

Bunbury City Council

Notice of Meeting and Agenda 24 November 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, 24 November 2015 at 5.30pm.



Andrew Brien
Chief Executive Officer
(Date of Issue: 20 November 2015)

Agenda

24 November 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 Brendan Kelly
Councillor Wendy Giles
Councillor James Hayward
Councillor Judy Jones
Councillor Jaysen Miguel
Councillor Michelle Steck
Councillor Karen Steele
Councillor Sam Morris
Councillor Betty McCleary
Councillor Monique Warnock
Councillor Joel McGuinness
Councillor Murray Cook

1. Declaration of Opening / Announcements of Visitors

2. Disclaimer

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

3. Announcements from the Presiding Member

4. Attendance

4.1 *Apologies*

4.2 *Approved Leave of Absence*

5. Declaration of Interest

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

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.”*

Mayor Brennan declared an impartiality interest in the item titled *“10.2.1 Elected Member Representation ”* as he is a Deputy Member of the WA Local Government Advisory Board. The Mayor will remain in chamber for the duration of the discussion and the vote on the matter.

Cr Steck declared an impartiality interest in the item titled *“10.4.2 Application for Development Approval – Proposed Site Works (Changes to Ground Levels and Retaining Walls) at Lots 218 and 219 Elizabeth Crescent, South Bunbury”* as she knows the proponent’s architect. Cr Steck will remain in chamber for the duration of the discussion and the vote on the matter.

Cr Cook declared an impartiality interest in the item titled *“10.4.2 Application for Development Approval – Proposed Site Works (Changes to Ground Levels and Retaining Walls) at Lots 218 and 219 Elizabeth Crescent, South Bunbury”* as he knows the proponent’s architect, Hugh Ravening and they are both members of the Men of Song. Cr Cook will remain in chamber for the duration of the discussion and the vote on the matter.

Cr Steck declared a financial interest in the item titled *“10.4.3 Bunbury Plaza Shopping Centre – Proposed Scheme Amendment 79 and Local Development Plan”* as her partner owns Citygate Properties, a major commercial property owner and is a competitor. Cr Steck will leave the chamber for the duration of the discussion and the vote on the matter.

Cr Kelly declared an impartiality interest in the item titled *“10.4.3 Bunbury Plaza Shopping Centre – Proposed Scheme Amendment 79 and Local Development Plan”* as he owns a property approximately 400 metres away in Alexander Street and had provided a submission on the development. Cr Kelly will remain in chamber for the duration of the discussion and the vote on the matter.

Cr Jones declared an impartiality interest in the item titled “10.4.3 Bunbury Plaza Shopping Centre – Proposed Scheme Amendment 79 and Local Development Plan” as: the owners of 6 Prosser Street are friends of hers; and Aqwest may offer land in Plaza Street to the Developer as a temporary set-down area and she is a Director of Aqwest. Cr Jones 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’

Nil

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

7.1 *Minutes*

7.1.1 Minutes – Ordinary Council Meeting

The minutes of the Ordinary meeting of the Bunbury City Council held 10 November 2015 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 10 November 2015 be confirmed as a true and accurate record.

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

Nil

8. Petitions, Presentations, Deputations and Delegations

8.1 *Petitions*

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

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

8.2 *Presentations*

8.3 *Deputations*

8.4 *Council Delegates' Reports*

8.5 *Conference Delegates' Reports*

9. Method of Dealing with Agenda Business

10. Reports

10.1 *Recommendations from Advisory Committees*

Nil

10.2 Chief Executive Officer Reports

10.2.1 Elected Member Representation

Applicant/Proponent:	Internal Report
Responsible Officer:	Leanne French, Acting Manager Governance
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Nil

Summary

The purpose of this report is for Council to consider its position in regard to Elected Member representation, and specifically whether the number of Councillors should be reduced following the result of the recent referendum in relation to this matter.

Executive Recommendation

That Council:

1. Proposes to the Local Government Advisory Board the making of an order under section 2.18(3) of the *Local Government Act 1995* to reduce the number of City of Bunbury Councillors from 12 to 8.
2. Pursuant to clause 5(b) of Schedule 2.2 of the *Local Government Act 1995*, advises the Local Government Advisory Board that it considers the proposal to reduce the number of City of Bunbury Councillors from 12 to 8 to be of a minor nature.
3. Proposes to the Local Government Advisory Board the withdrawal of two (2) Councillor positions at each of the 2017 and 2019 ordinary local government elections.

Note: Absolute Majority Vote Required

Background

Council has previously considered the matter of Elected Member representation on a number of occasions.

At its meeting held 25 November 2014 Council decided (439/14):

“That Council:

1. *In accordance with clause 9 of Schedule 2.2 of the Local Government Act 1995, reports to the Local Government Advisory Board the results of the current review of Elected Member Representation, the consultation for which concluded on 31 October 2014.*
2. *Request the Chief Executive Officer to undertake all necessary arrangements to enable the holding of a referendum relating to Elected Member numbers in conjunction with the 2015 ordinary local government elections.*

3. *Notes that this position will supersede Council’s earlier resolutions in relation to this matter.”*

The review referenced in point 1 of Decision 439/14 involved a two-month public consultation period in September and October 2014. Of the 341 submissions received as part of the consultation from City of Bunbury electors, 315 (92.4%) were against a reduction in Councillors numbers, 24 in support (7.0%), and 2 (0.6%) were neither. Of the 315 submissions against reduction, 232 were part of a broader petition advocating the retention of the status quo in regard to Councillor numbers.

The response rate to the consultation process referenced above was 1.6% of City of Bunbury electors.

Accordingly, a referendum on the same topic was held in conjunction with the ordinary 2015 City of Bunbury election, with a view to eliciting a greater response. The results of the referendum were as follows in response to the question: *Should the number of City of Bunbury Councillors be reduced from 12 Councillors to 8 Councillors?*

- * 5,194 responses received (24.6% response rate)
- * 2,729 votes in the AFFIRMATIVE (52.5%)
- * 2,465 votes in the NEGATIVE (47.5%)

Legislative Compliance

Schedule 2.2 of the *Local Government Act 1995* deals with representation.

Officer Comments

Clause 5 of Schedule 2.2 of the *Local Government Act 1995* (the Act) provides a local government with two options in relation to reviewing Councillor numbers, being:

1. Carrying out a review of whether an order should be made under section 2.18(3) of the Act to change the number of offices of Councillor on a Council; or
2. Proposing to the Local Government Advisory Board (LGAB) that the making of an order under section 2.18(3) of the Act to change the number of offices of Councillor on a Council be considered as a minor matter.

The effective difference between the two options is that the review referenced in option 1 would require another formal consultation and advertising process, the results of which would then be presented to Council for consideration and recommendation to the LGAB.

Given that two (2) consultation processes have previously been undertaken in relation to this matter, it is suggested that undertaking a third consultation in line with option 1 is unnecessary.

Given the substantially greater response rate to the referendum (24.6%) as compared with the original review consultation (1.6%), it is also considered reasonable to place a greater significance on the result of the referendum rather than the initial consultation.

Accordingly, it is recommended that option 2 be pursued through the LGAB, the parameters of which should be consistent with the result of the recent referendum in relation to this matter. It is

also important to note that it is the Minister and LGAB who will ultimately make the final determination in this regard.

For the purpose of clarification, should the Executive Recommendation be defeated and no resolution made in this regard, this would have the same effect as retaining the status quo in relation to Councillor numbers, as point 3 of Council Decision 439/14 dictates that Council has no current formal position in relation to a change in representation.

Community Consultation

As detailed within the “background” section of this report, two (2) separate public consultations have taken place in relation to this matter.

Analysis of Financial and Budget Implications

There are no financial or budgetary implications arising from the recommendations contained within this report, however should the LGAB (and Minister) agree to the proposal as recommended, the direct financial savings to Council of having four (4) fewer Elected Members is in the order of \$150,000 per annum.

10.2.2 Schedule of Accounts Paid for the Period 1 October 2015 to 31 October 2015

Applicant/Proponent:	Internal Report
Responsible Officer:	David Ransom, Manager Finance
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-1: Schedule of Accounts Paid

Summary

The City of Bunbury "Schedule of Accounts Paid" covering the period 1 October 2015 to 31 October 2015 is **attached** at Appendix CEO-1. The schedule contains details of the following transactions:

1. Municipal Account – payments totalling \$8,683,937.16
2. Advance Account – payments totalling \$6,920,655.83
3. Trust Account – payments totalling \$23,854.46
4. Visitor Information Centre Trust Account – payments totalling \$32,542.86
5. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$397,868.68
6. Bunbury-Harvey Regional Council Advance Account – payments totalling \$299,401.82

Executive Recommendation

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

10.2.3 Proposed Lease – WA Country Health Service – SW, over the Lady Mitchell Memorial Child Health Centre, Portion of Lot 1, Lot 31 and Lot 32 Prosser Street, South Bunbury

Applicant/Proponent:	WA Country Health Service – SW
Responsible Officer:	Felicity Anderson, Manager Major Projects
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-2: Location Plan – Lady Mitchell Clinic

Summary

An application has been received from the WA Country Health Service (“applicant”) seeking Council’s consent to accept a Deed of Lease over the Lady Mitchell Memorial Child Health Centre. A location plan is **attached** at Appendix CEO-2.

Executive Recommendation

Council agrees to grant a Deed of Lease to the WA Country Health Service over portion of Lot 1, Lot 31 and Lot 32 Prosser Street, the Lady Mitchell Memorial Child Health Centre for a term of ten (10) years with a further option of five (5) years subject to the terms and conditions as specified in the report, and the following:

1. The applicant to pay all costs associated with the lease application including document preparation.
2. Advertising in accordance with section 3.58 of the Local Government Act 1995.

Background

The Lady Mitchell Clinic was built in 1950.

The South West Area Health Services began leasing the Lady Mitchell Clinic in 2003 for a period of five (5) years with a further option of five (5) years which was granted on 19 August 2008 (Decision 140/08) noting the applicant’s name change to WA Country Health Service - SW.

The Owners of the Plaza Shopping Centre were given the option of managing the Lease with WA Country Health Service – SW over the Lady Mitchell Memorial Child Health Centre, however on 24 March 2015 they advised the City they do not wish to progress that option.

The Plaza Shopping Centre has requested the first right of refusal in the event the WA Country Health Centre vacate the building and the only constraint is the Heritage issues.

Current Lease Details

Commencement:	11 November 2008
Term:	Five (5) years
Expiry Date:	10 November 2013
Rental:	\$18,590.00 per annum inclusive of GST and indexed by CPI
Rent Review:	On the third (3 rd) anniversary date during the term
Permitted Use:	Child Health Clinic and Parent Help Centre
Lease Area:	950m ²

Outgoings:	Responsibility of the Lessee
Insurance:	Lessee to maintain public risk insurance cover and general insurance over contents. The level of public risk cover to be set at \$10(M)
Special Conditions:	<u>Ground Rationalisation/Redevelopment</u> In the event that the Lessor requires the whole or part of the leased Property for rationalisation/redevelopment the Lessor may terminate the Lease hereinbefore granted by twenty four (24) months' notice in writing to the other of the termination of Agreement.
Document Preparation:	The applicant to pay full costs associated with the lease application including document preparation.

