



Bunbury City Council

Notice of Meeting and Agenda 13 October 2015



CITY OF BUNBURY

4 Stephen Street
Bunbury WA 6230
Western Australia

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Nature of Council's Role in Decision Making

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

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

Bunbury City Council Notice of Meeting

The next Ordinary Meeting of the Bunbury City Council will be held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 13 October 2015 at 5.30pm.



Andrew Brien
Chief Executive Officer
(Date of Issue: 9 October 2015)

Agenda

13 October 2015

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

Council Members:

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

1. Declaration of Opening / Announcements of Visitors

2. Disclaimer

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

3. Announcements from the Presiding Member

4. Attendance

4.1 *Apologies*

4.2 *Approved Leave of Absence*

Cr McNeill is on approved leave of absence from all Council-related business from 9 October 2015 to 17 October 2015 inclusive.

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 Prosser declared an impartiality interest in the item titled *“10.4.2 Retrospective Building Permit for Retaining Walls not Built in Accordance with Approved Plans on Lot 19 (#2) Sampson Road, Bunbury”* as his family owns properties in Picton Crescent, 20A Picton Crescent and 22 Picton Crescent. Cr Prosser will remain in chamber for the duration of 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

6.2 Responses to Public Questions Taken ‘On Notice’

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

7.1 Minutes

7.1.1 Minutes – Ordinary Council Meeting

The minutes of the Ordinary meeting of the Bunbury City Council held 29 September 2015 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 29 September 2015 be confirmed as a true and accurate record.

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

Applicant/Proponent:	Internal Report
Responsible Officer:	Various
Executive:	Various
Attachments:	Appendix MTBN-1 – Youth Advisory Council Committee Minutes 09/09/2015

Summary

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

1. Title: Youth Advisory Council Committee Minutes 09/09/2015
Author: Elle Dixon, Community Development Officer
Appendix: MTBN-1

Council Committee Recommendation

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

1. Youth Advisory Council Committee Minutes 09/09/2015

8. Petitions, Presentations, Deputations and Delegations

8.1 *Petitions*

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

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

8.2 *Presentations*

8.3 *Deputations*

8.4 *Council Delegates' Reports*

8.5 *Conference Delegates' Reports*

9. Method of Dealing with Agenda Business

10. Reports

10.1 *Recommendations from Advisory Committees*

Nil

10.2 Chief Executive Officer Reports

10.2.1 Reporting of Council Policy – Infringement Withdrawal – Requests received

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

Summary

At the Council Meeting held 8 July 2014, Council adopted Council Policy: Infringement Withdrawal.

The purpose of this report is for Council to be informed of any requests received, and the outcomes of each, relating to infringement withdrawal for Councillors or Council Officers.

Executive Recommendation

That in accordance with the Council Policy “Infringement Withdrawal”, Council notes that one (1) request from a Council Officer for the withdrawal of infringements was received and the outcome of the requests determined that the infringement notice be withdrawn.

Background

As part of the decision-making for item 15.1.2 Withdrawal of Parking Infringements at the Ordinary Council meeting held on 6 August 2013, Council resolved (Decision 253/13) as follows:

“That Council will develop a policy whereby any request to withdraw or otherwise alter an infringement notice issued to a City of Bunbury staff member or Elected Members by the City of Bunbury will be referred to the Council.”

The Policy Review and Development Committee considered this draft policy at its meeting held on 19 June 2014, which was subsequently adopted by Council at the meeting of 8 July 2014.

Council Policy Compliance

This report is in accordance with Council Policy: Infringement Withdrawal.

Legislative Compliance

Division 2 of Part 9 of the *Local Government Act 1995* deals with Enforcement and Legal Proceedings.

Section 9.10 of the Act enables a local government to appoint authorised persons to perform particular functions. The City’s local laws define an authorised person as a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under the local law.

Officer Comments

Council's Policy requires that Council be informed of any decisions made to withdraw an infringement issued under any of the City's local laws, where the application for withdrawal was made by an Elected Member or City Officer.

The City received an appeal from a staff member to withdraw one (1) infringement received on 8 September 2015. The staff member had parked in a paid carpark and was walking out of the carpark and paying for the day's parking by phone. Both the payment transaction and the issue of the infringement occurred at 9.01am.

It is the practice of the issuing officer to check the parking machine prior to issuing an infringement however as this payment was made via PayStay (pay-by-phone), the person was not at the parking machine.

The outcome of the investigation was that the infringement has been withdrawn.

Analysis of Financial and Budget Implications

There are no financial or budgetary implications arising from this report.

Community Consultation

There is no community consultation impacting on this report.

Councillor/Officer Consultation

This report emanates from compliance with Council's policy on the matter.

