executive:	Bob Karaszekewych, Director Planning, Development and Regulatory Services
Attachments:	Appendix DPDRS-1: Strata Plan Appendix DPDRS-2: Location Plan Appendix DPDRS-3: Floor Plan Appendix DPDRS-4: Elevations Appendix DPDRS-5: Submissions

Summary

Planning approval is sought for a change of use at Unit 4 on Lot 1 (Strata Lot 4 on Strata Plan: 11489), #12 Stuart Street, Bunbury, to permit the establishment of a 'showroom' use.

It is understood that the subject site was formerly occupied by Bunbury Performance Parts, which was an automobile parts supply and repair business, but is located within the 'Mixed Business Zone' where a 'showroom' use is a 'P' permitted land use class.

This application is presented to Council for determination due to the:

- * applicant seeking a relaxation to the City of Bunbury Town Planning Scheme No. 7 (the Scheme) regarding an identified shortfall in car parking provision; and
- * City of Bunbury receiving one (1) objection to the proposal.

The Scheme requires a minimum of five (5) car parking bays for the proposed land use. The subject building tenancy has two car parking bays allocated under the Strata Plan (for employee parking) and therefore there is a shortage of three (3) car parking bays.

The building is not considered to be ideally fit for the purposes of a typical showroom use on the basis of its design, limited floor space area and associated lack of car parking. However, the applicant is seeking a concession to the car parking requirement, on the basis that there is a public car park located in close proximity to the subject site that can cater for the expected customer parking demand.

The existing built form, with a nil setback from the lot boundary, restricts the ability to provide car parking on site. As part of the strata subdivision, only two bays were allocated to the premises. Therefore, whatever land use class is proposed to occur, the minimum car parking requirement of the Scheme cannot likely be met without redevelopment.

In taking a risk based approach in order to facilitate the proposal, given that this is an existing development and having due regard to the site's constraints and limitations, the recommendation is to the grant temporary planning approval. A temporary planning approval would then enable the City of Bunbury to monitor the impact of the business on the local road network over time.

Executive Recommendation

That Council:

1. In accordance with the City of Bunbury Town Planning Scheme No. 7, hereby resolves to grant temporary planning approval for the proposed change of use at Unit 4 on Lot 1 (Strata Lot 4 on Strata Plan: 11489), #12 Stuart Street, Bunbury, in order to permit its development and/or use for the purposes of a 'showroom', subject to the following conditions:
 - 1.1 At all times, the development the subject of this temporary planning approval must comply with the definition of 'showroom' as contained in the Schedule 1 of the City of Bunbury Town Planning Scheme No. 7.
 - 1.2 All development shall be in accordance with the approved development plans (attached) which form part of this temporary planning approval.
 - 1.3 This is a temporary planning approval and the development the subject of this temporary planning approval shall cease on 31 October 2017, at which time this approval will expire pursuant to clause 10.6 of the City of Bunbury Town Planning Scheme No. 7 (as amended or revised).
 - 1.4 At all times, all loading and unloading of vehicles must take place on site and within the property boundaries of the subject premises.
 - 1.5 There shall be no display or storage outside of the building.

Advice Notes:

1. The applicant is advised that the proposed non-illuminated signage is exempted under Schedule 9 of the City of Bunbury Town Planning Scheme No. 7, subject to any signage not cumulatively exceeding 10.37m² in total area. The applicant is advised to contact the City of Bunbury's planning department on (08) 9792 7000 if any variation is subsequently proposed.
 2. The development the subject of this temporary planning approval must comply with the requirements of the Health Act 1911.
 3. The development the subject of this temporary planning approval is required to comply with the City of Bunbury Health Local Laws 2001.
 4. The City of Bunbury advises that the development the subject of this temporary planning approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment. Further information can be obtained from the City of Bunbury's environmental health department on (08) 9792 7100.
2. Advise the applicant, landowner and submitters of Council's decision.
 3. Request that monitoring of the site take place on an ad hoc basis and that a summary of incidents be recorded and assessed as part of any renewal or extension of the Development Approval.

Background

The subject site is located on the corner of Stuart Street and Burke Street and comprises one of six strata lots. The strata plan allocates two car parking bays to Unit 4 (Strata Lot 4) in the form of one car port and one open car parking bay. Those bays are internal to the subject site and are to be used for staff parking.

Given the age of the development, the City of Bunbury has no formal record of the previously approved land use. However, the Professionals real estate agency confirmed verbally, that Unit 4 was last being used for 'storage' purposes in association with the adjoining tenancy operated by Bunbury Batteries.

The change of use application presents the proposed new business as an interior garden studio with workspace for design, hire and sales, with storage to the rear.

In addition to the two formal car parking bays allocated on site, it is noted that the verge to the south of the premises has been bituminised. It is clear from the City of Bunbury's aerial mapping that this has been used historically for car parking; however, no approval for this has been formalised.

A location plan showing the subject site and its surrounds together with the strata plan is **attached** at Appendices DPDRS-2 and Appendices DPDRS-1 respectively.

The proposed floor plan and elevation drawing are **attached** at Appendices DPDRS-3 and Appendices DPDRS-4 respectively.

Legislative and Council Policy Compliance

The following statutory planning instruments of the State Planning Framework and Local Planning Policy Framework are applicable to the assessment of this application for planning approval:

- * Planning and Development Act 2005;
- * Greater Bunbury Region Scheme (GBRS);
- * City of Bunbury Town Planning Scheme No. 7 (TPS7); and
- * Local Planning Policy: Landscaping; Access and Access & Parking for Pedestrians, Bicycles and Vehicles.

Officer Comments

The primary consideration is assessed to be the appropriateness of a showroom use on the subject site having regard to the identified shortfall in car parking. Table 2 of the Scheme prescribes that car parking is to be calculated on the basis of 1 car parking bay per 50m² for areas open to the public and used for display, sale or hire; plus 1 bay per 100m² of nla and outdoor areas not open to the public; but with a minimum of not less than 5 bays.

The development provides only two car parking bays and is therefore not compliant with the Scheme requirements. The City of Bunbury is currently reviewing its approach to the requirement for a minimum number of car parking bays on a per tenancy basis. Nevertheless, in this scenario if the minimum requirement were to be removed there would still be a shortfall of at least two car parking bays.

The building was not designed to accommodate a contemporary 'showroom' use due to its lack of car parking provision. Nonetheless, there are a number of premises within the locality that have been developed historically, and in some cases, are unable to satisfy the standards and requirements of the Scheme. As such, it is noted that whatever uses were to occur on the premises, it would not likely be able to satisfy modern Scheme car parking requirements.

In terms of addressing the car parking shortfall for customers it should be noted that there is a public car park located in close proximity of the premises. Despite this fact, reliance upon public car parking should only be supported in exceptional circumstances and where it is clearly not feasible to provide the required number of car parking bays on site. It is noted also that the verge has been bituminised and informal parking of up to four vehicles has occurred over a number of years.

However, as this is an informal arrangement, the City of Bunbury is unable to take account of those bays in the car parking calculation. The matter of formalising and leasing bays to the front of the premises was discussed by the Development Coordination Unit (DCU), but was not considered to be appropriate or feasible.

Should Council support the proposed relaxation through the exercising of discretion under clause 5.5 of the Scheme, in taking a risk based approach to facilitating the proposal, it is recommended that this be granted on the basis of a temporary planning approval for up to two (2) years in accordance with clause 10.6 of the Scheme. This would correlate with the applicant's stated leasing period for the tenancy and would enable the City of Bunbury to monitor the impact of the business on the local road network over time.

Stuart Street was a ONE WAY designated street for the majority of its life. It was widened and converted into a TWO WAY traffic flow in 2012. The verge parking in front of 12 Stuart Street may have been acceptable under a ONE WAY system with lower traffic volumes, but it is now unacceptable with Stuart Street acting as an east-west connector between Blair Street and Spencer Street.