Proposed New Lease Details

Commencement:	1 January 2016
Term:	Ten (10) years
Expiry Date:	31 December 2025
Further Option:	Five (5) years
Rental:	\$20,930.00 per annum excluding GST and indexed by CPI
Rent Review:	On the third (3 rd) anniversary date during the term
Permitted Use:	Child Health Clinic and Parent Help Centre
Lease Area:	950m ²
Outgoings:	Responsibility of the Lessee
Insurance:	Lessee to maintain public risk insurance cover and general insurance over contents. The level of public risk cover to be set at \$10(M)
Document Preparation:	The applicant to pay full costs associated with the lease application including document preparation.

Council Policy Compliance

Not Applicable.

Legislative Compliance

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

Officer Comments

The applicant has been holding over since 10 November 2013 due to the negotiations between the City and the Plaza Shopping Centre. The applicant has agreed to a new Lease being managed by the City.

The applicant has fulfilled all conditions of the current Lease.

Analysis of Financial and Budget Implications

The applicant will be responsible for all costs associated with the preparation of documentation associated with the lease.

A Landgate market rental valuation was obtained by the City on 10 July 2015. The recommended rental valuation was for \$20,930.00 per annum exclusive of GST, with the Lessee having responsibility for all the normal outgoings. This is the rental value reflected in the Proposed New Lease Details.

The applicant has advised they obtained an independent valuation in October 2015, which has not been supplied to the City. Their recommended rental valuation is for \$19,950.00 per annum plus GST, with the Lessee having responsibility for all the normal outgoings.

Community Consultation

The lease proposal will be advertised in accordance with the provisions of Section 3.58 of the Local Government Act 1995, City's website and public noticeboards.

Councillor/Officer Consultation

The proposed Lease was referred to the Development Coordination Unit (DCU) on 14 May 2015 with no objections received.

The Planning Department and Engineering Department have advised the Lease area is to be compliant with the DA plans for Redevelopment of the Plaza Shopping Centre.

10.2.4 Financial Management Report for the Period Ending 31 October 2015

Applicant/Proponent:	Internal Report
Responsible Officer:	David Ransom, Manager Finance
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-3: Statement of Comprehensive Income Appendix CEO-4: Statement of Financial Activity Appendix CEO-5: Statement of Net Current Assets Appendix CEO-6: Statement of Financial Position Appendix CEO-7: Capital Works Expenditure Summary Appendix CEO-8: 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-3)
 Actual Financial Performance to 31 October 2015
 - Actual income of \$44.43M is \$342K greater than the year-to-date budgeted income of \$44.08M.
 - Actual expenditure of \$13.01M is \$1.65M less than the year-to-date budgeted expenditure of \$14.66M (refer explanation within the report).
 - Actual operating surplus of \$31.41M is \$1.99M more than the year-to-date budgeted operating deficit of \$29.42M.

2. Statement of Financial Position (**attached** at Appendix CEO-6)

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

	Year-to-date	Forecast
* Current Assets of \$54.59M includes:		
- Cash and Investments	\$35.02M	\$19.17M
- Rates	\$16.42M	\$0.71M
- Other Current Assets	\$ 3.15M	\$1.72M
Current Liabilities of \$9.38M includes:		
- Trade and Other Payables	\$3.83M	\$3.69M
- Annual Leave and LSL Provisions	\$3.33M	\$3.74M
* Working Capital (Current Assets less Current Liabilities)	\$45.21M	\$11.80M
* Equity (Total Assets less Total Liabilities)	\$572.96M	\$550.37M

3. Capital Works (**attached** at Appendix CEO-7)
 - Actual capital works of \$3.92M (which excludes \$3.33M of committed expenditure) is \$1.28M less than the year-to-date budgeted capital works of \$5.20M, (refer explanation within report).

4. Operating Project Expenditure (**attached** at Appendix CEO-8)
 - Actual operating project expenditure of \$730K (which excludes \$383K of committed expenditure) is \$818K less than the year-to-date budgeted operating project expenditure of \$1.55M, (refer explanation within report).

Executive Recommendation

The Financial Management Report for the period ending 31 October 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-3)
- Statement of Financial Activity (**attached** at Appendix CEO-4)
- Statement of Net Current Assets (**attached** at Appendix CEO-5)
- Statement of Financial Position (**attached** at Appendix CEO-6)
- Capital Works Expenditure Summary (**attached** at Appendix CEO-7)
- Operating Projects Summary (**attached** at Appendix CEO-8)

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.

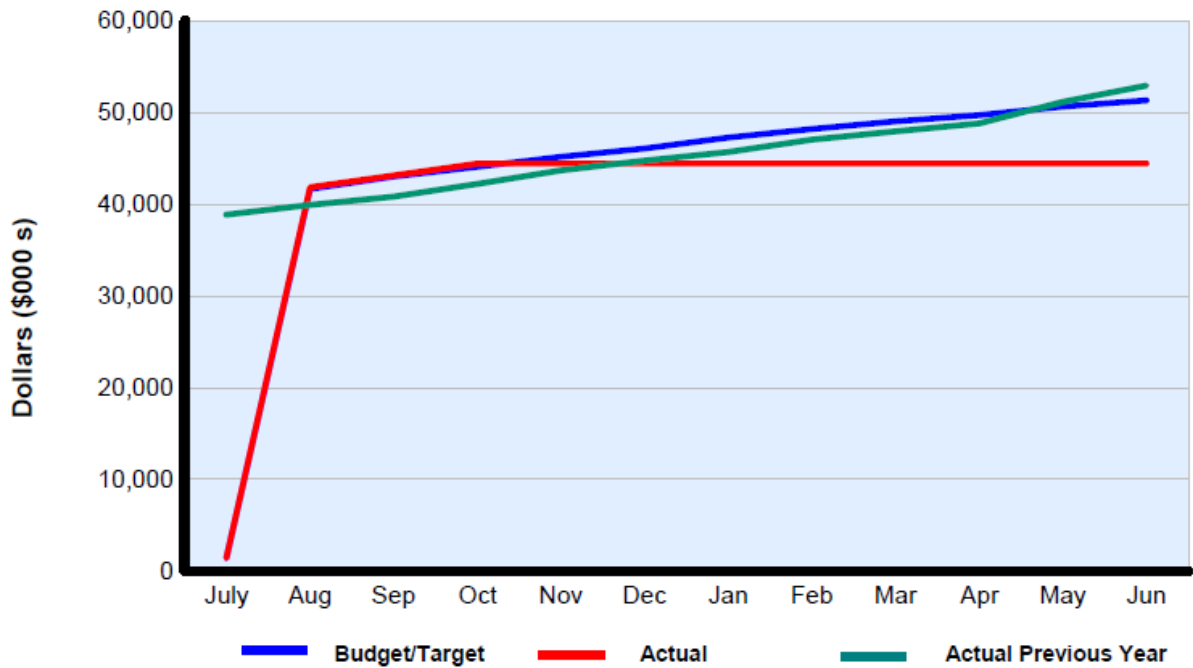
Legislative Compliance

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-4) reporting on the revenue and expenditure as set out in the annual budget under Regulations 22 (1) (d) for this month.

Officer Comments

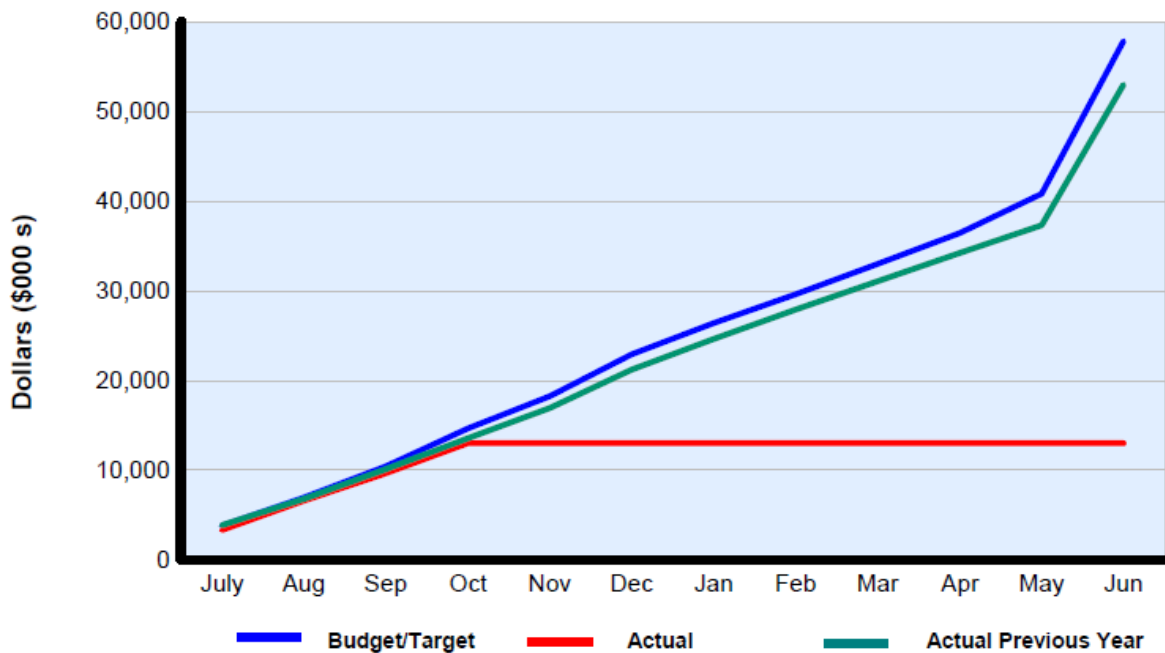
The Operating Income, Operating Expenditure and Capital Expenditure graphs provide an overview on how actual income/expenditure is tracking to budget and the previous financial year. Comments are provided on each graph regarding the current financial position.

Operating income (\$000's)



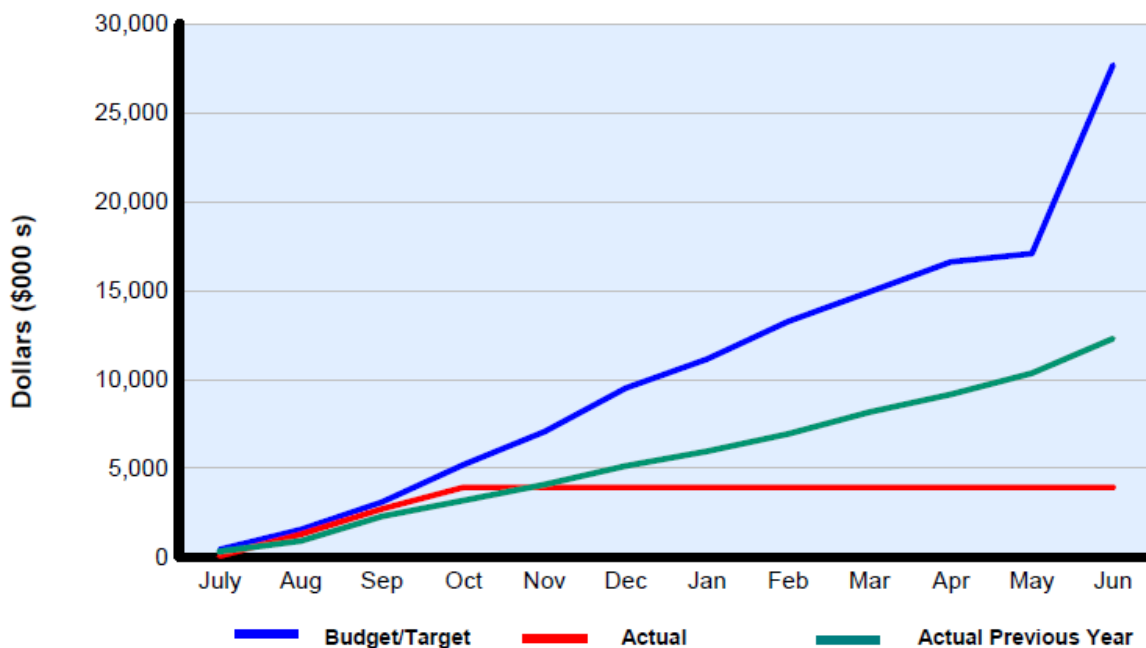
Note: Operating income includes: rates, fees and charges, operating grants and subsidies, contributions reimbursements and donataions, interest and other revenue.