10.2.2 Financial Management Report for the Period Ending 31 August 2015

Applicant/Proponent:	Internal Report
Responsible Officer:	David Ransom, Manager Finance
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-1: Statement of Comprehensive Income Appendix CEO-2: Statement of Financial Activity Appendix CEO-3: Statement of Net Current Assets Appendix CEO-4: Capital Works Expenditure Summary Appendix CEO-5: Operating Project Summary

Summary

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

1. Statement of Comprehensive Income (**attached** at Appendix CEO-1)
Actual Financial Performance to 31 August 2015
 - Actual income of \$41.84M is \$235K greater than the year-to-date budgeted income of \$41.61M.
 - Actual expenditure of \$6.60M is \$420K less than the year-to-date budgeted expenditure of \$7.02M (refer explanation within the report).
 - Actual operating surplus of \$35.25M is \$655K less than the year-to-date budgeted operating deficit of \$34.59M.
2. Balance Sheet year-to-date and forecast balances are currently not available until the end of year audit for 2014/15 has been completed and the financial system rolled-over to 2015/16. A balance sheet will be provided with the October 2015 Financial Statements.
3. Capital Works (**attached** at Appendix CEO-4)
 - Actual capital works of \$1.28M is \$276K less than the year-to-date budgeted capital works of \$1.55M, (refer explanation within report).
4. Operating Project Expenditure (**attached** at Appendix CEO-5)
 - Actual operating project expenditure of \$221K is \$118K less than the year-to-date budgeted operating project expenditure of \$339K, (refer explanation within report).

Executive Recommendation

The Financial Management Report for the period ending 31 August 2015 be received.

Background

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

- Statement of Comprehensive Income (**attached** at Appendix CEO-1)
- Statement of Financial Activity (**attached** at Appendix CEO-2)
- Statement of Net Current Assets (**attached** at Appendix CEO-3)
- Capital Works Expenditure Summary (**attached** at Appendix CEO-4)
- Operating Projects Summary (**attached** at Appendix CEO-5)

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

Council Policy Compliance

Not applicable.

Legislative Compliance

In accordance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996, a Local Government is to prepare each month a Statement of Financial Activity (**attached** at Appendix CEO-2) reporting on the revenue and expenditure as set out in the annual budget under Regulations 22 (1) (d) for this month.

Officer Comments

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

Statement of Comprehensive Income	YTD Actual to Budget Variance
Operating Income	
The Total Operating Income variance between actual and budget-to-date is a favourable variance of \$235,116. There are a number of income items that have a minor actual variance above or below budget-to-date due to the timing of the receipt of income.	\$235,116 0.56%
Rates <i>Rates Interim Income</i> – Higher than anticipated interim rates have been raised on commercial and industrial property improvements. A forecast change has been applied to adjust in the October Budget Review.	\$33,711 0.1%
Contributions, Reimbursements and Donations <i>Reimbursement Income</i> – Favourable year-to-date variance of \$29,465 is mainly due to Workers Compensation reimbursements being received of \$26K which is offset by employee costs.	\$25,688 26%
Fees and Charges <i>Building and Planning Fee Income</i> – Favourable year-to-date variance of \$73,725 is mainly due to a public open space fee of \$80K charged on a future subdivision.	\$179,515 3%
Operating Expenditure	
The Total Operating Expenditure variance between actual and budget-to-date is a favourable variance of \$419,501. There are a number of expenditure items that have a minor actual variance above or below budget-to-date due to the timing of expenditure.	\$419,501 6%
Materials and Contracts <i>Material Expenses</i> – Favourable year-to-date variance of \$116,203, mainly due to the timing of expenditure. This will be monitored on a monthly basis.	\$319,592 16%

<i>Consultants Expense</i> – Favourable year-to-date variance of \$57,097 mainly due to the timing of Operating Projects. Please refer to the Operating Expenditure Report for project details. This will be monitored on a monthly basis.	
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Statement of Financial Activity	YTD Actual to Budget Variance
Operating Revenues	
See explanation above included in the Statement of Comprehensive Income variances.	\$201,405 2.6%
Operating Expenses	
See explanation above included in the Statement of Comprehensive Income variances.	\$419,501 6%
Capital Expenses	
Acquisition of Assets – Variance due to delay in progress of various projects. Refer to Capital Expenditure report for project details.	\$275,670 18%

Analysis of Financial and Budget Implications

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

Community Consultation

There is no requirement for community consultation on this report.

Councillor/Officer Consultation

Council’s Executive Leadership Team, Department Managers and Finance staff monitor the City’s monthly revenue and expenditure and (as required) refers any variances requiring remedial action to Council.

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

10.2.3 Petition Report – 89 Beach Road

Applicant/Proponent:	Internal Report
Responsible Officer:	Felicity Anderson, Manager Major Projects
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-6

Summary

At the Council Meeting held 29 September 2015, Council Decided (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.