The tenant could also be required to install bollards (or similar) to prevent customers driving across the grass verge and parking on the product display area.

It is not unreasonable to expect customers to park in the adjacent Council- owned Stuart Street Car Park, particularly as there is a concrete footpath which leads from the car park to the premises. This is also the safer option for motorists as it will prevent customers from reversing out onto Stuart Street and potentially causing/being involved in a car collision.

Analysis of Financial and Budget Implications

The application for planning approval relates to a private strata lot, and therefore, the effect of the recommendation has no direct budgetary or financial implications for the City of Bunbury.

Community Consultation

In accordance with clause 5.5 of the Scheme, the City of Bunbury notified surrounding landowners by letter of the proposal for a relaxation to the Scheme's car parking requirements.

In total two (2) submissions were received, one in support and one raising an objection.

The main issue raised by submissions was in relation to the non-compliance with the minimum requirement for car parking bays. The expressed concern is that customers will park in bays dedicated to other strata owners, and hence, encourages the use of the public car park.

A copy of the submissions is **attached** in full at Appendix DPDRS-5.

Councillor/Officer Consultation

The proposal has been referred to the City of Bunbury's Development Coordination Unit (DCU) for professional advice and technical assessment prior to the finalisation of this report.

A number of alternative options were discussed with regards to leasing car parking bays on the verge. However, these were not ultimately considered to be favourable or feasible.

Delegation of Authority

This application for planning approval has been referred to Council for its determination, as a submission objecting to the proposal was received during the public consultation process, and hence, cannot be determined under delegation. Furthermore, a Council decision is sought for the exercising of discretion in relation to the relaxation of car parking requirements under clause 5.7 of the Scheme in accordance with clause 5.5 of the Scheme.

Outcome – Council Meeting 29 September 2015

Cr Steele declared an impartiality interest and remained in the chamber for the duration of discussion and vote on the matter.

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

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

Council Decision 343/15

That Council:

- 1. In accordance with the City of Bunbury Town Planning Scheme No. 7, hereby resolves to grant temporary planning approval for the proposed change of use at Unit 4 on Lot 1 (Strata Lot 4 on Strata Plan: 11489), #12 Stuart Street, Bunbury, in order to permit its development and/or use for the purposes of a 'showroom', subject to the following conditions:**
 - 1.1 At all times, the development the subject of this temporary planning approval must comply with the definition of 'showroom' as contained in the Schedule 1 of the City of Bunbury Town Planning Scheme No. 7.**
 - 1.2 All development shall be in accordance with the approved development plans (attached) which form part of this temporary planning approval.**
 - 1.3 This is a temporary planning approval and the development the subject of this temporary planning approval shall cease on 31 October 2017, at which time this approval will expire pursuant to clause 10.6 of the City of Bunbury Town Planning Scheme No. 7 (as amended or revised).**
 - 1.4 At all times, all loading and unloading of vehicles must take place on site and within the property boundaries of the subject premises.**
 - 1.5 There shall be no display or storage outside of the building.**

Advice Notes:

- 1. The applicant is advised that the proposed non-illuminated signage is exempted under Schedule 9 of the City of Bunbury Town Planning Scheme No. 7, subject to any signage not cumulatively exceeding 10.37m² in total area. The applicant is advised to contact the City of Bunbury's planning department on (08) 9792 7000 if any variation is subsequently proposed.**
 - 2. The development the subject of this temporary planning approval must comply with the requirements of the Health Act 1911.**
 - 3. The development the subject of this temporary planning approval is required to comply with the City of Bunbury Health Local Laws 2001.**
 - 4. The City of Bunbury advises that the development the subject of this temporary planning approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment. Further information can be obtained from the City of Bunbury's environmental health department on (08) 9792 7100.**
- 2. Advise the applicant, landowner and submitters of Council's decision.**
 - 3. Request that monitoring of the site take place on an ad hoc basis and that a summary of incidents be recorded and assessed as part of any renewal or extension of the Development Approval.**

CARRIED

13 votes "for" / Nil votes "against"

10.11 Application for Planning Approval (Revised Floor Plan and Modification to Conditions) at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury, and Change of Use to 'Trade Display' at Lot 74, #33 Denning Road, East Bunbury (was listed as item 10.4.2 of the Council Agenda)

File Ref:	P05437 : DA/2015/111/2
Applicant/Proponent:	Planning Solutions Australia Pty Ltd
Landowner/s:	Citygate Properties Pty Ltd and Regional Property Investments Pty Ltd
Author:	Laura Sabitzer, Senior Planning Officer
Executive:	Bob Karaszekwych, Director Planning, Development and Regulatory Services
Attachments:	Appendix DPDRS-9: Location Plan Appendix DPDRS-10: Development Plans Appendix DPDRS-11: Signage Graphics Appendix DPDRS-12: Applicant's Letter of Supporting Information Appendix DPDRS-13: Applicant's Letter of Supporting Information Appendix DPDRS-14: Council Decision 258/15 (Planning Conditions)

Summary

An application for an amendment to a planning approval to modify and expand the proposed 'SportsPower' at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury, was received on 20 August 2015.

At its ordinary meeting of 21 July 2015, Council resolved to approve an application for a change of use of Unit 3 on Lot 501, #15 Sandridge Road, East Bunbury, to permit a 'SportsPower' store to operate as a 'showroom' use.

The planning approval granted was subject to conditions that were imposed in order to ensure that the retailing activity operated in accordance with the City of Bunbury Town Planning Scheme No. 7 (TPS7) definition of a 'showroom' use, rather than a 'shop' use, which is an 'X' not permitted use in the 'Mixed Business Zone'.

The latest application seeks approval for the following modifications to the previously granted planning approval:

- * To expand the floor space area of the approved 'showroom' use to a total of 1,589m², with an additional 700m² floor space area at the rear of Lot 74, #33 Denning Road, East Bunbury. This rear area connects with Lot 501, Unit 3, #15 Sandridge Road and was formerly the garden centre of the previous tenant ('Mitre 10' hardware store). The applicant has indicated that the additional floor space area is to be: *"An outdoor dynamic showroom area, where customers can try sporting equipment prior to purchase in a controlled and secure environment under the supervision of staff"*.
- * To amend the approved floor plan of Lot 501, Unit 3, #15 Sandridge Road to enable the floor space area available for the retailing of non-bulky goods to increase from 174.8m² to at least 298m². The applicant purports that this is justifiable on the basis that the total floor space area of the tenancy is proposed to expand to 1,589m² and that the previous approval permitted 20% of the floor space area to be used for the display and sale of non-bulky goods.

- * To remove condition (l), which states:
 - (l) *For the purposes of this planning approval, the term ‘bulky (sports) goods’ means an individual good where the weight of the item is more than 10 kilograms or where a normal person would require assistance (i.e. additional person or mechanical assistance) to carry the good, whereas the term ‘incidental accessories and items’ means a good which does not meet the definition of ‘bulky (sports) goods’ and would include but is not limited to the following goods: clothing apparel and shoes, fitness, sports or bike accessories.*
- * To amend the previous planning conditions which referenced floor space areas, to reflect the floor space areas of the proposed revised floor plan.

The use of the 700m² floor space area indicated on the rear portion of Lot 74, #33 Denning Road, East Bunbury, (the former ‘Mitre 10’ garden centre) can reasonably be determined as falling within the type, class or genus of activity of a ‘trade display’ use under the Scheme; and as such, can be approved and operated in accordance with the Scheme definition of ‘trade display’.

However, the proposed amendment to increase the floor space area (in square metres) for the retailing of non-bulky goods should not be supported, as it is considered that this level of non-bulky goods retailing would represent a significant expansion for a distinct ‘shop’ use, which is an ‘X’ not permitted use in the ‘Mixed Business Zone’.