Operating expenditure (\$000's)



Note: Actual operating expenditure for both base and operating projects is \$1,647,820 under the year-to-date budget due to timing of works commencing. Note that there is operating project committed expenditure of \$383K.

Capital Expenditure (\$ 000's)



Note: The capital expenditure variance to the end of October 2015 of \$1.28M is due to the delay in commencement or progress of various projects as reported in the monthly Capital Works Expenditure Summary Report to Council. Note that there is committed expenditure of \$3.33M.

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 \$341,845. 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.	\$341,845 0.77%
Contributions, Reimbursements and Donations	\$132,958 60%
<i>Contribution Income</i> - Favourable year-to-date variance of \$90,528 due to an LGIS Insurance rebate of \$89,562 received. This was received due to low insurance claims over the past several years. An end of year forecast adjustment has been made and this amount will be transferred to reserve.	
<i>Reimbursement Income</i> – Favourable year-to-date variance of \$42,340 is mainly due to Workers Compensation reimbursements being received of \$49K which is offset by employee costs.	
Operating Expenditure	
The Total Operating Expenditure variance between actual and budget-to-date is a favourable variance of \$1,647,820. 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.	\$1,647,820 11%

<p>Materials and Contracts <i>Material Expenses</i> – Favourable year-to-date variance of \$298,769, mainly due to the timing of expenditure. This will be monitored on a monthly basis.</p> <p>Materials and Contracts (continued) <i>Consultants Expense</i> – Favourable year-to-date variance of \$74,202 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.</p> <p><i>Contractors Expense</i> – Favourable year-to-date variance of \$841,373 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.</p>	<p>\$1,273,459 27%</p>
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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.	\$345,917 3.38%
Operating Expenses	
See explanation above included in the Statement of Comprehensive Income variances.	\$1,647,820 11%
Capital Expenses	
Acquisition of Assets – Variance due to delay in progress of various projects. Note that there is committed expenditure of \$3.33M. Refer to Capital Expenditure report for project details.	\$1,284,293 25%

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.

10.3 Director Corporate and Community Services

10.3.1 Expression of Interest – Hay Park Multi Sports Pavilion

Applicant/Proponent:	Internal
Author:	Garry Stokes, Manager Sport and Recreation
Executive:	John Kowal, Acting Director Corporate and Community Services
Attachments:	Confidential Appendix CRUSC-3-1: South West Warriors Audit to 30/09/2013 Confidential Appendix CRUSC-3-2: South West Warriors Audit to 30/09/2014 Confidential Appendix CRUSC-3-3: South West Phoenix Profit and Loss to December 2014 Confidential Appendix CRUSC-3-4: South West Phoenix Profit and Loss to November 2015 Confidential Appendix CRUSC-3-5: Correspondence expressing interest

Summary

Council Decision 304/15 on 1 September 2015 was to proceed with development of a lease agreement for the Hay Park Multi-Sports Pavilion with the two (2) key user groups (South West Phoenix soccer and South West Warriors rugby) following appropriate due diligence.

An essential part of the due diligence process was for each club to provide the last three (3) years audited financial records.

South West Warriors have provided accounts for the period ended 30 September 2013 (**attached** at Confidential Appendix CRUSC-3-1) and 30 September 2014 (**attached** at Confidential Appendix CRUSC-3-2) and advised that the current year's accounts will be provided when they return from the auditor. South West Phoenix has not provided any audited accounts but instead has provided a one page profit and loss statement for each of the past two (2) years (**attached** at Confidential Appendix CRUSC-3-3 and Confidential Appendix CRUSC-3-4) with advice that they will not be able to provide audited statements as requested by the City.

Executive Recommendation

That:

- 1) Council note the outcomes of the due-diligence process to date and consider alternative management options for the Hay Park Multi-Sports Pavilion following input from the two proposed key user groups;
- 2) A further report be provided to Council prior to the Christmas recess with a recommended management model.

Background

Council staff and Elected Members have previously been provided various options for the management of the new Hay Park South Multi-purpose pavilion over the past two years.

At the Ordinary Council Meeting on 1 September 2015 Council decided (304/15):

“That Council:

1. *Agrees to the development of lease agreement for the Hay Park Multi-Sports Pavilion to the two (2) key users groups (Soccer and Rugby) following completion of appropriate due diligence.*
2. *Adopt the following as the basis for the lease:*
 - (a) *An initial five (5) year term with a five (5) year option at the discretion of Council.*
 - (b) *A subsidised rental for year one (1) and two (2) with a commercial review of the lease payment for years three (3), four (4) and five (5).*
 - (c) *The Commercial review to be based on an open process including the provision of audited financial statements from the clubs over the life of the lease.*
 - (d) *The clubs to be responsible for all outgoings and operational expenses.*
3. *Provide in-principle support for the Clubs to apply for a liquor license for the facility.”*

Council officers have held meetings with the clubs and followed up with several requests for information to enable progression of Council Decision 304/15.

Officers have provided the clubs with a draft lease template and a workshop was held to discuss the list of maintenance to be carried out by the City and/or the clubs themselves. The clubs advised the Officers that they would be forming a body corporate so there would be one signatory for the lease.

Two letters from the Chief Executive Officer were sent to the club representatives and three meetings were held with club representatives on the following dates, during which the requirement to provide audited financial statements was discussed:

- * 18 September 2015
- * 23 September 2015
- * 5 October 2015

The Director Corporate and Community Services also followed up with emails and phone calls to the clubs following these meetings to request the information be provided.

The clubs have been unable to meet the requirement to provide audited financial statements as requested by Council and as such, the lease negotiations have been unable to progress to a satisfactory position.

Council Policy Compliance

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

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

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

The Purpose of this policy is to enhance the quality of life for visitors and residents of Bunbury through the provision of a diverse range of high quality and cost effective active and passive recreational activities and/or facilities.

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

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

Legislative Compliance

Not Applicable

Officer Comments

The Hay Park South Multi Sports Pavilion is currently being constructed and is due for completion in February 2016.

A number of council staff have been working with the two (2) key stakeholders to develop an appropriate management and or lease plan for this facility.

The Director of Corporate and Community Services has met with the prospective lessees several times to progress negotiations.

Due to the limited information provided in terms of the financial performance of one of the clubs, officers have not been able to complete appropriate due diligence report as per the Council resolution. Based on the limited information provided by the two clubs combined, staff cannot be confident that the clubs can realistically meet the proposed lease requirements under the previously proposed arrangements of joint lease of the facility.

In addition, the Council has received correspondence from an additional party expressing an interest in leasing the new facilities (**attached** and Confidential Appendix CRUSC-3-5).

Analysis of Financial and Budget Implications

The RBB Report (QS report) indicated an estimate annual whole of life cost of the facility is in the order of \$165,000. The list of items in the report was reviewed and updated by Officers and a copy of the suggested maintenance obligations for the clubs and the City has been provided to club representatives with a view that if clubs can carry out some of the maintenance themselves, this will in return reduce the lease costs. The City is still awaiting confirmation from the clubs that they believe they can undertake maintenance work as suggested by them initially.

It needs to be noted that any shortfall will need to be covered through Council's general revenue. At present, a nominal amount has been budgeted to cover basic operational costs (power, water etc.), however this was budgeted on the assumption the facility would be managed by the City and lifecycle and maintenance costs would be recovered through lease payments. This small amount won't meet the shortfall between the lifecycle/maintenance costs and the amount the clubs believe they can contribute. Any shortfall between revenue generated from lease payments and

the ongoing cost of operating and maintaining the facility will need to be reflected in Council's annual operating budget commencing 2016/17.

There are currently two projects PR-3394 and PR-3393 relating to the furniture and kitchen (utensils) fit-outs for the buildings. Both these projects rely on a 50% contribution from the two clubs, totalling \$12,500. Without these contributions, these fit-outs will not be able to be completed.

Community Consultation

Council officers have held meetings with the clubs and followed up with requests for information to enable progression of Council Decision 304/15.

Officers have provided the clubs with a draft lease template and a workshop was held to discuss the list of maintenance to be carried out by the City and/or the clubs themselves. The clubs advised the Officers that they would be forming a body corporate so there would be one signatory for the lease.

Two (2) letters from the Chief Executive Officer were sent to the club representatives and three (3) meetings were held with club representatives on the following dates, during which the requirement to provide audited financial statements was discussed:

- * 18 September 2015
- * 23 September 2015
- * 5 October 2015

The Director Corporate and Community Services also followed up with emails and phone calls to the clubs following these meetings to request the information be provided.

Councillor/Officer Consultation

The Mayor and Deputy Mayor attended the initial meeting with clubs on 18 September 2015 after letters had been sent to clubs by the Acting Chief Executive Officer. The Mayor and Deputy Mayor have been kept informed of progress as discussions took place.

10.4 Director Planning, Development and Regulatory Services Reports

10.4.1 Final Approval of Scheme Amendment 76 – Rezoning Lots 3, 4, 100, 104 and 105 Forrest Avenue, South Bunbury from ‘Residential Zone’ to ‘Special Use Zone No. 59 – Residential Mixed Use’

File Ref:	A00398
Applicant/Proponent:	City of Bunbury on behalf of Landowners of Lots 3, 4, 100, 104 and 105 Forrest Avenue, South Bunbury
Responsible Officer:	Kelvin D Storey, Team Leader Strategic Planning and Urban Design
Executive:	Stephanie Addison-Brown, Acting Director Planning Development and Regulatory Services
Attachments:	Appendix DPDRS-1: Scheme Amendment 76 Report Appendix DPDRS-2: Schedule of Submissions

Summary

At its meeting on 21 July 2015 Council resolved to adopt for public advertising Scheme Amendment 76, which involves the rezoning of Lots 3, 4, 100, 104 and 105 Forrest Avenue, South Bunbury from ‘Residential Zone’ with a residential density code of ‘R60’ to ‘Special Use Zone No. 59 – Residential Mixed Use’.

Public advertising and consultation with relevant stakeholders was conducted over the period 9 September to 21 October 2015. Submissions received have been reviewed by officers and the amendment proposal is now returned to Council for its further consideration and adoption for final approval prior to referral to the Western Australia Planning Commission (WAPC) and a decision by the Minister for Planning.