The petition is **attached** at Appendix CEO-6.

Executive Recommendation

That Council:

1. Acknowledge the petition;
2. Note the petition will be considered as a submission to the consultation process for the proposed rezoning and sale Lot 21 #89 Beach Road; and
3. Request the Responsible Officer advise the respondents to the petition of Council Decision.

Background

Councillor Steck tabled a petition which contained 463 signatures representing the residents of Bunbury noting their objection to changing the zoning of Lot 21 #89 Beach Road Bunbury.

33 signatories identified themselves as non-Bunbury residents.

The petition is in response to Council decision 171/15 of the 26 May 2015 where it was decided:

“That Council:

1. *Acknowledges comment made through submissions provided by the residents and land owners in the immediate area;*
2. *In accordance with the Planning and Development Act 2005, resolves to initiate a scheme amendment to the City of Bunbury Town Planning Scheme No. 7 by amending the Scheme Map by rezoning Lot 21 #89 Beach Road Bunbury, from ‘Parks and Recreation Reserve’ to ‘Residential Zone’ with an R-Code density of ‘R15’, in accordance with the draft Amending Pages and Amendment Map attached at Appendices CEO-5 and CEO-6.*
3. *Instructs City of Bunbury officers to prepare scheme amending documentation to accompany the proposal;*

4. *Advise the Western Australian Planning Commission (WAPC) of Council’s decision to initiate the proposed scheme amendment and provide the Commission with a copy of the scheme amending documentation prior to proceeding to public advertising;*
5. *Refer a copy of the proposed scheme amendment documentation to the Environmental Protection Authority (EPA) and any other relevant public authority, for consideration and comment;*
6. *Subject to formal assessment not being required by the EPA and no objection received from the WAPC, proceed to advertise the proposed scheme amendment for public comment with a submission period of not less than forty two (42) days;*
7. *Further consider the proposal together with any public submissions lodged with the City of Bunbury following the conclusion of the statutory public advertising period.”*

Council Policy Compliance

There is no policy applicable to the acknowledgement of this petition.

Legislative Compliance

There is no legislative compliance applicable to the acknowledgement of this petition.

Analysis of Financial and Budget Implications

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

Community Consultation

Prior to the commencement of the process for rezoning a public meeting was held at the Big Swamp Wildlife Park at which time matters of concern were raised by members of the public and were considered by Council. Following the Council decision 117/15 the proposed rezoning of Lot 21 #89 Beach Road was publically advertised. Public submissions closed Wednesday 23 September 2015.

Councillor/Officer Consultation

Not applicable.

10.2.4 South West Regional Waste Group

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

Summary

The South West Regional Waste Group met on 30 September to discuss the Talis Report and consider options in relation to the key recommendations from the report. This report provides an update to elected members and provides a number of recommendations for consideration by Council.

Executive Recommendation

That Council authorise the Chief Executive Officer to implement the recommendations as approved by the South West Waste Management Group including the allocation of appropriate funding.

Background

Council previously considered the recommendations in the Talis Report and adopted the following recommendations:

City of Bunbury Council Decision 303/15 stated:

That Council:

- 1. Notes the South West Regional Waste Management Strategy provided by Talis Consultants.*
- 2. Provides in principle endorsement of the recommendations contained in the South West Regional Waste Management Strategy, noting that any financial commitment decisions will be returned to Council for determination.*
- 3. Agrees to its continued involvement in identifying a regional solution for waste management in the medium to longer term via the South West Group.*
- 4. Commits to reducing waste to landfill to less than 25% by 2025.*

Council Policy Compliance

Not applicable

Legislative Compliance

Not applicable

Officer Comments

Each of the local governments within the South West attended the meeting held on 30 September and discussed the priority actions from the Talis Report. The key recommendations are as outlined below:

- 1) That each member of the South West Group agrees to continue with contributions calculated via the percentage breakdown to be recalculated as per the 2015/16 Rate Revenue.
- 2) That the South West Regional Waste Management Group progress with the following recommendations as a priority - Undertake a Regional Landfill Site Selection Study which will specifically include the three locations identified by the Group.
- 3) That the Group advise the Department of Regional Development that the milestones will not be met and put forward an alternative proposal in relation to regional waste management.
- 4) That the project management for the South West Waste Group be handed over the City of Busselton.

Analysis of Financial and Budget Implications

The preliminary funding estimate for recommendation two was in the order of \$20,000 to be split across all the participating local governments. Funding is available within the Waste Budget to cover the additional costs associated with the recommendations within this report.

Community Consultation

There is no requirement for community consultation in relation to this matter.

Councillor/Officer Consultation

Councillors were provided a summary of the key recommendations in the Talis Report and the Mayor and Chief Executive Officer attending the regional meeting.

10.3 Director Corporate and Community Services

Nil.

