

Bunbury City Council

Notice of Meeting and Agenda 8 December 2015



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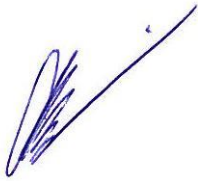
Nature of Council's Role in Decision Making

- 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, 8 December 2015 at 5.30pm.



Andrew Brien
Chief Executive Officer
(Date of Issue: 4 December 2015)

Agenda

8 December 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*

Nil.

5. Declaration of Interest

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

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

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

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

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

Cr Steck declared a financial interest in the item titled *“10.2.4 Application for Development Approval - Proposed Amendment (Modification to Condition c) - Units 16C & 17C at the Homemaker Centre - Lot 107 #42 Strickland Street, Bunbury”* as her partner is the Director of Citygate. Cr Steck will leave the chamber for the duration of the discussion and the vote on the matter.

Cr Cook declared an impartiality interest in the item titled *“10.5.2 Tender for the Construction of the SES Headquarters and Incident Control Centre RFT1516-00019”* as he is a former volunteer with the SES and went with them to Margaret River to check out the design features. Cr Cook will remain in chamber for the duration of the discussion and the vote on the matter.

Cr Giles declared a proximity interest in the item titled *“15.1.2 Lot 5 #7 Wellington Street, Bunbury”* as she lives over the road. Cr Giles will leave the 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 24 November 2015 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 24 November 2015 be confirmed as a true and accurate record.

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Various
Attachments:	Appendix MTBN-1 – Withers Advisory Committee Minutes – 13/11/2015

Summary

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

1. Title: Withers Advisory Committee Minutes – 13/11/2015
Author: Alison Baker, Executive Officer Works and Services
Appendix: MTBN-1

Council Committee Recommendation

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

1. Withers Advisory Committee Minutes – 13/11/2015

8. Petitions, Presentations, Deputations and Delegations

8.1 *Petitions*

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

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

8.2 *Presentations*

8.3 *Deputations*

8.4 *Council Delegates' Reports*

8.5 *Conference Delegates' Reports*

9. Method of Dealing with Agenda Business

10. Reports

10.1 Recommendations from Advisory Committees

10.1.1 Proposed Draft Local Planning Policy: Withers Local Area Plan

File Ref:	A06469
Applicant/Proponent:	Internal
Author:	Thor Farnworth, Manager Sustainability, Planning and Development
Executive:	Stephanie Addison-Brown, Acting Director Planning and Development Services
Attachments:	Appendix RAC-1 - Draft Local Planning Policy: Withers Local Area Plan

Summary

The draft Withers Local Area Plan (LAP) prepared by UDLA, in conjunction with staff from the City of Bunbury and with funding provided by the South West Development Commission (SWDC), was presented to Council at its briefing session held on 20 October 2015.

The draft Withers LAP document is proposed to be adopted by Council as a Local Planning Policy in accordance with the recently gazetted *Planning and Development (Local Planning Schemes) Regulations 2015*.

The proposed draft Local Planning Policy: Withers Local Area Plan is to function as a place based decision making tool, which builds on the already completed Withers Urban Renewal Strategy (WURS). While the WURS established a vision and developmental objectives for the neighbourhood, the LAP will translate its findings into a spatial plan that will guide and shape future structure planning of redevelopment sites, new land uses, improvements to road and pathway networks and upgrading of infrastructure services.

Advisory Committee Recommendation

That Council:

1. In accordance with to clause 4 of 'Division 2 - Local planning policies' under 'Part 2 - Local planning framework' of 'Schedule 2 - Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to advertise the draft Local Planning Policy: Withers Local Area Plan for public comment for a period of not less than 30 days.
2. Following public advertising of the draft Local Planning Policy: Withers Local Area Plan, the proposal and any submissions lodged with the City of Bunbury during the public advertising period are to be returned to Council for further consideration.

Background

Integrated local area planning is a well-established practice originally promoted by Commonwealth government and the Australian Local Government Association (ALGA) as a 'whole of government and whole of community' approach to strategic planning and programme management at the local level.

Local area plans from top down seek to translate broader city-wide strategic planning principles and objectives into a local context - melding these with bottom up locally desired place based outcomes that address sustainable development matters relevant to a local area's needs.

The Withers LAP project was commenced in February 2015 and has been developed through a collaborative approach that engaged Withers residents and stakeholders as active participants in the design process. As such, the LAP fills the gap between the recommendations of the WURS and the City of Bunbury's Corporate Business Plan and Town Planning Scheme with respect to guiding both capital works and development control functions.