Executive Recommendation

That Council:

1. In accordance with the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Scheme) Regulations 2015* resolves to:
 - (a) Support without modification Scheme Amendment 76 to the City of Bunbury Town Planning Scheme No. 7 by:
 - (i) amending the Scheme Text by inserting additional text in the table under Schedule 2 – Special Use Zones at No. 59 with associated provisions in the ‘Special Use(s)’ and ‘Conditions’ columns of the table; and
 - (ii) modifying the Scheme Map by rezoning:
 - (1) portion of Lot 100 (#27) Forrest Avenue and Lots 104 (#29), 105 (#31), 4 (#33) and 3 (#35) Forrest Avenue, South Bunbury from ‘Residential Zone’ with a density code of ‘R60’ to ‘Special Use Zone No. 59 – Residential Mixed Use’;
 - (2) portion of Lot 100 (#27) Forrest Avenue from ‘Public Purposes Reserve’ (Drainage) to ‘Special Use Zone No. 59 – Residential Mixed Use’;

- (3) portion of Lot 101 (#1) Higgins Street from 'Public Purposes Reserve' (Drainage) to 'Residential Zone' with a residential density code of 'R30/40'; and
- (4) land adjacent to Lot 100 (#27) Forrest Avenue from 'Residential Zone' with a residential density code of 'R60' to 'Access Road Reserve',

in accordance with Local Planning Scheme Amendment Report 76.

- (b) Notify the Western Australian Planning Commission of Council's resolution.
- (c) Refer to the Western Australian Planning Commission the Scheme Amendment 76 documentation.

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

Background

The owner of Lots 104 and 105 Forrest Avenue approached the City of Bunbury with a request to amend its Town Planning Scheme No. 7 (TP7) in a manner that would facilitate mixed use development outcomes upon the subject lots. The proposal broadly aligns with the City of Bunbury's strategic planning intent to create a mixed use activity corridor along this part of Forrest Avenue, and following the receipt of written support from adjacent landowners, the City of Bunbury prepared the scheme amendment proposal which seeks to create 'Special Use Zone No. 59 – Residential Mixed Use'.

The lots that make up the subject site of the scheme amendment comprises of five (5) single houses situated on irregular shaped lots that directly front on to Forrest Avenue, and are situated approximately 150 metres south west of the Bunbury Plaza neighbourhood centre, between the junctions of Forrest Avenue with Higgins Street and Doris Street.

The proposed Special Use Zone No. 59 and its accompanying conditions of development have been prepared in a form that complements the mixed use zoning provisions proposed along this part of Forrest Avenue within the draft Local Planning Scheme No. 8 (LPS8). Accordingly, the special use zone if approved is intended to seamlessly transition into a dedicated 'Mixed Use Frame Zone' upon gazettal of the revised new Scheme.

The scheme amendment also includes minor rectifications to the Scheme Map with respect to the rezoning of:

- the 'Public Purpose Reserve' that no longer fulfils a formal drainage function, and was sold by the City of Bunbury in 2011 to adjacent property owners at Lot 100 (#27) Forrest Avenue and Lot 101 (#1) Higgins Street; and
- a triangular parcel of land adjacent to Lot 100 (#27) that functions as a road truncation/site line at the junction of Higgins Street and Forrest Avenue from 'Residential Zone' to 'Access Road Reserve'.

Legislative and Council Policy Compliance

The scheme amendment as proposed is consistent with the Council's adopted Local Planning Strategy for Activity Centres and Neighbourhoods (LPS-ACN), which recommends mixed use

development outcomes as a transition between commercial and residential zones in key activity centres, activity corridors and existing residential 'Frame Areas'. The LPS-ACN informed the preparation of the draft Local Planning Strategy and draft LPS8, and notably the initiated draft of the revised Scheme identifies this part of Forrest Avenue as a mixed use activity corridor, which is consistent with the intent of the proposal.

Proposals to amend a local planning scheme are required to be undertaken in accordance with the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015*, which became operational on the 19 October 2015 replacing the *Town Planning Regulations 1967*.

Transitional arrangements have been put into place by the Department of Planning to ensure that proposals active during the crossover period (between the old and new regulations) do not require modification or become unnecessarily delayed as a result of the introduction of the new Regulations.

In keeping with requirements of the relevant legislation, public advertising of Scheme Amendment 76 was conducted over a period of not less than 42 days, and this concluded at close of business on 21 October 2015.

At the conclusion of the submission period the City of Bunbury is required to consider any submissions received and must pass a resolution:

- (a) to support the amendment without modification; or
- (b) to support the amendment with proposed modification; or
- (c) not to support the amendment.

The resolution of Council together with the scheme amendment documentation and schedule of submissions is then referred to the WAPC for their consideration and recommendation to the Minister for Planning who makes the final decision prior to endorsement and gazettal.

Officer Comments

Forrest Avenue fulfils an important east–west connection (on route to/from the city centre) between Blair Street and Spencer Street. With vehicular access along Strickland Street restricted, Forrest Avenue has naturally assumed the role of a higher order Local Distributor Road (whilst not formally recognised as such) and in 2010 was carrying an average of 11,600 vehicles per day. In responding to the high volume of vehicular traffic, this section of Forrest Avenue is undergoing transition from a more a traditional residential streetscape character to that of a mixed use activity corridor - comprising small scale community purposes and commercial activities.

The subject site is surrounded by a range of services and facilities, notably:

- public transport network with a regular bus service provided along Forrest Avenue
- convenience shopping at Bunbury Plaza within a short walking distance
- local employment opportunities offered by an array of commercial activities associated with the 'Shopping Centre Zone' and nearby 'Mixed Business Zone'
- a range of social services located nearby, including the South Bunbury Primary School

- passive and active recreational opportunities in Forrest Park and Big Swamp Park, which are located within approximately 250 metres and 680 metres walking distance respectively.

For reasons related to the above, Forrest Avenue between its intersections with Spencer Street and Blair Street was identified as a mixed use activity corridor within the LPS-ACN. This has culminated with the current residential zoning being proposed to be changed to a 'Mixed Use Frame Zone' within the draft LPS8.

Whilst the scheme amendment proposal is in keeping with the strategic intent of the draft Local Planning Strategy and draft LPS8, it is important that development provisions remain complementary. Development standards proposed in conjunction with Special Use Zone No. 59 aim to establish appropriately scaled and compatible activities, encourage a quality streetscape, and protect the amenity of neighbouring residential properties to the rear of the site. Depending on the future scale of development, a Structure Plan may be required prior to subdivision or development.

The approach is similar to that adopted with respect to Scheme Amendment No. 73 that proposed to create a 'Special Use Zone - Commercial Mixed Use' along a portion of Strickland Street in advance of the formalisation of the revised Scheme. That amendment received the approval of the Minister for Planning and was gazetted on 18 September 2015. Noting a minor change that was introduced however at the request of the Minister prior to the endorsement of that scheme amendment, additional wording has now been introduced into the proposed amending text within condition 3.6 in the table at Schedule 2 (column 4) and this is detailed at page 24 of the Scheme Amendment 76 report that is **attached** as Appendix DPDRS-1. This change to the text does not alter the intent of the proposal and is not regarded as a 'modification' as such, and accordingly does not warrant the re-advertising of the document.

Analysis of Financial and Budget Implications

There are no associated financial or budgetary implications associated with this stage of the scheme amendment procedure.

Community Consultation

The Scheme Amendment was advertised for public comment from 9 September to 21 October 2015. Public consultation measures included the following:

- letter sent to surrounding landowners;
- notification letters to relevant government agencies and service providers;
- public notification signs erected onsite;
- public notice of proposal published in a locally circulated newspaper (two consecutive editions);
- public notice of proposal posted on the City of Bunbury's website; and
- copies of plans and supporting information made available at the City of Bunbury's customer service centre.

A total number of six submissions were received; three were from government agencies/service providers and three from private individuals. Of those submitted by private individuals, two were in support and the third offers conditional support; albeit that not all elements of this conditional support are met by the proposal (e.g. range of permissible land uses), and as such, may be regarded in part as an objection.

Submitter's comments and officer's responses where relevant are provided in the Schedule of Submissions that is **attached** at Appendix DPDRS-2.

Councillor/Officer Consultation

Officers from the City of Bunbury's Sustainability, Planning and Development department collaborated on the preparation of the scheme amendment proposal and technical input was also sought from members of the Development Control Unit (DCU) during that time.

Delegation of Authority

This application for planning approval has been referred to Council for its determination, as submissions objecting to the proposal were received during the public consultation process and therefore, cannot be determined under delegation.

10.4.2 Application for Development Approval – Proposed Site Works (Changes to Ground Levels and Retaining Walls) at Lots 218 and 219 Elizabeth Crescent, South Bunbury

File Ref:	P02803, DA/2015/169/1
Applicant/Proponent:	Northlight Building Design
Responsible Officer:	Laura Sabitzer, Senior Planning Officer
Executive:	Stephanie Addison-Brown, Acting Director Planning Development and Regulatory Services
Attachments:	Appendix DPDRS-3: Location Plan Appendix DPDRS-4: Development Plans Appendix DPDRS-5: Previous Development Approval Appendix DPDRS-6: Previously Approved Plans Appendix DPDRS-7: Contour Plan Appendix DPDRS-8: Schedule of Submissions Appendix DPDRS-9: Applicant's Response to Submissions Received Appendix CRUSC-1: Confidential Submissions

Summary

An application for development approval has been received in relation to site works including changes to ground levels and retaining walls at Lots 218 and 219 Elizabeth Crescent, South Bunbury.

The lots have been subject to previous Council decisions, with retrospective landfill and proposed site works being approved. The development approval previously granted for proposed site works has since lapsed.

This application for site works has been assessed against the applicable statutory documents. The proposal is in compliance, with exception of the proposed rear setback of the retaining walls and height of fill above natural ground level in the north-east corner of Lot 218.

The proposed variations were advertised to surrounding land owners with a total eight (8) submissions, seven (7) comments of objection and one (1) comment of support, received. Issues raised were in relation to impacts of the rear retaining wall, quality of land fill, construction noise and potential damage to adjoining properties, maintenance of development site, density and transparency in relation to future development plans.

In light of the submissions received, the applicant amended the plans from a single retaining wall, to a two-tiered retaining wall, setback from the rear boundary.

After considering the proposed site works against the relevant statutory framework and taking into account the issues raised during the consultation period, it is recommended that Council approves the application for development approval, subject to specific conditions.

Executive Recommendation

That Council resolves to:

1. Approve the application for site works (changes to ground levels and retaining walls) at Lots 218 and 219 Elizabeth Crescent, South Bunbury (application reference: DA/2015/169/1) in

accordance with the City of Bunbury's Town Planning Scheme No. 7, subject to the following conditions:

- 1.1 All development shall be in accordance with the approved development plans (attached) which form part of this development approval.
- 1.2 This development approval will expire if the approved development has not substantially commenced within two (2) years from the date of issue of the approval, or, within any extended period of time for which the City of Bunbury has granted prior written consent.
- 1.3 All works required to satisfy a condition of this approval are required to be installed/constructed and maintained in accordance with the approved plans and conditions of approval for the life of the development.
- 1.4 The retaining walls, including footings and associated structures, shall be constructed wholly within the lot boundaries and finished to a quality finish and professional standard, to the satisfaction of the City of Bunbury.
- 1.5 A geotechnical report and compaction certificate for the finished level of the site is to be submitted with a building permit application and approved by the City's Building Certification section (refer to Advice Notes).
- 1.6 Prior to the construction of the development (site works) commencing, a dilapidation report of properties adjoining the development site is to be submitted and approved by the City of Bunbury.
- 1.7 Prior to the construction of the development (site works) commencing, a traffic management plan is to be submitted and approved by the City of Bunbury (refer to Advice Note g).
- 1.8 Prior to the construction of the development (site works) commencing, a detailed landscaping plan for the terraced areas, as indicated in red on the approved plans, is to be submitted and approved by the City of Bunbury (refer to Advice Note e).
- 1.9 Prior to or at the time of construction of the development (site works) concluding, the landscaping, in accordance with the approved landscaping plan is to be planted, established, maintained; and the terraced areas kept free of rubbish and debris at all times to the satisfaction of the City of Bunbury.
- 1.10 Prior to the construction of the development (site works) commencing, a damage bond to the value of \$2000.00 must be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy "Bonds".
- 1.11 Prior to or at the time of construction of the development (site works) concluding, stabilisation works to the finished ground levels of the site are to be undertaken and adequately maintained to avoid sand drift and dust nuisance to surrounding properties.
- 1.12 Prior to or at the time of construction of the development (site works) concluding, any alterations, relocation or damage of existing infrastructure within the road reserve and/or the adjoining public open space reserve must be completed and reinstated to the specification and satisfaction of the City of Bunbury.
- 1.13 Prior to or at the time of construction of the development (site works) concluding, any alterations, relocation or damage of existing assets at adjoining properties, in accordance with the approved dilapidation report, is to be rectified and/or reinstated to the satisfaction of the City of Bunbury.
- 1.14 Prior to or at the time of construction of the development (site works) concluding, refuse and building materials are to be removed from the development site.