Furthermore, it should be noted there is no onus on the applicant to act on the planning approval granted for the rear of Lot 74, #33 Denning Road, East Bunbury; and therefore, approval of the application as submitted may inadvertently result in a significant increase in the retailing of non-bulky goods outside of an activity centre by other means.

It is recommended that condition (l) of the previous planning approval be retained, as it provides clarity for both the City of Bunbury and the applicant, of the definition of the terms ‘bulky (sports) good’ or ‘incidental accessories and items’ (i.e. a non-bulky good) and establishes demonstrable criteria should any future compliance issues arise.

Therefore, for the reasons outlined above and as discussed in this report, it is suggested that Council conditionally approves the application for planning approval as recommended.

Executive Recommendation

That Council resolves to:

1. Approve the application for planning approval for the proposed amendment to planning approval (revised floor plan and modification to conditions) at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury and for a change of use to 'trade display' at Lot 74 #33 Denning Road, East Bunbury (application reference DA/2015/111/2) in accordance with City of Bunbury Town Planning Scheme No. 7, subject to the following conditions:
 - a. At all times, the development the subject of this planning approval at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury, shall comply with the definition of ‘showroom’ as contained in Schedule 1 of the City of Bunbury’s Local Planning Scheme.

- b. At all times, the development the subject of this planning approval at Lot 74, #33 Denning Road, East Bunbury, shall comply with the definition of ‘trade display’ as contained in Schedule 1 of the City of Bunbury’s Local Planning Scheme.
- c. Prior to the commencement of any works associated with the change of use, a measured and dimensioned floor plan in accordance with the planning condition (e) is to be submitted to the specifications and satisfaction of the City of Bunbury for approval.
- d. The land use and operation of the premises shall be in accordance with the approved floor plan for Lot 501, Unit 3, #15 Sandridge Road, and Lot 74, #33 Denning Road, East Bunbury.
- e. The floor space area associated with the display and sale of ‘other goods’ (non-bulky goods) shall not to exceed 174.8m² in area, and is to be maintained at a level and form that is manifestly ancillary and incidental to the sale of ‘bulky (sports) goods’.
- f. Customers and members of the general public are not to have access to any storage area(s).
- g. The layout of the premises and the activities conducted on the premises are not to be changed from what is shown in the approved floor plan, including discontinuance of any element, without the planning approval of the City of Bunbury.
- h. This approval will expire if the approved development (change of use) has not substantially commenced within two (2) years, from the date of issue of this approval, or within any extended period of time the City of Bunbury has granted prior written consent.
- i. For the purposes of this planning approval, the term ‘bulky (sports) goods’ means an individual good where the weight of the item is more than 10 kilograms or where a normal person would require assistance (i.e. additional person or mechanical assistance) to carry the good; whereas the term ‘other goods’ (non-bulky goods) means a good which does not meet the definition of ‘bulky (sports) goods’ and would include, but is not limited to the following goods: clothing apparel and shoes, fitness, sports or bike accessories.

2. Advise the applicant and landowner of Council’s decision.

Background

This application for an amendment to the existing planning approval was submitted by Planning Solutions Australia Pty Ltd on 20 August 2015 on behalf of SPY Pty Ltd (trading as SportsPower Bunbury), the proposed tenant of the subject premises.

Please refer to the Location Plan **attached** at Appendix DPDRS-9. Proposed development plans and proposed signage graphics are **attached** at Appendices DPDRS-10 and DPDRS-11 respectively. Other letters of supporting information from the applicant are **attached** at Appendices DPDRS-12 and DPDRS-13.

Previous Planning Approval

A previous application for planning approval for a change of use to ‘showroom’ (already approved for Unit 3, #15 Sandridge Road, East Bunbury) was submitted by SPBY Pty Ltd (trading as SportsPower Bunbury) in April 2015, which at its ordinary meeting on 21 July 2015, Council resolved to approve subject to conditions.

The planning approval granted was subject to conditions to ensure that the retailing activity operated in accordance with the Scheme definition of a ‘showroom’ use, rather than a ‘shop’ use, which is an ‘X’ not permitted use in the ‘Mixed Business Zone’.

Please refer to the minutes of Council Decision 258/15 **attached** at Appendix DPDRS-14, for a copy of the existing conditions of planning approval for Unit 3 on Lot 501, #15 Sandridge Road, East Bunbury.

Current Application for Planning Approval

The latest application states that SportsPower Bunbury is seeking planning approval for the retail of sporting goods. Specifically the applicant indicates that: *“The application seeks to expand the approved use – the retailing of sporting equipment and incidental goods – to the whole of the 1,589m² subject tenancy”*.

The latest proposal is for the subject tenancy to be located over two lots:

- * Lot 501, Unit 3, #15 Sandridge Road, East Bunbury; and
- * the rear portion of Lot 74, #33 Denning Road, East Bunbury.

This differs from the previously granted planning approval, which only pertained to Unit 3 on Lot 501, #15 Sandridge Road, East Bunbury.

A summary table of the details relating to the subject lots are as follows:

Property address:	Lot 501, Unit 3, #15 Sandridge Road, East Bunbury	Lot 74, #33 Denning Road, East Bunbury
Land owner: *	Citygate Properties Pty Ltd	Regional Property Investments Pty Ltd
Zoning:	Mixed Business Zone	Mixed Business Zone
Lot area:	3,769m ²	5,200m ²
Proposed development/ land use area:	874m ² approximately	700m ² approximately

*Note: Citygate Properties Pty Ltd and Regional Property Investments Pty Ltd have the same directors.

An aerial photograph showing the boundaries of subject lots and their surrounds is depicted in the Location Plan **attached** at Appendix DPDRS-9.

It is noted that previously the hardware store ‘Mitre 10’ tenanted both Unit 3 on Lot 501, #15 Sandridge Road, and the rear portion of Lot 74, #33 Denning Road, East Bunbury; which was formerly used as the hardware store’s garden centre. As such, the garden centre was accessible from within the hardware store. Approximately 525m² of the 700m² area of the garden centre was unroofed, and the applicant has advised that no changes to existing roofing, or any additional roofing, is proposed with this application.

Legislative and Council Policy Compliance

The following statutory planning instruments of the State Planning Framework and Local Planning Policy Framework are applicable to the assessment of this application for planning approval:

- * Planning and Development Act 2005
- * Greater Bunbury Region Scheme (GBRS)
- * Western Australian Planning Commission's Activity Centre for Greater Bunbury Policy
- * City of Bunbury Town Planning Scheme No. 7 (TPS7).

It should be noted that the supporting information in the letter dated 4 September 2015 from the applicant **attached** at Appendix DPDRS-13 makes references to the new model provisions of the recently gazetted *Planning and Development (Local Planning Scheme) Regulations 2015* (the 'Regulations'). Whilst the new Regulations become effective as of 19 October 2015, the land use terms used in the model provisions of the Regulations are not applicable to this application and are examples of model land use definitions for local governments to consider through a review of their Local Planning Schemes.

Therefore, the statutorily applicable land use definitions relevant to the consideration of this application are those contained in Schedule 1 of the gazetted Scheme and the Western Australian Planning Commission's (WAPC) endorsed Activity Centres for Greater Bunbury Policy (April 2012).

Officer Comments

The following officer comments are provided in relation to the applicant's proposed modifications to the previous planning approval granted by Council on 21 July (Council Decision 258/15).

Use at the rear of Lot 74, #33 Denning Road, East Bunbury

A 700m² area portion of Lot 74, #33 Denning Road, East Bunbury, is proposed to be incorporated into an expanded floor space area for the SportsPower store. The proposed expanded floor space area would constitute 1,589m² in total.

This adjoining rear area connects with Unit 3 on Lot 501, #15 Sandridge Road, East Bunbury, and was developed for the purposes of a garden centre by the previous tenant, the 'Mitre 10' hardware store.