Legislative and Council Policy Compliance

The draft Local Planning Policy: Withers Local Area Plan, **attached** at Appendix PDRS-X, has been prepared in accordance with the provisions of 'Division 2 - Local planning policies' under 'Part 2 - Local planning framework' of 'Schedule 2 - Deemed provisions for local planning schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Officer Comments

Under the Planning and Development (Local Planning Schemes) Regulations 2015, local planning policies may apply to any issue related to planning and development in the Scheme area. Local planning policies may apply:

- generally or to particular set of matters specified in the policy; and
- to the whole of city or to part(s) specified in the policy.

The new Regulations specify that local planning policies must be based on sound town planning principles and may address either strategic or operational considerations in relation to matters to which the policy applies. As such, local planning policies now have greater statutory weight, in that in making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with the Scheme.

Conversely, under the new Regulations only the Western Australian Planning Commission (WAPC) can approve structure plans, which now have less statutory weight. Nevertheless, any decision-maker for an application for subdivision or development approval in an area covered by a structure plan approved by the WAPC is to have due regard to, but is not bound by, the structure plan when deciding the application.

Consequently, the draft Withers LAP contains a number of 'structure plan concepts' for defined sub-precincts of the suburb. These sub-precincts encompass underutilised land owned by the Department of Housing (DoH) and certain areas of compromised public open space managed by the City of Bunbury.

The benefit of incorporating structure planning concepts into the draft Withers LAP and adopting it as a local planning policy instrument ensures that Council has the opportunity to endorse the 'structure plan concepts' as a policy position, and hence, is able to exert some degree of ownership and influence over achieving desired subdivision and development outcomes.

Analysis of Financial and Budget Implications

The draft Local Planning Policy: Withers Local Area Plan relates to the regulation of development on private property, and therefore, the effect of the recommendation has no direct budgetary or financial implications for the City of Bunbury.

Community Consultation

In accordance with recognised integrated local area planning principles and methodology, the draft Withers LAP was fundamentally developed through the participation of the local community. Subject to Council's approval, the draft Local Planning Policy: Withers Local Area Plan will be publicly advertised for community comment for a period of not less than 30 days, in accordance with clause 4 of 'Division 2 - Local planning policies' under 'Part 2 - Local planning framework' of 'Schedule 2 - Deemed provisions for local planning schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Councillor/Officer Consultation

The draft Local Planning Policy: Withers Local Area Plan document was referred to the SWDC and the DoH for endorsement in their capacity as members of the Project Control Group.

Additionally, the proposal was referred to the Withers Advisory Committee at its meeting held 13 November 2015 for consideration.

The draft Local Planning Policy: Withers Local Area Plan was internally referred to members of the City of Bunbury's Development Coordination Unit (DCU) for professional advice and technical assessment prior to the finalisation of this report.

Delegation of Authority

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

10.1.2 Delegations (PRDC)

Applicant/proponent:	Policy Review and Development Committee
Responsible Officers:	Leanne French, Acting Manager Governance and Thor Farnworth, Manager Sustainability, Planning and Development
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Nil

Summary

The purpose of this report is for Council to consider amending a number of delegations owing to the new *Planning and Development (Local Planning Schemes) Regulations 2015*.

Policy Review and Development Committee Recommendation

1. That Council amend delegations DAH05, DAH06, DASP01, DASP02, DASP03, DASP04, DASP06, DASP08 to read as follows:

DAH05 Section 39 and Section 40 Certificates

To satisfy requests made from time to time by the Department of Racing, Gaming and Liquor in their pursuit of the provisions of the Liquor Control Act 1988, Council authorises the Chief Executive Officer to sign:

- Certificates of a Local Government (Section 39), and
- Certificates of a Local Planning Authority (Section 40).

Explanation: Section 39 and Section 40 Certificates document the level of compliance premises have with the Health Act 1911, any written law relating to the sewerage or drainage of those premises, the Local Government Act 1995, the Food Act 2008, the Building Act 2011 and any written laws relating to planning, including the Local Planning Scheme.

DAH06 Section 55 Certificates

To satisfy requests made from time to time by the Department of Racing, Gaming and Liquor in their pursuit of the provisions of the Gaming and Wagering Commission Act 1987, Council authorises the Chief Executive Officer to sign Certificates of a Local Government (Section 55 Certificates).

Explanation: Section 55 Certificates serve to provide advice that those parts of a premises subject to applications for gaming activities conform with the Health Act 1911, to the relevant Act relating to sewerage and drainage and to any subsidiary legislation made under those Acts or the Local Government Act 1995 and any written laws relating to planning, including the Local Planning Scheme.

DASP01 Flood Prone Land

Pursuant to the provisions of the Local Planning Scheme the Chief Executive Officer is delegated the authority to determine matters relating to flood prone land as shown on the

plans and administer Council's Local Planning Policies accordingly, with regard to matters relative to section 70A of the Transfer of Land Act 1893.