Advice notes:

- a. The City of Bunbury advises that where a development approval letter contains conditions which are required to be discharged before development commences,

- to commence development before those conditions are discharged means that the development is not pursuant to the planning permission and is therefore unauthorised development.
- b. An application for an extension of time to an existing development approval shall require a formal written request, signed by both the land owner and applicant, shall be received within one month prior to the expiration of the Development approval. An extension of time shall only be granted once. Should an extension of time expire a new application for development approval will be required.
 - c. This is a development approval and it is not a building permit. The development the subject of this approval is also regulated by the Building Code of Australia and a separate building permit must be granted before the development commences. The owner is advised to liaise further with the City of Bunbury's Development Assessment and Building Certification department on (08) 9792 7000.
 - d. The geotechnical report is to be prepared for the whole development site in accordance with AS2870 and by a practising Structural Engineer, to ascertain the soil type and classification.
 - e. The detailed landscaping plan shall include but not be limited to the following:
 - The location, species name, size and quantity of proposed plants;
 - Mulching or similar treatments of the landscaping area/s;
 - Details of maintenance of the landscaped areas.
 - f. Prior to the construction of the development (site works) commencing, the applicant is required to obtain a works and thoroughfare permit, if any works requiring access within Council land (other than a crossover) are proposed.
 - g. The traffic management plan is to be in accordance with Main Roads WA policies and procedures and shall include but not be limited to the following:
 - site access/egress points;
 - where materials are to be safely stored;
 - effect (if any) that the works may have on residents.
2. Prior to subdivision approval or development approval for dwellings being issued, a Local Development Plan is to be prepared, submitted and approved by the City of Bunbury. The Local Development Plan will provide design guidelines to future development of dwellings, and additions to dwellings at the site and is to specifically address visual privacy, in accordance with the Residential Design Codes deemed-to-comply provisions, as well as including but not limited to the following:
 - Building footprint and setbacks
 - Maintenance of terraced landscaped areas at rear and appropriate mechanisms to enforce this (i.e. s.70a certificate of title notification, easement for reciprocal access rights over future lots)
 - Building form/architectural design
 - Overshadowing
 - Vehicle access and parking areas
 - Fencing
3. Advise the applicant, landowner and submitters of Council's decision.

Background

The subject lots are currently vacant and are located in a cul-de-sac, which contains single houses and Elizabeth Crescent park reserve, which abuts the north-west boundary of Lot 218 Elizabeth Crescent.

A location plan showing the subject site and its surrounds is **attached** at Appendix DPDRS-3.

The subject lots and surrounding residential lots in the immediate locality are currently zoned Residential R20. Prior to 2011, the zoning was Residential R15. The density (R-Code) was increased with Scheme Amendment #38 which rezoned numerous residential properties in the City of Bunbury.

A summary of key details pertaining to the subject lots is as follows:

Property address:	Lots 218 and 219, Elizabeth Crescent, South Bunbury
Zoning (TPS7):	Residential R20
Zoning (GBRS):	Urban
Existing Land Use:	Vacant
Lot Areas:	1,068.4m ² (Lot 218) and 2,136m ² (Lot 219) Total = 3,204.4m ²

This application for development approval is for proposed site works - retaining walls and changes to ground levels. The proposed retaining walls include a two-tiered retaining wall setback at minimum 2.3m from the rear boundary and a single level retaining wall to the side boundary, abutting the Elizabeth Crescent park reserve. The ground levels are proposed to bank down from the front of the property sloping down towards the rear of the property.

The proposed site work plan is **attached** at Appendix DPDRS-4 and the applicant's justification is **attached** at Appendix DPDRS-9.

Properties near the cul-de-sac of Elizabeth Crescent experience steep topography, with the land naturally sloping from the highest point south-west towards a north-east direction. A contour plan demonstrating the natural levels of the site and surrounds is **attached** at Appendix DPDRS-7. As a result of the orientation and steepness of the natural ground levels, considerable site works are required to produce developable lots.

Previous History

Previous development approval has been granted by Council for similar site works at Lots 218 and 219 Elizabeth Crescent, South Bunbury. A copy of the previous conditional development approval and approved site work plans (dated September 2010) are **attached** at Appendices DPDRS-5 and DPDRS-6.

Please see below a summary table outlining the chronology of key events, prior to the submission of this application for development approval.

Date	Event
16 October 2007	Application for development approval for retrospective landfill, including retaining walls was deferred at the Ordinary Council meeting, for a subdivision plan to be prepared. (Reference: Council Decision 211/07)
08 April 2008	Application for development approval for retrospective landfill, including retaining walls received development approval at the Ordinary Council meeting. (Reference: Council Decision 59/08)
14 Sept 2010	Application for development approval for site works (changes to ground level and retaining walls) was granted. Condition (2) stated that the development approval would, <i>“...expire if the approved development has not substantially commenced within two (2) years from the date of issue of the approval, or, within any extended period of time for which the City of Bunbury has granted prior written consent”.</i>
09 August 2012	A request for time-extension of development approval was approved until 09 August 2014.
10 July 2014	Request for time-extension of development approval was refused, as the request was contrary to Local Planning Policy: Extension of Time for Development approvals.

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)
- State Planning Policy 3.1 Residential Design Codes (the ‘R-Codes’)
- City of Bunbury Town Planning Scheme No.7 (TPS7)
- Local Planning Policy: Changes to Ground Levels and Retaining Walls

Officer Comments

Retaining wall (rear) setback

The proposed two tiered rear retaining wall is 74.9m in length and up to 2.6m (tier 1) and 5m (tier 2) in height above natural ground level.

Please refer to the proposed site work plan **attached** at Appendix DPDRS-4.

This application for development approval seeks a variation to the R-Codes in relation to the setback of the rear (east) retaining wall from the lot boundary adjoining the residential properties on Hoylake Street. The R-Codes deemed-to-comply provisions (clause 5.3.8 C8.1) indicates the minimum setback for retaining walls, and is based upon the principle that the higher and longer the proposed retaining wall is, the increased distance it is to be setback from the lot boundary.

Retaining wall	Proposed setback	Deemed-to-comply minimum setback	Variation
Rear – tier 1 (closest to lot boundary)	2.3m	5.6m	3.3m
Rear – tier 2	4.3m	7.2m	2.9m

As the proposed setback does not meet the deemed-to-comply provisions, the suitability of the proposed retaining wall setback is assessed against the corresponding design principles.

R-Codes Design Principle 5.3.8 P8
<i>“Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 [site works] and 5.4.1 [visual privacy].”</i>

The proposed setback of the retaining walls allows for the land to be effectively used by residents. The proposed ground levels are to be terraced levels, which supports usable areas of a sufficient size without drastic level changes.

It is considered that the visual impact and bulk of the retaining wall is ameliorated with revised plans showing the rear retaining wall being terraced, with a two tier design and landscaping proposed. The proposed terraced revisions are consistent with the R-Codes explanatory guidelines which recommend that, “The design of [retaining] walls should minimise their height and length through terracing and articulation”. Terracing reduces the visual bulk of the retaining wall structure and results in the height of the retaining walls immediately adjacent to lot boundary being lowered, then gradually increased.

The applicant has indicated that the proposed landscaping will consist of water wise native plantings, on a mulched garden bed. The proposed landscaping between the terraces is strongly supported as it softens the retaining wall structure and adds visual interest. The maintenance of the landscaping will be the responsibility of the relevant landowners. It is recommended that a detailed landscaping plan is prepared, and once approved, will be planted and maintained onsite. Please refer to recommended Conditions 1.8 and 1.9. The responsibilities for the maintenance of landscaping in the future, once the subject lots have been subdivided, will be addressed through a Local Development Plan which is recommended at point 2 in the Executive Recommendation.

It is acknowledged that there will be some shadowing to the adjoining properties at the rear (east) of the subject lots in the afternoon, however the impact of the overshadow would be minimal. In accordance with the R-Codes, overshadowing is measured at midday on 21 June with a northern orientation, hence overshadowing is cast to the south side. Therefore in terms of overshadowing (clause 5.4.2) the proposed retaining walls are compliant with the deemed-to-comply provisions.

Visual privacy (direct overlooking)

In accordance with the R-Codes, visual privacy is calculated from habitable rooms of a residence and active habitable spaces, where the finished ground level or finished floor level is more than 0.5m above natural ground level. As this application is for site works only, at this stage visual privacy is not required to be assessed. Visual privacy and overlooking from future residences will be assessed at the time of an application for development approval for a residence.

The applicant has provided a cross-section on the proposed site works plan (**attached** at Appendix DPDRS-4) which demonstrates an indicative house design can be achieved which is in compliance with the R-Codes deemed-to-comply provisions for visual privacy.

Typically a standard dividing fence is installed above the finished ground level to screen and prevent direct overlooking to adjoining properties. However in this instance, the visually permeable balustrade rather than a standard dividing fence is preferred on top of the rear retaining wall because:

- The visually permeable balustrade allows for the terraced landscaped areas to be visible to residents of the future lots. Visibility of the landscaped area will be an attractive rear setting for both residents of the future lots and adjoining properties which front Hoylake Avenue, whilst discouraging a potential 'out of sight, out of mind' attitude of future residents in relation to the maintenance of the rear landscaped areas.
- It will reduce the overall height of the retaining wall/fencing structure and ameliorate the visual impact and overall bulk of the retaining wall/fencing structure.

It is recommended that prior to any future subdivision or development approval being issued, that a Local Development Plan is prepared which specifies measures for compliance with the R-Codes deemed-to-comply provisions for visual privacy. Such measures include a defined building footprint, consideration of habitable room window and balcony locations and appropriate internal screening devices. Please refer to point 2 in the Executive Recommendation.

Proposed ground levels

The proposed changes to the ground level is for the front of the subject lots to be at a level in keeping with the Elizabeth Crescent road and verge area levels, and then banking down towards the rear of the lot with two distinct terrace levels. The changes to the ground levels are shown on the cross-section of the proposed site works plan, **attached** at Appendix DPDRS-4.

The proposed ground levels are generally in keeping with principles identified in Local Planning Policy: Changes to Ground Levels and Retaining Walls, in particular:

- where a site has a large slope, consideration should be given to stepping down the buildings rather than maintaining a single floor level; and
- filling and/or retaining to the highest level of the site is not supported.

The proposed ground levels are not set at a single level, rather two distinct terrace levels with banking down to the rear, and the fill is not to the highest level of the site (which occurs at the southern end of Lot 219).