Approximately 525m² of the 700m² rear area is unroofed, and the applicant has advised that no changes to existing roofing, or any additional roofing, is proposed with this application. Nevertheless, the installation of a signage treatment is proposed on the perimeter walls of the rear area.

The applicant has indicated that the rear area at Lot 74, #33 Denning Road, East Bunbury, is to be used as: *"An outdoor dynamic showroom area, where customers can try sporting equipment prior to purchase in a controlled and secure environment under the supervision of staff"*.

The contrived term "dynamic showroom" as described by the applicant is not known to exist as a recognised distinct land use class; and instead, the City of Bunbury considers that this proposal can more reasonably be determined as falling within the type, class or genus of activity of a 'trade display' use as defined under the Scheme. As such, Schedule 1 of the Scheme defines 'trade

display' as meaning a "premises used for the display of trade goods and equipment for the purpose of advertisement", which is a permitted 'P' use in the 'Mixed Business Zone'.

The applicant does not concur with this land use classification, as it is the applicant's view that the retail of sporting goods cannot be described as 'trade goods and equipment' and the sporting goods are not displayed for purposes of advertisements because the sporting goods are only accessible and visible to customers within the premises. Rather, the applicant considers that the activity represents a 'showroom' use.

However, at best the proposed "dynamic showroom" could be considered as a use not listed in the Zoning Table, as Schedule 1 of the Scheme defines 'showroom' as meaning a "premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light facilities, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature".

Consequently, the proposed use of the rear area can be deemed as more readily representing a distinct 'trade display' type of land use activity, as it represents a significant proportion of approximately 44% of the total expanded floor space area dedicated to the display, demonstration and promotion of the products sold in the store. Hence, it is advised that the rear area is capable of approval, subject to the condition that it operates in accordance with the Scheme's definition of 'trade display'.

Revised Floor Plan of Unit 3, #15 Sandridge Road

The applicant seeks to revise the previously approved floor plan of Unit 3 on Lot 501, #15 Sandridge Road, East Bunbury. The floor space area dedicated for the retailing of non-bulky goods is proposed to increase in square metres from 174.8m² to at least 298m². The applicant purports that this is on the basis that the total floor space area of the tenancy is proposed to expand to 1,589m², and that the previous approval permitted 20% of the floor space area to be used for the display and sale non-bulky goods (i.e. clothing, footwear and apparel).

The proposed amendment to increase the floor space area (in square metres) for the retailing of non-bulky sporting goods should not be supported, as it is considered that this level of non-bulky goods retailing represents a significant expansion of a distinct 'shop' use, which is an 'X' not permitted use in the 'Mixed Business Zone'.

Furthermore, it can be observed that some of the items shown on the applicant's revised floor plan as being 'bulky sports equipment' may not reasonably be considered as such. For example, ball bins are shown in the 'bulky sports equipment' section; however a ball, whether it is a basketball or tennis ball, would typically be purchased individually or in small quantities and would not be considered to be bulky goods.

Finally, it should be noted that there is no onus on the applicant to act on the planning approval granted for rear of Lot 74, #33 Denning Road, East Bunbury. Therefore, should the rear area not ultimately be used or retained, but the 20% percentage for the display and sale of non-bulky goods based on the expanded area remain, it would result in at least 33.5% of the floor space area of Unit 3 on Lot 501, #15 Sandridge Road, East Bunbury, being used for the display and sale of non-bulky goods (i.e. as a 'shop' use for the retailing of non-bulky sporting goods). Therefore, approval of this application could represent a significant increase to the retailing of non-bulky goods outside of an activity centre inadvertent by other means.

Removal of Planning Condition

The applicant seeks to also remove condition (I), which was imposed on the previous planning approval. This condition states:

- (I) *For the purposes of this planning approval, the term ‘Bulky (sports) Goods’ means an individual good where the weight of the item is more than 10 kilograms or where a normal person would require assistance (i.e. additional person or mechanical assistance) to carry the good, whereas the term ‘Incidental Accessories and Items’ means a good which does not meet the definition of ‘Bulky (sports) Goods’ and would include but is not limited to the following goods: clothing apparel and shoes, fitness, sports or bike accessories.*

The applicant indicates that condition (I) has, “unintentional consequences for the layout of the proposed SportsPower” and “Condition (I) is superfluous and does not add any value to the remaining 11 conditions” (refer to the supporting information from the applicant **attached** at Appendices DPDRS-12).

It is strongly recommended that condition (I) of the previous planning approval be maintained, as it should not be considered an impost on a genuine ‘showroom’ business, and sets out clarity for both the City of Bunbury and the applicant with respect to the definition of the ‘bulky (sports) good’ and ‘other goods’ (i.e. a non-bulky good) elements. Otherwise, the definitions of the ambiguous terms are open for interpretation, with no set criteria for the proprietor to operate the store in compliance with the conditions of the planning approval.

Specific planning approval conditions have been imposed to ensure that the retailing activity operates in accordance with the Scheme’s definition of a ‘showroom’ use, rather than a ‘shop’ use, which is an ‘X’ not permitted use in the ‘Mixed Business Zone’.

It is reiterated from the previous Council report, that a local government must not approve any ‘X’ use of land under the Scheme. As this may expose the local government to a *writ of certiorari*, should a third party establish through a court that the local government made an error of law when granting an approval or making a decision. A court has discretion about what legal remedy it can provide, but the most likely remedies are a ‘*writ of certiorari*’ (to quash the decision) and a ‘declaration’ (e.g. declaring that a particular legal error was made).

Analysis of Financial and Budget Implications

The application for planning approval relates to private property, and therefore, the effect of the recommendation has no direct budgetary or financial implications for the City of Bunbury.

If the applicant is aggrieved by Council’s decision they may apply for a review of the decision through SAT. If the decision is forwarded to SAT for appeal, the City of Bunbury may incur legal costs.

Community Consultation

The proposal has not been advertised for public comment.

Councillor/Officer Consultation

The proposal has been referred to the City of Bunbury's Development Coordination Unit (DCU) for professional advice and technical assessment prior to the finalisation of this report.

Delegation of Authority

The proposed change of use is referred to Council for determination, as officers of the City of Bunbury do not have delegation to refuse applications for planning approval.

Outcome – Council Meeting 29 September 2015

Cr Prosser declared a proximity interest in the item and left the Chamber at 5:42pm.

Cr Steck declared a proximity interest in the item and left the Chamber at 5:42pm.

Mr Ross Underwood spoke on the Executive Recommendation.

It was noted that prior to the meeting an Alternate Executive Recommendation had been provided by Council Officers to Councillors for consideration, as follows:

That Council resolves to:

1. *Approve the application for planning approval for the proposed amendment to planning approval (revised floor plan and modification to conditions) at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury and for a change of use to 'trade display' at Lot 74 #33 Denning Road, East Bunbury (application reference DA/2015/111/2) in accordance with City of Bunbury Town Planning Scheme No. 7, subject to the following conditions:*
 - a. *At all times, the development the subject of this planning approval at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury, shall comply with the definition of 'showroom' as contained in Schedule 1 of the City of Bunbury's Local Planning Scheme.*
 - b. *At all times, the development the subject of this planning approval at Lot 74, #33 Denning Road, East Bunbury, shall comply with the definition of 'trade display' as contained in Schedule 1 of the City of Bunbury's Local Planning Scheme.*
 - c. *Prior to the commencement of any works associated with the change of use, a measured and dimensioned floor plan in accordance with the planning condition (e) is to be submitted to the specifications and satisfaction of the City of Bunbury for approval.*
 - d. *The land use and operation of the premises shall be in accordance with the approved floor plan for Lot 501, Unit 3, #15 Sandridge Road, and Lot 74, #33 Denning Road, East Bunbury.*
 - e. *The floor space area associated with the display and sale of 'other goods' (non-bulky goods) shall not to exceed 20% of total floor area, in operation at a given time, and is to be maintained at a level and form that is manifestly ancillary and incidental to the sale of 'bulky (sports) goods'.*
 - f. *Customers and members of the general public are not to have access to any storage area(s).*