10.4 Director Planning, Development and Regulatory Services Reports

10.4.1 Peron Naturaliste Partnership Memorandum of Understanding

File Ref:	A06372
Applicant/Proponent:	Internal Report
Responsible Officer:	Ben Deeley, Team Leader Sustainability and Environmental Planning
Executive:	Bob Karaszekewych, Director Planning, Development and Regulatory Services
Attachments:	Appendix DPDRS-1: PNP MoU document Appendix DPDRS-2: PNP Key Achievements

Summary

On 25 March 2015, the Peron Naturaliste Partnership became an incorporated association.

In light of the Peron Naturaliste Partnership's new status, a draft Memorandum of Understanding (MoU) has been prepared in order to clearly outline the expectations of the participating local governments and the Peron Naturaliste Partnership Inc., their respective roles and responsibilities and the associated governance and working arrangements.

It is proposed that the Council, inter alia, enters into the MoU with the Peron Naturaliste Partnership Inc. and its member local governments.

Executive Recommendation

That Council:

1. Acknowledges the incorporation of the Peron Naturaliste Partnership;
2. Endorses the City of Bunbury entering into a "Memorandum of Understanding" with the Peron Naturaliste Partnership Inc. and its member local governments.

Background

In March 2011, the Cities of Bunbury, Busselton, Mandurah and Rockingham and the Shires of Capel, Dardanup, Harvey, Murray and Waroona signed an MoU in order to create the Peron Naturaliste Partnership, as a collaborative local government approach towards the issue of climate change adaptation.

The Peron Naturaliste Partnership's vision statement and objectives are:

Vision Statement

The vision of the Peron Naturaliste Partnership is to empower a resilient regional community to reduce risks and optimise opportunities presented by climate change.

Goals/Objectives

The overall objective of the Peron Naturaliste Partnership is to provide a regional mechanism to facilitate effective and timely adaptation responses to climate change.

Specific objectives to achieve the vision and overall objectives are to:

- * demonstrate regional leadership to support effective advocacy at all levels of government
- * facilitate access to data and information relevant to the Peron Naturaliste area coastal zone
- * adopt a regional approach to the preparation of applications for grants and other submissions to support timely adaptation responses to climate change
- * promote consistent information to coastal communities and decision makers about vulnerability and risk and adaptation strategies
- * share local knowledge and experience to support and inform appropriate adaptation responses
- * to collaborate over the management implications of the risk to life and property caused by climate change.

A second MoU, for the 2013-2015 period, was signed by the member local governments in February 2013.

On 25 March 2015, the Peron Naturaliste Partnership became an incorporated association.

A draft MoU has been prepared in order to clearly outline the expectations of the participating local governments and the Peron Naturaliste Partnership Inc., their respective roles and responsibilities and the associated governance and working arrangements, in light of the Peron Naturaliste Partnership's new status.

The draft MoU is **attached** at Appendix DPDRS-1.

On 5 June 2015, the inaugural General Meeting of the Peron Naturaliste Partnership Board of Governors was held. At the meeting, Shire of Harvey President Councillor Tanya Jackson was elected as interim Chairperson and City of Mandurah Councillor Caroline Knight was appointed as interim Deputy Chairperson (N.B. the two positions will be formally elected at the Annual General Meeting, which is proposed to be held on 2 October 2015).

Council Policy Compliance

Nil

Legislative Compliance

Section 1.3 (3) of the *WA Local Government Act 1995* states *"In carrying out its functions, a local government is to use its best endeavours to meet the needs of current and future generations through integration of environmental protection, social advancement and economic prosperity"*.

The executive recommendation is in keeping with the *Act*, as it seeks to support efforts to address projected climate change impacts in the region, which may ultimately be significant based on available scientific research (e.g. coastal inundation).

Officer Comments

The Peron Naturaliste Partnership is recognised nationwide as an example of an effective, local government-led approach towards climate change adaptation. It has successfully completed a range of initiatives to date, including:

- * the development of regional hazard mapping, an economic-based regional analysis of adaptation options and detailed case studies;
- * the development of a coastal adaptation community awareness plan;
- * the organisation and facilitation of community workshops; and
- * the receipt of grant funding from the federal and state governments.

Current initiatives include the development of a standardised approach to coastal monitoring across the region and the preparation of the Shire of Harvey Coastal Hazard Risk Management Adaptation Plan.

The proposed MoU is an important instrument as it serves to clearly outline the expectations of the participating local governments and the Peron Naturaliste Partnership Inc., their respective roles and responsibilities and the associated governance and working arrangements.

The proposed MoU is non-legally binding. Also, whilst it does not currently have an end date, it will be formally reviewed within two (2) years to determine if it is still relevant and members may withdraw at any time by providing at least 21 days' notice in writing, if deemed necessary.