The exception to this is the proposed ground level towards the rear north-east corner of Lot 218, which is approximately 4.1m higher than natural ground level, where a variation is proposed. In this instance the variation is supported as the impacted property is the park reserve which adjoins the north-east boundary. The increased ground levels in this area would have minimal adverse impacts to the park reserve. The increased ground level in this area allows for passive surveillance of the park reserve, which is encouraged in the Western Australian Planning Commission's Designing Out Crime Planning Guidelines.

In terms of the material of the proposed land fill, the applicant has indicated that the existing stockpiled sand on the subject lots is to be used. The applicant has provided comments in relation

to the sources and type of fill to their knowledge. Refer to the applicant's response to submissions received **attached** at Appendix DPDRS-9.

In relation to land fill material, it is stated in Local Planning Policy: Changes to Ground Levels and Retaining Walls that, *"all fill material is to be solid clean earth/sand or be of a clear inert material that is free of contamination, organic, putrescible or refuse material. The type, composition and source of fill material is to be geotechnically suitable..."*.

Concerns were also raised during the consultation period in regard to the composition and quality of the current fill onsite.

At this stage, the exact composition and quality of the fill is unknown to the City. Therefore, it is strongly recommended that the applicant provides a geotechnical report and compaction certificate for the level of fill with the building permit which will be reviewed by the City's Building Certification section. Please refer to recommended condition 1.5. This report will ascertain the soil (fill) type, classification and if the fill is geotechnically suitable for its intended purpose.

It is also recommended that appropriate stabilisation of the site is undertaken to avoid sand drift and dust nuisance to adjoining properties. The applicant has indicated on the proposed site work plan that the finished ground level, *"...will be protected from erosion by suitable application of Hydromulch or similar"*. This is considered to be a suitable stabilisation method. A standard planning condition requiring stabilisation works of finished ground level to avoid sand drift is recommended at condition 1.11.

Density and future house design

The subject lots are currently zoned Residential R20, which is in keeping with the R-Code of the surrounding residential properties. Based on site area, under the current R20 requirements there is potential for seven (7) dwellings at the subject lots.

Prior to 2011, the subject lots and the surrounding residential lots were zoned Residential R15. The density (R-Code) was increased with Scheme Amendment #38 which rezoned numerous residential properties in the City of Bunbury. At the time, the community was consulted on the then proposed zoning changes in Scheme Amendment #38.

Applications for subdivision are determined by the Western Australian Planning Commission, in consultation with referral bodies (including the City of Bunbury), with the number of lots approved being at the density as per the assigned R-Code.

This application for development approval is for site works - changes to ground levels and retaining walls only. Future applications for development approval relating to the development of residences at the subject lots will be assessed on their merits, and in accordance with the Residential Design Codes, relevant Local Planning Policies and the operative Local Planning Scheme.

It is also recommended that a Local Development Plan is prepared to guide future subdivision and development of the subject lots to ensure quality and complementary development, mitigate design issues and allow for consistent and coherent decision making. The Local Development Plan would address visual privacy, building footprint, building form, overshadowing, vehicle access and parking, fencing and rear terraced landscaping. Refer to point 2 of the Executive Recommendation.

Analysis of Financial and Budget Implications

This 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.

Community Consultation

The development application was advertised for public comment from 4 September 2015 to 18 September 2015. Public consultation measures included the following:

- Letters sent to surrounding landowners
- Notification signs erected onsite
- Notice of proposal posted on the City of Bunbury's website
- Copies of plans and supporting information made available at the City of Bunbury's customer service centre.

In total, eight (8) submissions were received from surrounding landowners during the consultation period. Seven (7) comments of objection and one (1) comment of support were received. The main concerns raised in the submissions received were:

- Visual appearance of rear retaining wall
- Setback of rear retaining wall
- Visual privacy and overlooking
- Overshadowing
- Drainage
- Density and proposed number of future dwellings
- Streetscape
- Quality of landfill
- Access for emergency vehicle
- Construction impacts
- Transparency in relation to future development plans

Refer to the Schedule of Submissions **attached** at Appendix DPDRS-8.

The applicant's response to the comments received during the submission period is **attached** at Appendix DPDRS-9.

In light of the submissions received, the applicant revised the proposed site work plan from a single retaining wall on the rear boundary (up to 5m in height) to a two-tiered terraced retaining wall (up to 2.6m and 5m in height respectively). The revised proposed site work plan **attached** at DPDRS-4.

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

This application for planning approval has been referred to Council for its determination, as submissions objecting to the proposal were received during the public consultation process and therefore, cannot be determined under delegation.

10.4.3 Bunbury Plaza Shopping Centre – Proposed Scheme Amendment 79 and Local Development Plan

File Ref:	A06355
Applicant/Proponent:	Tecon Australia Pty Ltd
Responsible Officer:	Laura Sabitzer, Senior Planning Officer
Executive:	Stephanie Addison-Brown, Acting Director Planning, Development and Regulatory Services
Attachments:	Appendix DPDRS-10: Scheme Amendment 79 Report Appendix DPDRS-11: Local Development Plan Appendix DPDRS-12: Transport Impact Assessment Appendix DPDRS-13: Schedule of Submissions – Scheme Amendment 79 & Local Development Plan Appendix DPDRS-14: Applicant’s Response to Submissions Received Appendix CRUSC-2-1: Confidential Submissions Plaza LDP Appendix CRUSC-2-2: Confidential Submissions Plaza SA79

Summary

Planning consultants Tecon Australia Pty Ltd on behalf of the landowners have submitted Scheme Amendment 79 and a Local Development Plan to facilitate the proposed redevelopment of Bunbury Plaza Shopping Centre.

At its meeting on 26 May 2015, Council resolved to adopt for public advertising proposed Scheme Amendment 79, which involves the rezoning of Lot 1, Lot 18, portion of Lot 166 Prosser Street and Lot 5 Forrest Avenue to ‘Shopping Centre Zone’ and applying residential density codes.

Furthermore, at its meeting on 9 June 2015, Council resolved to commence public advertising of the proposed draft Local Development Plan. The purpose of the Local Development Plan is to set out the general land use planning, urban design and infrastructure standards and requirements necessary to guide the future redevelopment of the shopping centre as a designated ‘neighbourhood centre’.

Public advertising and consultation with relevant stakeholders has concluded, with submissions received reviewed by officers. In total eighteen (18) submissions; twelve (12) comments of objection, one (1) comment of support and five (5) responses from government agencies were received. The issues of traffic, car parking and the heritage of the Lady Mitchell Memorial Child Health Clinic were the main concerns raised during the consultation period.

Both documents are now returned to Council for further consideration. It is recommended that Council supports Scheme Amendment 79 without modification, and with the Local Development Plan requires the applicant to make modifications to address issues raised in the submissions and to update text procedures, as a result to recent Planning legislation changes.

Executive Recommendation

That Council:

1. In relation to Scheme Amendment 79 and in accordance with the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Scheme) Regulations 2015* resolves to:

- (a) Support without modification, Scheme Amendment 79 to the City of Bunbury Town Planning Scheme No. 7 by modifying the Scheme Map, in accordance with Local Planning Scheme Amendment Report 79 to rezone:
 - (i) Lot 1, Lot 18 and portion Lot 166 Prosser Street from 'Residential Zone' with a residential density code of 'R60' to 'Shopping Centre Zone';
 - (ii) Lot 5 Forrest Avenue from 'Mixed Business Zone' to 'Shopping Centre Zone'; and
 - (iii) applying a residential density code of R-AC3 over the 'Shopping Centre Zone' comprising of Lots 3, 5 and 36 Forrest Avenue, Lots 6 and 8 Spencer Street and Lots 1, 18, 31, 32 and portion of Lot 166 Prosser Street, Bunbury.
 - (b) notify the Western Australian Planning Commission of Council's resolution; and
 - (c) refer to the Western Australian Planning Commission the Scheme Amendment 79 documentation.
2. In relation to the proposed Local Development Plan and in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015* resolves to:
- (a) Approve the Local Development Plan, subject to the following modifications:
 - (i) amend point 7.2 (a) to read, "The local development plan is to be amended in accordance with Schedule 2, Part 7, clause 59 – Amendment of the local development plan of the *Planning and Development (Local Planning Scheme) Regulations 2015* (as amended)"
 - (ii) the proposed three car parking bays located near the front of the heritage significant building and the trolley bay near the Prosser Street verge, are to be deleted. This is because the car parking bays and the trolley bay encroach into an identified area of significance in the Conservation Management Plan.
 - (iii) add note that the car parking, landscaping and incidental structures shown on the Local Development Plan are indicative only and are subject to a Detailed Car Park, Landscape and Stormwater Management Plan (refer to points 1.1a and 4.6).
- for a period of ten (10) years, commencing on the day which the local government approves the plan, or another period determined by the local government, unless earlier revoked.
- (b) Instructs the applicant to modify the Local Development Plan, in accordance with the modifications listed at (a).
 - (c) Publishes the approved Local Development Plan on the City of Bunbury's website.
3. Advise the applicant, landowner and submitters of Council's decision.

Background

The applicant has advised that the purpose of Scheme Amendment 79 and the Local Development Plan is to facilitate the redevelopment of the existing Plaza Shopping Centre.

Supermarket chain, Woolworths, the major tenant of Plaza Shopping Centre vacated the premises in April this year. This coincided with the opening of a new Woolworths store in Dalyellup. It is understood, at this stage, that Woolworths has intentions of re-opening at Plaza Shopping Centre.

The Scheme Amendment 79 report is **attached** at Appendix DPDRS-10, and the Local Development Plan is **attached** at Appendix DPDRS-11.

Earlier this year, Council considered the initiation of Scheme Amendment #79, the draft Local Development Plan for Plaza Shopping Centre, as well as providing 'in principle' support on a without prejudice basis for the undertaking of alterations and extension to the existing supermarket. The Council resolutions of the matters are as follows:

Scheme Amendment #79 – Ordinary Council meeting 26 May 2015 – Council Decision 177/15

That Council:

1. *In accordance with the Planning and Development Act 2005, resolves to initiate proposed Scheme Amendment 79 to the City of Bunbury Town Planning Scheme No. 7 by modifying the Scheme Map to rezone:
 - (a) *Lot 1, Lot 18 and portion Lot 166 Prosser Street from 'Residential Zone' with a residential density code of 'R60' to 'Shopping Centre Zone';*
 - (b) *Lot 5 Forrest Avenue from 'Mixed Business Zone' to 'Shopping Centre Zone'; and*
 - (c) *applying a residential density code of R-AC3 over the 'Shopping Centre Zone' comprising of Lots 3, 5 and 36 Forrest Avenue, Lots 6 and 8 Spencer Street, and Lots 1, 18, 31, 32 and portion of 166 Prosser Street, Bunbury,*
*in accordance with the scheme amending pages and scheme amendment map prepared by the City of Bunbury as part of the draft scheme amendment report attached at Appendix DPDS-6.**
2. *Notify the Western Australian Planning Commission of Council's decision to initiate proposed Scheme Amendment 79, and provide the Commission with a copy of the scheme amending documentation prior to proceeding to public advertising.*
3. *Refer a copy of the proposed Scheme Amendment 79 documentation to the Environmental Protection Authority, and any other relevant public authority, for consideration and comment.*
4. *Subject to formal assessment not being required by the Environmental Protection Authority and no objection received from the Western Australian Planning Commission, proceed to advertise proposed Scheme Amendment 79 for public comment with a submission period of not less than 42 days in*

accordance with the Planning and Development Act 2005 and Town Planning Regulations 1967.