- g. *The layout of the premises and the activities conducted on the premises are not to be changed from what is shown in the approved floor plan, including discontinuance of any element, without the planning approval of the City of Bunbury.*
 - h. *This approval will expire if the approved development (change of use) has not substantially commenced within two (2) years, from the date of issue of this approval, or within any extended period of time the City of Bunbury has granted prior written consent.*
 - i. *For the purposes of this planning approval, the term 'bulky (sports) goods' means an individual good where the weight of the item is more than 10 kilograms or where a normal person would require assistance (i.e. additional person or mechanical assistance) to carry the good; whereas the term 'other goods' (non-bulky goods) means a good which does not meet the definition of 'bulky (sports) goods' and would include, but is not limited to the following goods: clothing apparel and shoes, fitness, sports or bike accessories.*
 - j. *Before the approved development (change of use) commences, the subject land parcels must be amalgamated into one certificate of title and the new certificate of title issued, with a copy of the new Certificate title provided, to the satisfaction of the City of Bunbury. Or, alternatively the land owner must enter into a legal agreement with the City of Bunbury to secure the amalgamation of the subject land parcels into one certificate of title within a specified time frame. The legal agreement must be at the full cost of the land owner, to the specification of the City of Bunbury's solicitor and to the satisfaction of the City of Bunbury.*
2. *Advise the applicant and landowner of Council's decision.*

The Executive Recommendation with amendment was moved Cr Kelly, seconded Cr Jones.

That Council resolves to:

1. *Approve the application for planning approval for the proposed amendment to planning approval (revised floor plan and modification to conditions) at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury and for a change of use to 'trade display showroom' at Lot 74 #33 Denning Road, East Bunbury (application reference DA/2015/111/2) in accordance with City of Bunbury Town Planning Scheme No. 7, subject to the following conditions:*
 - a. *At all times, the development the subject of this planning approval ~~at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury~~, shall comply with the definition of 'showroom' as contained in Schedule 1 of the City of Bunbury's Local Planning Scheme.*
 - ~~b. *At all times, the development the subject of this planning approval at Lot 74, #33 Denning Road, East Bunbury, shall comply with the definition of 'trade display' as contained in Schedule 1 of the City of Bunbury's Local Planning Scheme.*~~
 - b. *Prior to the commencement of any works associated with the change of use, a measured and dimensioned floor plan in accordance with the planning condition (e) is to be submitted to the specifications and satisfaction of the City of Bunbury for approval.*
 - c. *The land use and operation of the premises shall be in accordance with the approved floor plan for Lot 501, Unit 3, #15 Sandridge Road, and Lot 74, #33 Denning Road, East Bunbury.*
 - d. *The floor space area associated with the display and sale of 'other goods' (non-bulky goods) shall not ~~to~~ exceed ~~174.8m²~~ 20% of the total floor area, in operation at*

a given time, and is to be maintained at a level and form that is manifestly ancillary and incidental to the sale of 'bulky (sports) goods'.

- e. *Customers and members of the general public are not to have access to any storage area(s).*
- f. *The layout of the premises and the activities conducted on the premises are not to be changed from what is shown in the approved floor plan, including discontinuance of any element, without the planning approval of the City of Bunbury.*
- g. *This approval will expire if the approved development (change of use) has not substantially commenced within two (2) years, from the date of issue of this approval, or within any extended period of time the City of Bunbury has granted prior written consent.*
- h. *For the purposes of this planning approval, the term 'bulky (sports) goods' means an individual good where the weight of the item is more than 10 kilograms or where a normal person would require assistance (i.e. additional person or mechanical assistance) to carry the good; whereas the term 'other goods' (non-bulky goods) means a good which does not meet the definition of 'bulky (sports) goods' and would include, but is not limited to the following goods: clothing apparel and shoes, fitness, sports or bike accessories.*

- 2. *Advise the applicant and landowner of Council's decision.*

An amendment to the Motion was moved Cr Cook, seconded Cr Hayward to remove point h:

~~*h. For the purposes of this planning approval, the term 'bulky (sports) goods' means an individual good where the weight of the item is more than 10 kilograms or where a normal person would require assistance (i.e. additional person or mechanical assistance) to carry the good; whereas the term 'other goods' (non-bulky goods) means a good which does not meet the definition of 'bulky (sports) goods' and would include, but is not limited to the following goods: clothing apparel and shoes, fitness, sports or bike accessories.*~~

The Mayor put the amendment to the vote and it was CARRIED 6 votes "for" / 5 votes "against" and was therefore incorporated into the substantive motion:

That Council resolves to:

- 1. *Approve the application for planning approval for the proposed amendment to planning approval (revised floor plan and modification to conditions) at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury and for a change of use to 'trade display showroom' at Lot 74 #33 Denning Road, East Bunbury (application reference DA/2015/111/2) in accordance with City of Bunbury Town Planning Scheme No. 7, subject to the following conditions:*
 - a. *At all times, the development the subject of this planning approval at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury, shall comply with the definition of 'showroom' as contained in Schedule 1 of the City of Bunbury's Local Planning Scheme.*
 - ~~*b. At all times, the development the subject of this planning approval at Lot 74, #33 Denning Road, East Bunbury, shall comply with the definition of 'trade display' as contained in Schedule 1 of the City of Bunbury's Local Planning Scheme.*~~
 - b. *Prior to the commencement of any works associated with the change of use, a measured and dimensioned floor plan in accordance with the planning condition (e)*

is to be submitted to the specifications and satisfaction of the City of Bunbury for approval.

- c. The land use and operation of the premises shall be in accordance with the approved floor plan for Lot 501, Unit 3, #15 Sandridge Road, and Lot 74, #33 Denning Road, East Bunbury.*
- d. The floor space area associated with the display and sale of 'other goods' (non-bulky goods) shall not ~~to~~ exceed ~~174.8m²~~ *20% of the total floor area, in operation at a given time*, and is to be maintained at a level and form that is manifestly ancillary and incidental to the sale of 'bulky (sports) goods'.*
- e. Customers and members of the general public are not to have access to any storage area(s).*
- f. The layout of the premises and the activities conducted on the premises are not to be changed from what is shown in the approved floor plan, including discontinuance of any element, without the planning approval of the City of Bunbury.*
- g. This approval will expire if the approved development (change of use) has not substantially commenced within two (2) years, from the date of issue of this approval, or within any extended period of time the City of Bunbury has granted prior written consent.*

- 2. Advise the applicant and landowner of Council's decision.

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

Council Decision 344/15

That Council resolves to:

1. *Approve the application for planning approval for the proposed amendment to planning approval (revised floor plan and modification to conditions) at Lot 501, Unit 3, #15 Sandridge Road, East Bunbury and for a change of use to 'showroom' at Lot 74 #33 Denning Road, East Bunbury (application reference DA/2015/111/2) in accordance with City of Bunbury Town Planning Scheme No. 7, subject to the following conditions:*
 - a. *At all times, the development the subject of this planning approval, shall comply with the definition of 'showroom' as contained in Schedule 1 of the City of Bunbury's Local Planning Scheme.*
 - b. *Prior to the commencement of any works associated with the change of use, a measured and dimensioned floor plan in accordance with the planning condition (e) is to be submitted to the specifications and satisfaction of the City of Bunbury for approval.*
 - c. *The land use and operation of the premises shall be in accordance with the approved floor plan for Lot 501, Unit 3, #15 Sandridge Road, and Lot 74, #33 Denning Road, East Bunbury.*
 - d. *The floor space area associated with the display and sale of 'other goods' (non-bulky goods) shall not exceed 20% of the total floor area, in operation at a given time, and is to be maintained at a level and form that is manifestly ancillary and incidental to the sale of 'bulky (sports) goods'.*
 - e. *Customers and members of the general public are not to have access to any storage area(s).*
 - f. *The layout of the premises and the activities conducted on the premises are not to be changed from what is shown in the approved floor plan, including discontinuance of any element, without the planning approval of the City of Bunbury.*
 - g. *This approval will expire if the approved development (change of use) has not substantially commenced within two (2) years, from the date of issue of this approval, or within any extended period of time the City of Bunbury has granted prior written consent.*
2. Advise the applicant and landowner of Council's decision.