A list of Peron Naturaliste Partnership's key achievements from 2011 – 2015 are **attached** at Appendix DPDRS-2.

Analysis of Financial and Budget Implications

Whilst the MoU is not legally binding, it reaffirms the commitment of each member local government to make a financial contribution towards the operation of the Peron Naturaliste Partnership.

The City of Bunbury's annual contribution towards the Peron Naturaliste Partnership is typically in the order of \$13,500 ex. GST. The City's 2015/16 contribution was \$13,119+GST.

Community Consultation

No specific community consultation has occurred in relation to the executive recommendation. However, the City of Bunbury has produced a number of media releases and website updates over the course of its involvement with the Peron Naturaliste Partnership.

Councillor/Officer Consultation

Cr Murray Cook and Cr Brendan Kelly (proxy) are the appointed Council representatives on the Peron Naturaliste Partnership Board.

The CEO and Executive Leadership Team and Manager Sustainability, Planning and Development have been consulted in relation to this matter.

10.4.2 Retrospective Building Permit for Retaining Walls not Built in Accordance with Approved Plans on Lot 19 (#2) Sampson Road, Bunbury

File Ref:	Building Permit B/31678
Applicant/Proponent:	Mathew and Sonia Lowe
Author:	Murray Borthwick, Building Surveyor
Executive:	Bob Karaszekwych, Director Planning, Development and Regulatory Services
Attachments:	Appendix DPDRS-1: Original Street Front Retaining Wall Concept Plan Appendix DPDRS-2: Building Plans for Original Approved Building Permit B/31678/1 Appendix DPDRS-3: Building Plans for Retrospective Building Permit B/32628/1

Summary

This application is for the retrospective approval of retaining walls that have not been built in accordance with approved plans and the building of additional retaining walls without approval (Building Permit B/32628/1).

Executive Recommendation

That Council grants approval for the issuing of Building Permit B/32628/1, in order to enable the retrospective approval of constructed retaining walls not built in accordance with the originally submitted building plans of Building Permit B/31678/1, approved on 30 April 2014, at Lot 19 on Deposited Plan: 803 (street address #2) Sampson Road, Bunbury.

Background

A Building Permit application was made for the proposed construction of retaining walls to the street-front and side boundary of Lot 19 (#2) Sampson Road, Bunbury, by the landowner on 23 April 2014.

The original street-front retaining wall concept (refer to 3D view **attached** at Appendix DPDRS-1) was asked to be modified in order to reduce the bulk of the wall presented to the streetscape and to provide safer access to the neighbour's driveway. These changes were made to the plans in order to allow approval in accordance with the Residential Design Codes (R-Codes) and the City of Bunbury's Local Planning Policy: Changes to Ground Level and Retaining Walls.

A re-designed concept including truncation of the retaining wall adjacent to the neighbouring driveway and planter box was incorporated into the design to present a tiered streetscape effect to the highest portion of the wall. This was agreed upon with the entertaining of variation to the City of Bunbury's Local Planning Policy: Changes to Ground Level and Retaining Walls, subject to positive neighbouring landowner comment being received. With the exercising of judgement under the R-Codes, the approval of the original Building Permit (B/31678), was deemed acceptable with respect to the amenity of the subject lot and the resulting impact on the amenity of the street due to the effect of the retaining wall tapering to nil height (refer to building plans for B/31678/1 **attached** at Appendix DPDRS-2).

On completion of the works it became apparent that the retaining wall was built 1.3m higher than the approved design at the highest portion, and additional retaining walls built in the rear of the property that were not on the approval (refer to building plans for B/32628/1 **attached** at Appendix DPDRS-3).

Consequently, the owners of #2 Sampson Road were asked to provide:

- A structural engineer's report confirming that the design for this height was structurally acceptable. This was subsequently supplied.
- Lodge and pay fees for a Codes Variation for the as built height/design, accompanied by neighbours comments from property owners two doors either side and across the street. This has since been lodged and positive comments received from all neighbouring property owners (i.e. a total of nine notices).
- Lodge for approval structural engineering details for the retaining walls constructed to the rear of the property. This has been lodged (refer to building plans for B/32628/1 **attached** at Appendix DPDRS-3).

Council Policy Compliance

Discretion was exercised under the Residential Design Codes and the City of Bunbury's Local Planning Policy: Changes to Ground Level and Retaining Walls, in negotiating a satisfactory design solution through the approval of the original Building Permit (B/31678/1), issued 30 April 2015, for retaining walls fronting onto the street and adjoining side boundary to 4 Sampson Road.

The as constructed design represents a significant departure from both policy and the original Building Permit; and therefore, this retrospective application requires consideration of further variations of significance that warrant a Council decision.