5. *Further consider the proposal together with any public submissions lodged with the City of Bunbury following the conclusion of the statutory public advertising period.*

Local Development Plan – Ordinary Council meeting 9 June 2015 – Council Decision 202/15

That Council:

1. *Subject to confirmation being received from the Environmental Protection Authority and the Western Australian Planning Commission to proceed with the public advertising of proposed Scheme Amendment 79 to the City of Bunbury Town Planning Scheme No. 7, resolves to publicly advertise the proposed draft Local Development Plan Bunbury Plaza Shopping Centre (as modified) for a period of not less than 42 days in conjunction with the scheme amendment proposal;*
2. *Reconsider the proposed draft Local Development Plan Bunbury Plaza Shopping Centre, together with any public submissions lodged with the City of Bunbury following the conclusion of the public advertising period, and if approved, forward a copy of the adopted Local Development Plan (with or without conditions) to the Western Australian Planning Commission in accordance with the relevant provisions of clause 6.2.7 of the City of Bunbury Town Planning Scheme No. 7; and*
3. *Provides ‘in principle’ support (in writing) on a without prejudice basis for the undertaking of alterations and extension to the existing supermarket, subject to compliance with the provisions of any adopted Local Development Plan Bunbury Plaza Shopping Centre, the Town Planning Scheme and applicable Local Planning Policies.*
4. *Will require the preparation of a detailed and integrated Vehicle Parking and Traffic Management Plan, Landscaping Plan, Stormwater Management Plan, and an Infrastructure Implementation Plan that are prepared to the specifications and satisfaction of the local government prior to the issuing of any subsequent planning approval(s).*

Legislative and Council Policy Compliance

The following planning instruments of the State Planning Framework and Local Planning Policy Framework are applicable:

- Planning and Development Act 2005
- Planning and Development (Local Planning Schemes) Regulations 2015
- City of Bunbury Town Planning Scheme No. 7 (TPS7)
- Western Australian Planning Commission’s Activity Centre for Greater Bunbury Policy 2012
- Local Planning Strategy for Activity Centres and Neighbourhoods (LPSCAN)
- State Planning Policy 3.1: Residential Design Codes (R-Codes)

Please note that the Planning and Development (Local Planning Scheme) Regulations 2015 took effect as of 19 October 2015 and supersede the Town Planning Regulations 1967.

With Scheme Amendment 79, Council can elect to:

- support the Scheme Amendment without modification; or
- support the Scheme Amendment with proposed modifications to address issues raised in the submissions; or
- not support the Scheme Amendment

Following Council resolution, the Scheme Amendment documentation and schedule of submissions is referred to the Western Australian Planning Commission (WAPC) for their consideration and recommendation to the Minister for Planning who makes the final decision prior to the Scheme Amendment's endorsement and gazettal.

With the proposed Local Development Plan, Council can elect to:

- approve the Local Development Plan
- require the applicant to modify the Local Development Plan, as specified by Council; or
- refuse the Local Development Plan.

If Council elects to approve, or approve subject to modifications the Local Development Plan notification of Council's approval is to be provided in writing to the applicant and the approved document published on the City of Bunbury's website, for the Local Development Plan to be in effect.

Officer Comments

The issues of traffic, car parking and the heritage of the Lady Mitchell Memorial Child Health Clinic were the main concerns identified from the consultation period and are discussed below.

Traffic

Traffic was the main concern raised during the consultation period. In particular comments were received indicating that the proposed vehicle access point to/from Prosser Street would result in increased traffic impact on Prosser Street during peak school periods.

The issue of traffic can be separated into the following components:

- The capacity of the existing road network to accommodate traffic volume;
- The safety to other road users including to cyclists and pedestrians;
- Amenity, if the proposed traffic volumes generated from the development will result in change to street character and environment, and if so, is such change acceptable.

The applicant has engaged a traffic consultant who prepared a transport impact assessment on the proposed development which is **attached** at Appendix DPDRS-12. The applicant has also submitted justification addressing traffic and the Prosser Street vehicle access point which is **attached** at DPDRS-14.

The City's Engineering section has reviewed the provided transport impact assessment. Following requested revisions to the document, it is generally accepted that the transport impact assessment

details a fair representation of the predicted effects of the proposed Plaza Shopping Centre redevelopment. It is concluded that the local road network is able to accommodate the traffic generated from the redevelopment.

The transport impact assessment states that the predicted traffic volumes from the proposed redeveloped Plaza Shopping Centre, using the Prosser Street vehicle access point in the eastern direction, is forecasted to equate to 2% of the total traffic volume or 12 vehicles per hour during the PM Peak in the year 2026. In comparison, currently there are three vehicles per hour using the Prosser Street vehicle access point in the eastern direction. Therefore, an increase of 9 vehicles per hour is considered to be minimal and will not detrimentally impact the current amenity or operation of the road network in the immediate locality, including the South Bunbury school precinct.

However, it is strongly recommended that the intersection between Forrest Avenue and the south-east vehicle access point ingress/egress is upgraded to allow for safe vehicle movements due to the predicted increase of vehicles using this intersection. The minimum intersection upgrade requirements are to be included in the Infrastructure Implementation Plan, which is a requirement of the Local Development Plan. Furthermore, upgrades to this intersection will encourage exiting eastbound traffic to use the Forrest Avenue south-east vehicle access point rather than the Prosser Street vehicle access point.

It is also recommended that the Infrastructure Implementation Plan includes the installation of traffic management infrastructure to the intersections on Spencer Street, such as a splitter island with pedestrian refuge, subject to further detail design assessment.

Car parking

The Local Development Plan at point 1.1a) and 4.6 requires a Detailed Car Park, Landscape and Stormwater Management Plan to be prepared and approved prior to the approval of any development. If the minimum car parking requirement cannot be accommodated on-site, the developers may need to investigate off-site locations for employee car parking.

Heritage – Lady Mitchell Memorial Child Health Centre

The status of the Lady Mitchell Memorial Child Health Centre building is recognised within the proposed draft Local Development Plan, and consequently any application for development approval will need to have regard to the social and cultural importance of the heritage place, noting that the ongoing maintenance of the premises is to be in accordance with the Conservation Management Plan, and will be referred for state and local heritage assessments.

The visibility of the heritage significant building from the street is to be protected, therefore the existing landscaping and front setback of the Lady Mitchell Memorial Child Health Centre is to be retained. The Conservation Management Plan for Lady Mitchell Memorial Child Health Centre identifies differing areas of significance at and in proximity of the heritage building. It is recommended that the proposed three car parking bays located near the front of the heritage significant building, and the trolley bay near the Prosser Street verge, are to be deleted from the Local Development Plan. The reason for this is the car parking bays and the trolley bay encroaches into an identified area of significance in the Conservation Management Plan.

Analysis of Financial and Budget Implications

This 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.

Community Consultation

The proposed Scheme Amendment 79 and Local Development Plan for Plaza Shopping Centre were advertised for public comment 1 July 2015 to 11 August 2015. Public consultation measures included the following:

- * Letters sent to surrounding landowners;
- * Publication of notice in consecutive editions of the Bunbury Mail
- * Notification signs on-site;
- * Notice of proposal on the City of Bunbury's website;
- * Copies of the plans and supporting information made available at the City of Bunbury's Customer Service Centre.

In total, eighteen (18) submissions were received on the Scheme Amendment 79 and the Local Development Plan during the consultation period. Twelve (12) comments of objection, one (1) comment of support and five (5) responses from government agencies were received. The main concerns raised in the submissions received were:

- * Vehicle access point to/from Prosser Street
- * Traffic – congestion during school drop-off and pick up times
- * Traffic – safety for pedestrians and in particular children
- * Inadequacy of proposed number of car parking bays
- * Objection to proposed liquor store
- * Vehicle and pedestrian access to lot 166 – existing laneway
- * Compatibility between proposed increase to southern car park and heritage listed 'Lady Mitchell Health Clinic'

Refer to the Schedule of Submissions for both Scheme Amendment 79 and the Local Development Plan are **attached** at Appendix DPDRS-13.

Please note: a full copy of all submissions received by the City of Bunbury have been circulated to the Mayor and Councillors prior to the Council meetings.

The applicant's response to the comments received during the submission period is **attached** at Appendix DPDRS-14.

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

This application for planning approval has been referred to Council for its determination, as submissions objecting to the proposal were received during the public consultation process and therefore, cannot be determined under delegation.

10.4.4 Proposed Scheme Amendment 84 – Special Use Zone No. 42 (Ocean Drive Motel): Incorporation of Lot 2 Greensell Street into S.U.42 and Modification of Special Use(s) and Development Conditions

File Ref:	A06473
Applicant/Proponent:	Harley Dykstra Pty Ltd
Responsible Officer:	Jana Joubert, Strategic Planning Officer
Executive:	Stephanie Addison-Brown, Acting Director Planning Development and Regulatory Services
Attachments:	Appendix DPDRS-15: Scheme Amendment 84 Report

Summary

The purpose of this report is for Council to consider initiating a scheme amendment to Town Planning Scheme 7 (TPS7) that modifies text within the 'Special Use(s)' and 'Conditions' columns of 'Special Use Zone No.42' (S.U.42) under Schedule 2 of the Scheme, and also extends the area of that zone on the Scheme map by rezoning Lot 2 Greensell Street from 'Residential Zone' and incorporating into S.U.42.

The intent of Scheme Amendment 84 is to allow an extended range of land use activities including 'Multiple dwelling - Unrestricted Residential Accommodation (URA)', 'Short-stay Multiple units' and complementary tourism orientated non-residential uses to be considered for development within S.U.42, subject to their meeting appropriate development standards and conditions.

Executive Recommendation

That Council:

1. In accordance with the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Scheme) Regulations 2015* resolves to initiate and adopt for the purpose of public advertising proposed Scheme Amendment 84 as a standard amendment to the City of Bunbury Town Planning Scheme No. 7 by:
 - (a) modifying text in the table under Schedule 2 – Special Use Zones at No. 42 within the 'Special Use(s)' and 'Conditions' columns; and
 - (b) rezoning Lot 2 Greensell Street, Bunbury from 'Residential Zone' to 'S.U.42'; and
 - (c) amending the scheme map by revising the annotation shown over Lot 11 Ocean Drive and Lot 2 Greensell Street, Bunbury from 'S.U.42' to 'S.U.42 Mixed Use – Tourism'

in accordance with the scheme amending pages and scheme amendment map prepared by the City of Bunbury as part of the scheme amendment report.
2. Determines that Scheme Amendment 84 is a standard scheme amendment under clause 34 of the *Planning and Development (Local Planning Scheme) Regulations 2015* for the following reasons:
 - (a) the amendment is broadly consistent with the strategic intent of Council's adopted Local Planning Strategy for Tourism (2009) and adopted Local Planning Strategy for Activity Centres and Neighbourhoods (2010); and

- (b) does not result in any significant environmental, social, economic or governance impacts on land within the Scheme area; and
 - (c) it is not a complex or basic amendment.
3. Refer a copy of the proposed Scheme Amendment 84 documentation to the Environmental Protection Authority for review and comment.
 4. Subject to formal assessment not being required by the Environmental Protection Authority, proceed to advertise proposed Scheme Amendment 84 for public comment with a submission period of not less than 42 days in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*.
 5. Following the conclusion of public advertising, reconsiders Scheme Amendment 84, including any proposed modifications, along with any submissions lodged within the City of Bunbury during the public consultation period.