CARRIED

11 votes "for" / Nil votes "against"

Note: The Executive Recommendation was amended to:

- * Change the use to showroom instead of trade display
- * Ensure that the conditions apply to both lots, rather than specifically Lot 501, Unit 3, #15 Sandridge Road, East Bunbury
- * Change the floor space specification to 20% of the total floor area, in operation at a given time rather than a meterage
- * Remove the reference to a weight when qualifying "bulky (sports) goods" as the inference is that bulky goods are such that an 'average' person would be unable to carry them out of the store

Cr Prosser and Cr Steck returned to the Chambers at 6:11pm.

10.12 Proposed Construction Site Fence Sign, Lot 600 #16 Victoria Street, Bunbury (was listed as item 10.4.3 of the Council Agenda)

File Ref:	P10201-02: DA/2015/245/1
Applicant/Proponent:	Commercial Realty for Rarecoast Pty Ltd
Author:	Bob Karaszekwych, Director Planning Development and Regulatory Services
Executive:	Bob Karaszekwych, Director Planning Development and Regulatory Services
Attachments:	Appendix DPDRS-15: Location Plan Appendix DPDRS-16: Proposed Signage Graphics

Summary

The application is to erect a Construction Site Fence Sign two (2) metres in height by eighty (80) metres in length around the external perimeter of Lot 600 that has a 90.52 metres boundary length located on the corner Victoria and Clifton Streets, Bunbury, for a period of two (2) years.

In the circumstances where Council requires continuing leasing Lot 600 as public car park, the Construction Site Fence Sign represents 'third party' signage, which is contrary to the City of Bunbury Local Planning Policy 3.11 Signage and Advertisements. Usually, a construction site fence sign is erected just prior to the commencement of development of a vacant site.

To grant approval for the proposed signage whilst Lot 600 remains as a public car park may present motorist and public safety and natural surveillance concerns.

Executive Recommendation

That Council:

1. Grant the application for Planning Approval for a Construction Site Fence Sign located on the perimeter of Lot 600, corner Victoria and Clifton Streets, Bunbury, (application reference DA/2015/245/1), in accordance with City of Bunbury Town Planning Scheme No. 7, and the City of Bunbury Local Planning Policy 3.11 Signage and Advertisements, subject to the following conditions:
 - a) The Construction Site Fence Sign shall be in accordance with the approved plans (attached) which form part of this planning approval.
 - b) The removal of all existing 'third party' signs prior to the installation of the Construction Site Fence Sign.
 - c) The Construction Site Fence Sign shall be professionally made, kept clean and maintained free of dilapidation at all times.
 - d) The Construction Site Fence Sign shall not intrude into the road reserve or obstruct pedestrian accessibility of the footpath.
2. Advise the landowner that the City of Bunbury will vacate the subject land on 31 January 2016 discontinuing its use as a public car park.
3. Advise the landowner and applicant of Council's decision.

Background

This application is for a proposed Construction Site Fence Sign, constructed of shade cloth type material to be installed around the perimeter of Lot 600 #16 Victoria Street, Bunbury. The signage is to promote leasing of the recently approved development “Victoria Square” a three storey mixed use development. The applicant has stated that the proposed signage is similar to that currently surrounding the LandCorp Koombana North site.

Please refer to the Location Plan **attached** at Appendix DPDRS-15 and proposed signage graphics **attached** at Appendix DPDRS-16.

The City leases Lot 600 as a public car park. The City originally leased the site for car parking purposes to provide parking during the construction of the BREC extension. The site has not formed part of the City’s parking strategy.

Due to the impending development of the site, the lease has now reverted to a month by month arrangement. Currently the lease payment for the month of October has been paid. Besides monthly lease payments, the City is also responsible for the payment of property rates and maintenance of the property, including the surrounding fence and surveillance and public safety.

In January this year, the City granted temporary planning approval for two (2) advertisements, one fronting Clifton Street and the other fronting Victoria Street. Those signs are regarded as ‘third party’ signs because the subject land is occupied by another entity (the City) and signage does not relate to the use of the land rather the landowner’s business of Halifax Crane Hire.

Legislative Compliance

The following statutory planning instruments are applicable to the assessment of this application for planning approval:

- Planning and Development Act 2005
- City of Bunbury Town Planning Scheme No. 7
- Local Planning Policy 3.11 Signage and Advertisements

Local Planning Policy 3.11 Signage and Advertisements provides control and guidance in relation to the assessment signage applications on zoned land in order to safeguard and enhance the character and amenity of the City. This planning instrument assists decision-makers to make consistent decisions on signage applications. Pursuant to section 2.2 of the Scheme, this Local Planning Policy supplements the provisions of the Local Planning Scheme.

Although the Local Planning Policy is not part of the Scheme and does not bind the local government in respect of any application for planning approval, the local government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

This requirement will be strengthened through the recently gazetted Planning and Development (Local Planning Scheme) Regulations 2015 (the ‘Regulations’). As the new Regulations become

effective as of 19 October 2015, the local government should apply greater weight to the purpose and intended outcomes of the Policy.

Council Policy Compliance

The type of sign proposed would be classed as a “Construction Site Fence Sign” under Local Planning Policy 3.11 Signage and Advertisements.

Policy Extract:

“Construction site fence sign” is an advertisement painted or otherwise affixed flat on a temporary safety fence of a construction site, usually along the boundary or boundaries of that premises.

- Must only display the name or logo of the owner or developer of the construction project and/or of the construction company, and those professionally involved in the design with contact numbers and addresses if required.
- Is a single faced sign.
- Subject to compliance with the maximum total sign face area as given in clause 9.1 of this Local Planning Policy, the sign has a maximum area of one square metre for each metre of the length of the fence to which it is affixed (the area of a construction site fence sign excludes the area of any 'fly poster panel', which may have been designated by the local government for the posting of 'fly poster signs' and the area of any artworks on the fence such as murals).
- Must not be affixed to a fence unless the fence is constructed to withstand the consequent wind loads.



The proposed Construction Site Fence Sign poses variations to the following Policy requirements:

- The sign does not surround a ‘construction site’ rather a ‘public car park’ that the City of Bunbury leases.
- The proposed sign is 160sqm in area, that is, two (2) metres high by eighty (80) metres long. This exceeds the Policy maximum sign face area requirement of 80sqm, that is, one (1) metre high by linear frontage of 80 metres. The proposal seeks two (2) metre high signage which means the maximum length shall be forty metres to arrive at the 80sqm sign face area.

The two (2) metre high advertisement for the length of 80 metres would obscure natural public surveillance of the vehicles within the car park that may also negatively impact on public safety, hence is a departure from Policy.

Officer Comments

Lot 600 is currently leased to the City of Bunbury for the purposes of a public car park. There is concern that the proposed signage attached to the boundary fence will present motorists and pedestrians entering and exiting the lot with sightline difficulties, and prevent passive surveillance of the public car park compounded by poor lighting. The installation of the proposed signage will

likely encourage antisocial behaviour in the public car park area. The City is currently responsible for the maintenance of the car park, including the fence.

The Council may consider continuing a month by month lease of Lot 600 to address any unforeseen requirement for Christmas shopper parking.

Alternatively, if Council determines to continue the lease Lot 600 as a public car park, an alternate executive recommendation with appropriate conditions is provided for consideration.