Legislative Compliance

Statutory guidelines do not readily allow for the exercising of further discretion by officers to approve the 'as constructed' street-front retaining wall due to the degree to which the finished wall varies from the Residential Design Codes and the City of Bunbury's Local Planning Policy: Changes to Ground Level and Retaining Walls. Thus Council approval or refusal is required.

The un-approved retaining walls to the rear of the property however do fall within the parameters of the relevant policy provisions and can be dealt with under the *Building Act 2011*.

Officer Comments

The owners of #2 Sampson Road have complied with all requests made to date since they were made aware of the situation. They have asserted that they acted with an element of naivety and ill advice from contractors, which ultimately led to the non-compliance of the building works.

Analysis of Financial and Budget Implications

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

Community Consultation

The proponents obtained neighbouring landowner comments for a radius of two (2) properties on both sides and across the street, which included:

- 2 Tuart Street
- 4 Tuart Street
- 1 A and B Sampson Road
- 6 Sampson Road
- 4 Sampson Road
- 3 Sampson Road
- 20 Picton Crescent
- 15 Picton Crescent
- 22a Picton Crescent

Councillor/Officer Consultation

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

10.5 Director Works and Services Reports

10.5.1 Petition Report – Closure of Laneway at the end of Slee Place Withers

File Ref:	A06432
Applicant/Proponent:	Internal Report
Responsible Officer:	Alison Baker Executive Assistant Works and Services
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix DWS-1: Location Plan – Sleep Place

Summary

At the Council Meeting held 15 September 2015, Council decided (316/15):

Pursuant to clause 6.10(2) of the City of Bunbury Standing Orders 2012, that Council receive the petition with regard to the closure of the laneway at the end of Slee Place, Withers 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. Refer the request to close the laneway between Slee Place and Ocean Drive to the next Withers Advisory Committee Meeting
2. Request the Chief Executive Officer advise the respondents to the petition of Council's Decision

Background

Councillor McCleary tabled a petition which contained 20 signatures requesting the closure of the laneway between Slee Place and Ocean Drive.

Council Policy Compliance

Not applicable

Legislative Compliance

The *Land Administration Act 1997* provides direction on closures of Public Access Ways.

Officer Comments

At the Council Meeting held 27 August 2013 it was decided (271/13) to close ten (10) laneways in Withers:

Council requests the Chief Executive Officer initiate action to commence the closure of the following laneways in accordance with the request from the Withers Action Group:

- a. *Davenport Way to Jacaranda Crescent Lot 624*

- b. *Plowers Place to Moriarty Park Lot 605*
- c. *Jacaranda Crescent to Whitley Place Lot 604*
- d. *Jacaranda Crescent to Wilkenson Way Lot 55 & 56*
- e. *Whitley Place to Hudson Road Lot 55*
- f. *Whitley Place to Open Space Lot 55*
- g. *Davenport Way to Open Reserve Lot 623*
- h. *Littlefair Drive to Crews Court Lot 157*
- j. *Lockwood Crescent to Craven Court Lot 55*
- k. *Whatman Way to Littlefair Drive Lot 156*

The list of laneways was provided by the Withers Action Group.

Upon the formation of the Withers Advisory Committee, the committee progressed the temporary closure of laneways C, D, E G and H and installed lighting in A, B, I, J and Jacaranda Court to Hudson Road. The Withers Advisory Committee and Council conducted further public consultation to all residents of Withers on June and July 2014. As a result of this consultation two additional laneways were added to the project Whatman Way to Littlefair Drive and Reynolds Way to Armstrong Way.

Council officers are progressing the permanent closure of the temporarily closed laneways and a full report will be provided to the next Withers Advisory Committee.

The request to close the laneway between Slee Place and Ocean Drive will be referred to the next meeting of the Withers Advisory Committee for their consideration to include the investigation of closing this laneway under the Withers Action Plan funding, which the Withers Advisory Committee has delegated authority. A map of the location of the laneway is **attached** at DWS-1 - Map of laneway between Slee Place and Ocean Drive.

The laneway contains a dual access path and drainage infrastructure.

Analysis of Financial and Budget Implications

The closure of the laneway requires public consultation, survey, legal costs (including easement required for drainage infrastructure), negotiations with adjoining owners to take the laneway into their property and removal of existing path. It is estimated that the cost to close the laneway would be \$3,500. This would be funded by the Withers Reserve should the Withers Advisory Committee endorse the project.

This would be funded from the Withers Reserve should the Withers Advisory Committee endorse the closure of the laneway.

Community Consultation

The Withers Advisory Committee and Council conducted public consultation in June /July 2014. There were no responses to close this laneway received during this consultation.

This request will be referred to the next Withers Advisory Committee meeting.