Background

The private consultancy firm Harley Dykstra Pty Ltd on behalf of the landowners of Lot 11 Ocean Drive, Bunbury (Ocean Drive Motel) and Lot 2 Greensell Street have submitted a scheme amendment proposal to rezone Lot 2 Greensell Street, Bunbury from 'Residential' to 'S.U.42', thereby incorporating the lot into the existing 'Special Use Zone No. 42'.

The properties subject to this scheme amendment are summarised in Table 1 below:

Property Address	Zoning (TPS7)	Zoning (GBRS)	Existing Land Use	Lot area
123 Ocean Drive, Bunbury	S.U.42	Urban	Motel	821m ²
14 Greensell Street, Bunbury	Residential R20/40	Urban	Group Dwelling	2579m ²
Total				3400m ²

The Ocean Drive Motel occupies Lot 11 Ocean Drive and Lot 2 Greensell Street, situated directly to the east (rear) of the motel site is in residential use and comprises 5 strata units. Lot 11 Ocean Drive is included in 'Special Use Zone no. 42', and Lot 2 Greensell Street is currently included within the 'Residential Zone' under the City of Bunbury Town Planning Scheme No.7 (TPS7).

The documentation prepared and submitted by the applicants includes conceptual plans and drawings (for illustrative proposes only) and is incorporated within the Scheme Amendment 84 Report, **attached** at Appendix DPDRS-15.

Legislative and Council Policy Compliance

The following statutory planning instruments of the State Planning Framework and Local Planning Policy Framework are applicable to assessing the scheme amendment request:

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- Greater Bunbury Region Scheme (GBRS)
- City of Bunbury Town Planning Scheme No. 7 (TPS7)
- Local Planning Strategy for Tourism (2009)
- Local Planning Strategy for Activity Centres and Neighbourhoods (2012)
- Local Planning Policy: Non Residential Development in or adjacent to Residential Areas
- Local Planning Policy: Unrestricted Residential Accommodation (URA)
- Local Planning Policy: Building Height

Please note: the *Planning and Development (Local Planning Scheme) Regulations 2015* took effect on 19 October 2015 and supersedes the *Town Planning Regulations 1967*.

Officer Comments

The subject site on Ocean Drive is located along a 'Strategic Tourism Corridor' within the 'Core Tourism Area' of the City as well as being designated a 'Non-Strategic Tourism Site' as identified in the LPS for Tourism. It is also situated within walking distance/close proximity to a number of noteworthy tourism-related special use zones and activity centres:

- ±1.7km from the Central Business District;
- ±500m south of the Back Beach Tourism Precinct
- ±1km north of the recently redeveloped *Seaview Apartments (formerly Fawltly Towers)*”;
- directly north of the Hungry Hollow Restaurant;
- ±600m north of the Punchbowl Site (Special Use Zone No. 7 – currently under consideration by the Minister for Planning).

The intent of Scheme Amendment 84 is to allow an extended range of land use activities including 'Multiple Dwelling-URA', 'Short-stay Multiple units' and complementary tourism orientated non-residential uses to be considered for development within S.U.42, subject to their meeting appropriate development standards and conditions. The conceptual drawings provided by the submitter visualises the redevelopment of Lot 11 Ocean Drive (Ocean Drive Motel) and Lot 2 Greensell Street (residential properties) with new integrated premises that incorporate a mix of short stay and Multiple Dwellings-URA, with small scale integrated commercial units fronting Ocean Drive and underground car parking.

Where development fronts Greensell Street, the application of safeguards/design controls (i.e. building height and minimum setback requirements) should ensure that the scale of development remains low key and as far as possible consistent with the adjacent 'Residential' zoning.

The proposal is considered broadly in step with the City strategic intent to reinvigorate tourism along this part of Ocean Drive, noting that the rejuvenation/redevelopment of existing aged short stay facilities will be a key aspect of successfully achieving this outcome.

The following development conditions are proposed to be included to those attached to 'Special Use Zone No.42' in order to ensure that the value of the tourism product is not diminished but potentially enhanced alongside the opportunity to make an increasingly important contribution to the short stay/tourism product in Bunbury:

- the current number of short stay units available at the Ocean Drive Motel (14) being retained as a minimum within the redeveloped facility (noting that this approach was adopted in the amendment associated with the redevelopment of Seaview Apartments);
- short stay only units occupying prime frontage (i.e. outlook over the Indian Ocean);
- the outward appearance of the premises retaining the character of a short stay facility, and incorporating a centralised entrance/service lobby;
- the overall design of the complex being fully integrated and able to harmoniously support a changing mix and dynamic of visitors and longer stay residents;
- private open space requirements (per the R-Codes) including a generous proportion of quality communal open space;
- the City having the ability to request the submission and adoption of a local development plan.

In summary, the proposed scheme amendment is considered to be consistent with the strategic direction as set out by the City of Bunbury Draft Local Planning Strategy (LPS) and Local Planning Strategy for Tourism, and supports the potential establishment of commercial, entertainment, recreational and leisure activities in combination with tourist accommodation along the Ocean Drive Mixed Use-Tourism Activity Corridor identified in the Local Planning Strategy for Activity Centres and Neighbourhoods.

Analysis of Financial and Budget Implications

The procedure for considering a Scheme Amendment has no associated financial or budgetary implication other than the costs associated with public consultation.

Community Consultation

Standard scheme amendments are required to be advertised for public comment for a minimum period of 42 days in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Public consultation will include the following measures:

- letters sent to surrounding landowners and relevant public authorities
- public notification signs erected onsite
- public notice of proposal published in a locally circulated newspaper
- public notice of proposal posted on the City of Bunbury's website
- copies of plans and supporting information made available at the City of Bunbury's customer service centre.

Councillor/Officer Consultation

City Officers provided preliminary advice to the proponents on 30 June 2015.

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.

Relevant Precedents

- Scheme Amendment 66 (Back Beach Tourism Precinct) was gazetted in April 2015 and established an appropriate mix of Unrestricted Residential Accommodation, short-stay and tourism-related uses.

- Scheme Amendment 49 (Seaview Apartments) was gazetted in May 2015 and allowed for the removal of the 25% land use cap associated with the provision of Multiple Dwelling/Unrestricted Residential Accommodation, subject to the site retaining a minimum of 14 units of any development for the exclusive use of Short-Stay Accommodation.

- Scheme Amendment 80 (Punchbowl) involves the removal of the 75% land use minimum associated with the provision of short-stay only accommodation, to allow flexibility and the provision of medium and higher density URA type dwellings that may be occupied on either a short stay or permanent basis and thus quickly respond to the changing demands of the tourism market over time. This Scheme Amendment was adopted by Council in July 2015 and is currently awaiting the Minister's approval.

10.4.5 Ranger Authorisation

Applicant/Proponent:	Internal
Responsible Officer:	John Kowal, Acting Director Corporate and Community Services
Executive:	Stephanie Addison-Brown, Acting Director Planning Development and Regulatory Services
Attachments:	Nil

Summary

Council Rangers/Fire Control Officers are required to be authorised by Council to enable them to perform their duties

Executive Recommendation

That Council:-

1. Appoints Michael Franz Holy as Authorised Officer and an Authorised Person in accordance with the following legislation from the commencement of his employment with the City of Bunbury being 5 November 2015:
 - 1.1 *Local Government Act 1995*;
 - 1.2 *Local Government (Miscellaneous Provisions) Act 1995* as amended;
 - 1.3 *Litter Act 1979* and Litter Regulations (as amended);
 - 1.4 *Control of Vehicles (Off-road Areas) Act 1978* and Control of Vehicles (Off Road Areas) Regulations (as amended);
 - 1.5 The purpose of control and supervision of any of the Local Laws of the City of Bunbury Council;

Background

Michael Franz Holy commenced employment with the City of Bunbury as a Parking Ranger on 5 November 2015. This position requires that he be authorised in accordance with legislation, enabling him to administer and enforce the provisions of various legislation.

Council Policy Compliance

The Authorisation of Parking Rangers is a standard requirement to allow the Officer to perform their duties.

Legislative Compliance

The aforementioned legislation requires that Council authorises staff who are employed for the purpose of exercising the powers as conferred under each statute.

Officer Comments

Michael Holy is a part-time Parking Ranger and therefore does not need to be authorised for other Ranger duties.

Analysis of Financial and Budget Implications

Nil

Community Consultation

Nil

Councillor/Officer Consultation

Nil

10.5 Director Works and Services Reports

Nil.

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 to ensure Council is aware of funding allocated through the City's Disaster Relief Reserve Fund.

Recommendation

That Council pursuant to section 5.4 of Councils Standing Orders, agree to receive the item 14.1 entitled "*Disaster Relief Reserve Fund – Use of Funds for Esperance Bush Fire Appeal*".

14.1 Disaster Relief Reserve Fund – Use of Funds for Esperance Bush Fire Appeal

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

Summary

Following the recent Esperance Fires, the Lord Mayor's Distress Relief Fund has been activated to collect donations from fellow West Australians.

The purpose for this report is to advise elected members that support has been provided through Council's Disaster Relief Reserve towards the appeal to assist with the rebuilding of the affected properties.

Committee Recommendation

That Council note the decision of the Disaster Relief Reserve Fund Committee to donate \$10,000 from the Reserve Fund to the Lord Mayor's Distress Relief Fund for assistance with the rebuilding after the Esperance fires.

Background

Individuals and organisations wishing to assist those impacted by the Esperance bushfires are urged to donate through the Lord Mayor's Distress Relief Fund (LMDRF).

At its Meeting held 1 March 2011, Council Decided (47/11):

1. *That a permanent Disaster Relief Reserve Fund be established by the City of Bunbury to provide relief of personal hardship and distress arising from natural disasters occurring within Western Australia and Australia.*
2. *That the Disaster Relief Reserve Fund be referred to the Annual Budget Workshops for consideration for annual allocation.*
3. *That the Disaster Relief Reserve Fund be setup to enable community donations to be received, and an application be made to the appropriate authorities for donations (of \$2 and over) to be tax deductible.*
4. *That the Disaster Relief Reserve Fund be administered by a Committee of Council comprised of the Mayor, Chief Executive Officer and one Councillor.*

Following this Decision (47/11) Council established a Disaster Relief Reserve Fund to provide relief from personal hardship and distress arising from natural disasters occurring within Western Australia and Australia.

The fund has been activated to coordinate donations to support victims of the bushfires have resulted in at least 300 being evacuated in these 'catastrophic and unstoppable' bushfires raging out of control.

Donations of funds are through the LMDRF dedicated appeal account.

Analysis of Financial

Funding of \$10,000 has been paid to the LMDRF through the Disaster Relief Reserve Fund.

Relevant Precedents

Council has contributed to similar appeals in the past.

At its Meeting held 21 January 2014 Council Decided (18/14) to make a donation of \$10,000 through the Lord Mayor's Distress Relief Fund for aid after the Parkerville fires.

At its Meeting held 29 November 2011 Council Decided (289/11) to make a donation of \$10,000 to the Augusta-Margaret River Shire following the Margaret River Fires.

Officer Comments

Through the establishment of the Disaster Relief Reserve Fund, funds are readily available to be distributed to disaster relief via appropriately formed disaster fund appeals.

The Disaster Relief Reserve Funding Committee decided to make a contribution of \$10,000 through the Lord Mayor's Distress Relief Fund for assistance with rebuilding after the Esperance bush fires.

15. Meeting Closed to Public

15.1 Matters for which the Meeting may be Closed

15.2 Public Reading of Resolutions that may be made Public

16. Closure