Alternate Executive Recommendation

Keeping within the framework of the City of Bunbury Local Planning Policy 3.11 Signage and Advertisements, should Council be of a mind to continue leasing Lot 600 as a public car park (until such time the owner commences development, which is mooted to be February 2016) with the construction site fence sign installed, the following recommendation is provided to ensure motorist and public safety and natural surveillance. This requires the sign being reduced in length from the proposed eighty (80) metres to forty (40) metres.

That Council:

1. Grant the application for Planning Approval for a Construction Site Fence Sign located on the perimeter of Lot 600, corner Victoria and Clifton Streets, Bunbury, (application reference DA/2015/245/1), in accordance with City of Bunbury Town Planning Scheme No. 7, and the City of Bunbury Local Planning Policy 3.11 Signage and Advertisements, subject to the following conditions:
 - a) The Construction Site Fence Sign shall not exceed the dimensions of two (2) metres in height by forty (40) metres in length, in accordance with the City of Bunbury Local Planning Policy 3.11 Signage and Advertisements.
 - b) The signage shall be erected such as to ensure visibility to car park to enable passive surveillance to the satisfaction of the City of Bunbury.
 - c) The signage graphic shall be in accordance with modified plans showing the above approved dimensions, and once approved by the City of Bunbury, will form part of this planning approval.
 - d) The removal of all 'third party' signs, prior to the installation of the Construction Site Fence Sign.
 - e) The Construction Site Fence Sign shall be professionally made, kept clean and maintained free of dilapidation at all times to the satisfaction of the City of Bunbury.
 - f) The maintenance of fence and the signage and associated public liability will be the responsibility of the land owner. Prior to the installation of the signage, the lease agreement for the public car park shall be updated, at the land owners cost, to reflect this requirement.
 - g) The Construction Site Fence Sign shall not intrude into the road reserve or obstruct pedestrian accessibility of the footpath.
2. Advise the landowner and applicant of Council's decision.

Analysis of Financial and Budget Implications

The current lease of the above property for a public car park costs \$1937 each month. The City has recently paid property rates of \$7,517. The landowner recently undertook drilling of the bitumen

car park surface to determine the geotechnical soil profile. The result of which required the City to undertake repairs to the bitumen surface, at the City's cost, to avoid any public liability issues. An Invoice has been sent to the landowner.

In 2014, the City received total income of \$37,541 from the Victoria Street car park, with expenditure of \$36,015. Therefore in 2014, the City received \$1,526 net profit from this car parking facility.

It is recommended that the City cease leasing the Victoria Street car park on 31 January 2016. The City originally leased the site for car parking purposes, to provide parking during the construction of the BREC extension. The site has never formed part of the City's parking strategy.

It is expected that vehicles currently using the Victoria Street car park will likely park in other City owned car parking areas in the CBD at no additional operating cost.

Therefore, the income to the City from parking revenue will remain the same, with the annual expenditure of the Victoria Street car park (\$36,015), which includes associated costs of land rates, water, sewerage, leasing fees, real estate management and maintenance costs being saved.

Community Consultation

Not Applicable

Councillor/Officer Consultation

The applicant and landowner have had discussions with the CEO. Officers have been engaged in the review of the application, considered issues and presented options.

Relevant Precedents

No relevant precedents

Outcome – Council Meeting 29 September 2015

The Executive Recommendation with amendment was moved Cr McCleary, seconded Cr Kelly.

That Council:

1. *Grant the application for Planning Approval for a Construction Site Fence Sign located on the perimeter of Lot 600, corner Victoria and Clifton Streets, Bunbury, (application reference DA/2015/245/1), in accordance with City of Bunbury Town Planning Scheme No. 7, and the City of Bunbury Local Planning Policy 3.11 Signage and Advertisements, subject to the following conditions:*
 - a) *The Construction Site Fence Sign shall be in accordance with the approved plans (attached) which form part of this planning approval.*
 - b) *The removal of all existing 'third party' signs prior to the installation of the Construction Site Fence Sign.*
 - c) *The Construction Site Fence Sign shall be professionally made, kept clean and maintained free of dilapidation at all times.*

- d) *The Construction Site Fence Sign shall not intrude into the road reserve or obstruct pedestrian accessibility of the footpath.*

~~2. Advise the landowner that the City of Bunbury will vacate the subject land on 31 January 2016 discontinuing its use as a public car park.~~

23. Advise the landowner and applicant of Council's decision.

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

Council Decision 345/15

That Council:

1. ***Grant the application for Planning Approval for a Construction Site Fence Sign located on the perimeter of Lot 600, corner Victoria and Clifton Streets, Bunbury, (application reference DA/2015/245/1), in accordance with City of Bunbury Town Planning Scheme No. 7, and the City of Bunbury Local Planning Policy 3.11 Signage and Advertisements, subject to the following conditions:***
 - a) *The Construction Site Fence Sign shall be in accordance with the approved plans (attached) which form part of this planning approval.*
 - b) *The removal of all existing 'third party' signs prior to the installation of the Construction Site Fence Sign.*
 - c) *The Construction Site Fence Sign shall be professionally made, kept clean and maintained free of dilapidation at all times.*
 - d) *The Construction Site Fence Sign shall not intrude into the road reserve or obstruct pedestrian accessibility of the footpath.*
2. ***Advise the landowner and applicant of Council's decision.***

CARRIED

13 votes "for" / Nil votes "against"

Note: The Executive Recommendation was amended as Council felt that the City should continue the current leasing arrangements over the subject land.

10.13 Water Playground – Leschenault Inlet Construction Tender (was listed as item 10.5.4 of the Council Agenda)

File Ref:	RFT1516 - 00002
Applicant/Proponent:	Internal – City of Bunbury
Author:	David Russell, Senior Contracts and Procurement Officer
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix CRUSC-1: Evaluation Report RFT1516-00002

Summary

Tenders for the detailed design and superintendency service for the Water Playground – Leschenault Inlet have been received and Council is requested to appoint the preferred Tenderer as the design consultant.

Executive Recommendation

That Council:

1. Endorse Josh Byrne and Associates as the preferred tenderer for the lump sum of \$350,270 inclusive of sub consultancies excluding GST for the detailed design.
2. Authorise the Chief Executive Officer to enter into a contract with Josh Byrne and Associates for the detailed design and subsequent superintendency services when Council enters into a construction contract

Background

Following Council Decision 203/15 made on 9 June 2015 endorsing the advertisement of the tender for the detailed design of the Water Playground – Leschenault Inlet, relevant tender documents were prepared and released.

The tender was advertised in the West Australian and the Bunbury South West Times newspapers on 5 and 6 August 2015 respectively. The tender document was made available via www.tenderlink.com/bunbury/.

A total of 143 suppliers viewed the advertisement, 56 companies downloaded the documentation, 12 companies attended the mandatory tender briefing and at closing three (3) responses was received from:

1. **Josh Byrne and Associates** – PO Box 1866, Fremantle WA 6959
2. **Epcad Pty Ltd** – PO Box 1233, West Perth WA 6872
3. **Ecoscape Australia Pty Ltd** – PO Box 50, North Fremantle WA

An evaluation panel comprising internal staff evaluated the responses as follows:

- Director Works and Services
- Engineering Technical Officer
- Manager Major Projects
- Senior Building and Structures Officer

- Senior Contracts and Procurement Officer (non-voting/chairperson)

The tenders were evaluated using the following criteria:

Compliance Criteria – Yes / No answers

Qualitative Criteria weighting

1. Relevant Experience - 25%
2. Key Personnel Skills and Experience – 25%
3. Tenderer's Resources – 15%
4. Demonstrated Understanding – 35%

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

Council Policy Compliance

Tendering for goods and services is conducted in accordance with:

- Purchasing Local Preferences Policy
- Access and Inclusion Policy

Legislative Compliance

Advertising and processing of tenders was conducted in accordance with:

- *Local Government (Functions and General) Regulations 1996, Part 4 Tender for Providing Goods or Services*
- *Local Government Act 1995*

Delegation of Authority

The cost of this procurement exceeds the Chief Executive Officer's level of authority, therefore it has been dealt with in accordance with *Local Government (Functions and General) Regulations 1996* (Part 4 - Tenders for Providing Goods or Services).