Councillor/Officer Consultation

Not applicable

10.5.2 Big Swamp Concept Development Plan

Applicant/Proponent:	Internal Report
Responsible Officer:	James Shepherd – Manager Engineering and Civil Operations
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix DWS-2: Big Swamp Concept Development Plan

Summary

The Big Swamp Concept Development Plan was presented to Council at a briefing in July 2015 following which final community consultation was requested prior to submitting the final plan for Council approval. **Attached** at DWS-2 Big Swamp Concept Development Plan.

Executive Recommendation

That Council:

1. Endorse the Big Swamp Concept Development Plan to inform the development of the precinct over the next 10 years with proposed developments identified and incorporated within the City's Corporate Business Plan.
2. Request the Chief Executive Officer to compile a register of names of contributors to the Big Swamp precinct with these names to be considered in the future naming of gardens and parks within the precinct.

Background

The Big Swamp is a significant community asset located close to the CBD providing a unique wetland and parkland environment within the urban area that is both locally and regionally significant. Council provided funds for the preparation of a medium to long term development plan for the Big Swamp Precinct to assist the City of Bunbury to provide informed decisions relating to the precinct's future design and ongoing management.

The primary outputs of the Big Swamp Concept Development Plan are to provide a strategic development and management approach to balance the needs of the primary conservation and recreational uses of the precinct and integrate them to provide mutual benefits that achieve the desired environmental, educational, cultural, accessibility, recreational and tourist outcomes for the community.

Council Policy Compliance

The Big Swamp Concept Development Plan has been prepared to meet the requirements of the Access and Inclusion, Asset Management, Recreation and Reserve and Wetland Management Policies.

Legislative Compliance

The Plan has been developed to enable it to be endorsed by the WAPC as a reserve management plan that satisfies the requirements of the GBRS whilst working in conjunction with other relevant management plans relating to the Big Swamp precinct.

Officer Comments

The Big Swamp Precinct has undergone various developments over the past 10 years, most of which have focused on improvements to the Wildlife Park and accessible playground areas. As a result the precinct has become a popular local and regional destination providing a variety of recreational facilities. The City and community groups, including the Friends of Big Swamp, have worked to improve and maintain the wetland as an environmental, community and storm water management asset. This has included work to re-vegetate many areas as a means to manage site contamination.

The Big Swamp Concept Development Plan included consultation with a broad cross section of the community both during the development phase and public consultation period. The feedback received confirmed that the final Big Swamp Concept Development Plan delivers outcomes that match community aspirations, Council's requirements including ongoing stormwater management requirements.

The Big Swamp precinct provides the community with social and environmental benefits. Any development must consider the vital storm water management functions that the Five Mile Brook and Big Swamp perform. These wetland areas are integral to the City's storm water management systems servicing the majority of City south of the CBD.

Analysis of Financial and Budget Implications

The current 2015/16 – 2019/20 Corporate Business Plan includes \$300,000 to implement projects identified in the Big Swamp Concept Development Plan, \$30,000 for footpath replacement work in 2018/19 and \$50,000 in 2018/19 to renew landscaping and irrigation within the Big Swamp precinct totalling \$380,000 potential funds available.

Estimated cost of Big Swamp Concept Development Plan

0-2 years:	\$331,000
2-5 years:	\$380,000
5-10 years:	\$714,000

Potentially, proceeds from the sale of Lot 89 Beach Road could be used to implement the Big Swamp Concept Development Plan.

Community Consultation

Community consultation has been undertaken extensively throughout the process, following briefing to Council in July 2015. Consultation included direct email to those involved in the initial project consultation, household panel, media release and e-newsletter, City Focus, Facebook, Instagram and Twitter. 103 responses have been received following publication of the draft plan.

Community feedback was received from 103 community members and the Friends of Big Swamp. 66% of all feedback provided was positive whilst 25% provided conditionally positive responses which cautioned the integration of social and environmental outcomes. This highlights the importance of ensuring that maintaining/preserving the balance between social and environmental outcomes is a primary planning requirement.

Councillor/Officer Consultation

Members of the Project Control Group Cr Morris, Cr McNeil and Cr Steele have been involved throughout the project. Relevant City officers have been consulted in relation to engineering, accessibility, environmental and community development matters directly relating to the project.

A presentation on the Big Swamp Concept Development Plan was made to full Council immediately following the Agenda Briefing held 14 July 2015.

10.5.3 Bunbury Regional Entertainment Centre – Change to Project Descriptions

Applicant/Proponent:	Internal
Responsible Officer:	Phil Harris, Director Works & Services
Executive	Phil Harris, Director Works & Services Stephanie Addison- Brown Director Corporate and Community Services
Attachments:	Nil.

Summary

The Department of Culture and the Arts has recently announced a Regional Venues Improvement funding program with the Bunbury Regional Entertainment Centre (BREC) being eligible in the area of Technical Equipment upgrades. This report seeks Councils endorsement to submit a grant application and re organise existing projects to maximise funding opportunities.

Executive Recommendation

1. That Council Approve the restructuring of the existing funded projects to maximise funding opportunities without increasing Council's current commitment of \$125,000.
2. Given that the BREC Board of Management have approved the application and a contribution of \$125,000 towards the project, that Council approve the submission of a grant application to the Regional Venues Improvement Fund.

Background

The Regional Venues Improvement Fund (RVIF) is part of the State Government Royalties for Regions \$24 million investment in culture and the arts. The RVIF investment will focus on a range of key priorities associated with the enhancement of regional venues' infrastructure.

The Fund aims to:

- * provide WA regional performing arts and entertainment venues with funding assistance to improve the quality of performing arts and cultural infrastructure in WA regional performing arts and entertainment venues; and
- * strengthen the capacity and effectiveness of WA regional performing arts and entertainment venues to deliver culture and the arts services to the Western Australian community.

Applications for the Technical Equipment Upgrades: Major and closes at 4:00pm on 29 October 2015.

Major Grants up to \$250,000 are available to support equipment upgrade projects involving an advanced level of planning and procurement, such as lighting, audio visual and acoustic systems.

The RVIF is open to regional Local Government Authorities and eligible not-for-profit Western Australian arts and/or cultural organisations. Performing arts and entertainment venues must fit the definition used for the purposes of the RVIF.

The City of Bunbury 2015/16 budget has a number of capital projects which are listed below related to supporting the operations of the Bunbury Entertainment Centre. The projects are fairly descriptive and range from \$3,300 to \$40,000 and were structured in this manner initially to provide clarity to Council on where funds were being expended.

Project	Description	Funding
PR 3778	Support BREC -Dimmers / Patching cables 2015/16	\$40,000
PR 3781	Support BREC – Replace Bar Glass Washer 2015/16	\$3,300
PR 3781	Support BREC – Stage Floor Masonite 2015/16	\$30,000
PR 3779	Support BREC - Vega Radio Microphone Replacement 15/16	\$6,000
PR 3785	Support BREC - Foyer Monitors / Stage Monitors	\$23,700
PR 3786	Support BREC - Tech Area Competition 15/16	\$22,000
	TOTAL	\$125,000

It is proposed for the purposes of the Grant application to combine the aggregate funding of the BREC projects and retitle to *PR 3985 Support BREC - Technical Upgrade 2015 -16* to maximise the matching grant contributions which will effectively double the available funding for upgrade works for BREC.

The BREC Board of Management have stated that they whole heartedly support the application and have approval from the full Board of Management for a contribution of \$125,000 towards this Technical Upgrade Project. BREC will contribute \$125,000 of its own funds in order to maximise the full amount of matched funding for the Regional Venues Improvement Fund application and have made the centre technical and management staff available to work with the City of Bunbury staff on a final application.

Council Policy Compliance

Not Applicable.

Legislative Compliance

Section 5.42 of the *Local Government Act 1995*

Part 4 of the *Local Government (Functions and General) Regulations 1996*

Officer Comments

The Director Corporate and Community Services and Director Works and Services have met with the BREC Manager and senior technical staff on several occasions to review funding opportunities that could result as outcomes from the RVIF.

This funding is an opportunity for the City of Bunbury to access significant state funding, specifically for regional venue upgrades. While the funding program spans a number of years the 2015/16 funding is for technical equipment upgrades with next financial years opportunities being more focussed on building infrastructure upgrades.

All funding provided will need to be matched dollar for dollar by other investment (LGA, BREC, etc.), to try and leverage the grant funding. The City of Bunbury funding \$125,000 and BREC funding \$125,000 it is possible for \$250,000 funding from the RVIF.

Analysis of Financial and Budget Implications

The grant opportunity could provide increased income to the Council.

Community Consultation

The Director Works and Services and the Director Corporate and Community Services met with the General Manager of the Bunbury Regional Entertainment Centre to discuss this application.

No formal Community consultation has been undertaken in relation to this variation.

Councillor/Officer Consultation

This matter has been subject to discussions at the Executive Leadership Team meetings and the BREC Board made presentation to the Council Briefing held 15 September 2015.

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

15. Meeting Closed to Public

15.1 *Matters for which the Meeting may be Closed*

15.1.1 Organisational Structure

Applicant/Proponent:	Internal
Responsible Officer:	Chief Executive Officer, Andrew Brien
Executive:	Chief Executive Officer, Andrew Brien
Attachments:	Confidential Appendix CRUSC-1-1: Organisational Structure October 2015

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

A matter affecting an employee or employees.

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

Recommendation

In accordance with Section 5.23(2)(d) of the *Local Government Act 1995* and clause 6.2 of the City of Bunbury's Standing Orders Local Law 2012, Council resolves to close the meeting to members of the public to consider the item titled "*15.1.1 Organisational Structure October 2015*"

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

16. Closure