Officer Comments

All members of the evaluation panel have signed a declaration of confidentiality and interest to ensure probity. Full details of the tender process are detailed in the Tender Evaluation Report.

Analysis of Financial and Budget Implications

The summary of expenditure to date for Project PR-2578 is detailed below:

Financial Year	Budgeted Amount	Actual
2013/14	\$10,805	\$10,805
2014/15	\$30,100	\$30,100
2015/16	\$189,679	\$6,557**
TOTAL	\$230,584	\$47,462

The amount of budgeted funds available for the completion of this project is \$183,122 excluding GST.

The detailed design lump sum inclusive of sub consultancies is \$350,270 excluding GST.

The superintendency service of \$68,252 is a separable component that would be required when Council enters into the construction phase and funded from the construction project PR -2768.

Community Consultation

There has been extensive consultation prior to the preparation of the concept designs by Josh Byrne and Associates with the completed concepts placed on the City website and Facebook.

Councillor/Officer Consultation

The concepts were presented to Council on 12 May 2015. The project team included Cr Morris, Cr Steele and Cr McNeill.

Outcome – Council Meeting 29 September 2015

Cr Jones declared an impartiality interest and remained in the chamber for the duration of discussion and vote on the matter.

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

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

Council Decision 346/15

That Council:

- 1. Endorse Josh Byrne and Associates as the preferred tenderer for the lump sum of \$350,270 inclusive of sub consultancies excluding GST for the detailed design.***
- 2. Authorise the Chief Executive Officer to enter into a contract with Josh Byrne and Associates for the detailed design and subsequent superintendency services when Council enters into a construction contract***

CARRIED

11 votes "for" / 2 votes "against"

Cr Steck asked that her name be recorded as voting "against".

11. Applications for Leave of Absence

No requests for Leave of Absence had been received at the time of printing.

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

It is requested that this matter be dealt with as urgent business as an offer has been made to the new Director Works and Services and the Chief Executive Officer is providing this advice in accordance with the provisions of the Local Government Act 1995.

Recommendation

That Council pursuant to section 5.4 of Councils Standing Orders, agree to receive the item 14.1 entitled *“Appointment of New Director Works and Services”* as a matter of urgent business.

Outcome – Council Meeting 29 September 2015

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

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

Council Decision 347/15

That Council pursuant to section 5.4 of Councils Standing Orders, agree to receive the item 14.1 entitled “Appointment of New Director Works and Services” as a matter of urgent business.

CARRIED

13 votes “for” / Nil votes “against”

14.1 Appointment of New Director Works and Services

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

Summary

In accordance with the provisions of the Local Government Act 1995, the Chief Executive Officer is to advise Council in relation to the appointment or dismissal of designated senior staff. The Chief Executive Officer briefed the Council on this matter following the Ordinary Meeting of 15 September 2015. This report provides advice to Council in relation to the appointment of the Director Works and Services.

Executive Recommendation

That Council note decision of the Chief Executive Officer to appoint Mr Gavin Harris as the Director Works and Services effective from 14 December 2015.

Background

Following the resignation of the Director Works and Services, quotes were called for recruitment consultants to assist in the recruitment process. As an outcome of this process, Lo-Go Appointments were selected to assist in the process. Advertising was through a national search process and interviews for the position were undertaken. The interview panel comprised the Chief Executive Officer, Director Works and Services and the Recruitment Consultants.

Council Policy Compliance

The process complied with all Council policies and procedures relating to recruitment and selection including the principles of merit based appointments.

Legislative Compliance

Local Government Act 1995 – section 5.37 (2) *The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.*

Officer Comments

A total of 10 applications were received which met the selection criteria which was shortlisted down to five based on knowledge, skills and relevant experience.

Prior to the interviews, the consultants undertook referee and qualification checks to ensure a decision could be made following the interviews.

Analysis of Financial and Budget Implications

Funding for the appointment is included in the 2015/16 budget and is consistent with the approved workforce plan.

Community Consultation

Not applicable.

Councillor/Officer Consultation

This report brings the matter to the attention of elected members.

Outcome – Council Meeting 29 September 2015

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

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

Council Decision 348/15

That Council note decision of the Chief Executive Officer to appoint Mr Gavin Harris as the Director Works and Services effective from 14 December 2015.

CARRIED

13 votes “for” / Nil votes “against”

Cr Hayward ended his telephone linkup at 6:25pm.

15. Meeting Closed to Public

15.1 *Matters for which the Meeting may be Closed*

The report for consideration is 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 items titled:

15.1.1 titled "*Lot 361 Geographe Way Withers*"

15.1.2 titled "*Chief Executive Officer Performance Review*"

The motion was moved Cr Steele seconded and Cr McCleary.

The Mayor put the motion to the vote and it was CARRIED 12 votes "for" / Nil votes "against". The meeting was closed to all members of the public and press at 6:25pm.

15.1.1 Lot 361 Geographe Way, Withers

Applicant/Proponent:	Southern Districts Estate Agency
Responsible Officer:	Felicity Anderson, Manager Major Projects
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CRUSC-2-1: Location Plan Appendix CRUSC-2-2: Landgate Valuation Report

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-2). The report is not for circulation.

Outcome – Council Meeting 29 September 2015

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

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

Council Decision 349/15

That Council accept the offer of \$145,000 with the City to remove vegetation prior to settlement and subject to the required advertising and compliance with s3.58 of the Local Government Act 1995.

CARRIED

12 votes “for” / Nil votes “against”

The meeting was closed to council officers at 6:37pm.

15.1.2 Chief Executive Officer Performance Review

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

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-3). The report is not for circulation.

Outcome – Council Meeting 29 September 2015

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

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

Council Decision 350/15

- 1) ***The CEO salary be increased by 1.5% from \$228,461.64 to \$231,888.56 effective from 1 March 2015.***
- 2) ***The CEO employment package to be comprised of:***
 - * ***Salary \$231,888.56 (previously \$228,461.64)***
 - * ***Motor Vehicle \$18,500 (unchanged)***
 - * ***Superannuation 12.5% (percentage unchanged)***
 - * ***Annual Leave 5 weeks (unchanged)***
 - * ***Conference attendance \$7,000 (unchanged)***
- 3) ***That matter of the CEO contract be further considered prior to March 2016.***

CARRIED

12 votes “for” / Nil votes “against”

15.2 Public Reading of Resolutions that may be made Public

Cr Steele moved Cr Kelly seconded that the meeting be reopened to the public and press.

The Mayor put the motion to the vote and it was CARRIED 12 votes “for” / Nil votes “against”.

The meeting was reopened to the council officers, public and press at 6:35pm.

The Mayor read aloud Council Decision 348/15 for “*Lot 361 Geographe Way Withers*”:

That Council accept the offer of \$145,000 with the City to remove vegetation prior to settlement and subject to the required advertising and compliance with s3.58 of the Local Government Act 1995.

The Mayor read aloud Council Decision 349/15 for “*Lot 361 Geographe Way Withers*”:

- 1) ***The CEO salary be increased by 1.5% from \$228,461.64 to \$231,888.56 effective from 1 March 2015.***
- 2) ***The CEO employment package to be comprised of:***
 - * ***Salary \$231,888.56 (previously \$228,461.64)***
 - * ***Motor Vehicle \$18,500 (unchanged)***
 - * ***Superannuation 12.5% (percentage unchanged)***
 - * ***Annual Leave 5 weeks (unchanged)***
 - * ***Conference attendance \$7,000 (unchanged)***
- 3) ***That matter of the CEO contract be further considered prior to March 2016.***

16. Closure

The meeting was declared closed at 6:35pm.