DASP02 Development Applications

To determine applications for development approval subject to the Local Planning Scheme and section 68 (2)(a) and (b) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.

DASP03 Local Planning Scheme and Local Planning Policy Compliance

Pursuant to the provisions of section 5.42 (1)(b) of the Local Government Act 1995 and the Local Planning Scheme, the Chief Executive Officer is delegated the authority to initiate action in accordance with section 214 (2), (3) or (5) of the Planning and Development Act 2005 to ensure compliance.

Pursuant to the provisions of section 82, Part 10 of the Planning and Development (Local Planning Scheme) Regulations 2015, the Chief Executive Officer is delegated authority to initiate action in accordance with section 13, Part 3, and section 80, Part 10 of the Planning and Development (Local Planning Scheme) Regulations 2015 to ensure compliance.

DASP04 Residential Design Codes

Pursuant to the provisions of the Local Planning Scheme and the provisions of State Planning Policy 3.1 Residential Design Codes (as amended), the Chief Executive Officer is delegated the authority to determine applications relating to and including additions to single houses, multiple dwellings, ancillary dwellings and group dwellings which may include determination of setback variations.

DASP06 Planning and Development Act 2005 – Enforcement and Legal Proceedings

Pursuant to the provisions of section 234 of the Planning and Development Act 2005, the City of Bunbury hereby authorises its Compliance Officer for the purposes of section 228 – to give an infringement notice to an alleged offender, where the officer has reason to believe a person has committed a prescribed offence as listed in section 42, Part 5 of the Planning and Development Regulations 2009.

Pursuant to the provisions of section 234 of the Planning and Development Act 2005, the City of Bunbury hereby authorises its Chief Executive Officer, Manager Sustainability Planning and Development and Team Leader Development Assessment and Compliance for the purposes of sections 229, 230 or 231 or for the purposes of 2 or more of those sections.

DASP08 Built Strata Applications

Pursuant to the provisions of Section 5.42 of the Local Government Act 1995, and in accordance with written laws relating to planning, authority is delegated to the Chief Executive Officer to make decisions under Section 25 of the Strata Titles Act 1985 in respect of Built Strata applications except for those applications listed as exceptions in WAPC Planning Bulletin 52/2009.

2. This matter be presented direct to Council at the final round of meetings to be held 1st and 8th December 2015 respectively.

Background

The Delegation Register is a comprehensive document that consists of delegations from Council to the Chief Executive officer (or other employees), Council to committees, as well as those delegations from the Chief Executive Officer to other officers. It also includes delegations made under legislation other than the *Local Government Act 1995*.

Due to the new *Planning and Development (Local Planning Schemes) Regulations 2015* recently being gazetted, the Policy Review and Development Committee have undertaken a review of the Council's current delegations to ensure consistency between the delegations and the deemed scheme provisions.

The new regulations replace the *Town Planning Regulations 1967* and provide for model and deemed scheme provisions. The deemed provisions within the regulations take effect at the time of gazettal and immediately form part of existing schemes without the need for local governments to amend or review their schemes. Where there is inconsistency between a deemed provision and an existing scheme provision, the deemed provision will prevail.

In keeping with the new regulations, Town Planning Scheme No. 7 is now referred to as the 'Local Planning Scheme'.

Council Policy Compliance

Not applicable

Legislative Compliance

Sections 5.16, 5.17, 5.18, 5.42, 5.43, 5.44, 5.45 and 5.46 of the *Local Government Act 1995*, govern delegation of power.

Officer Comments

City officers consider that consistent with the Committee recommendation, the majority of amendments are minor and technical in nature, with no substantive change to the actual powers of delegation.

The proposed changes are summarised as follows:

DAH05 Section 39 and Section 40 Certificates

This delegation is amended to reflect the correct title of the Department of Racing Gaming and Liquor and the Liquor Control Act 1988. In the explanation note, the words "including the Local Planning Scheme" have been included and the legislation reference amended to accurately reflect the Liquor Control Act 1998.

Delegation with Tracked Changes

To satisfy requests made from time to time by the ~~Office of Liquor, Racing and Gaming Department of Racing, Gaming and Liquor~~ in their pursuit of the provisions of the Liquor Control ~~Licensing~~ Act 1988, Council authorises the Chief Executive Officer to sign:

- Certificates of a Local Government (Section 39), and
- Certificates of a Local Planning Authority (Section 40).

Explanation: Section 39 and Section 40 Certificates document the level of compliance premises have with the Health Act 1911, any written law relating to the sewerage or drainage of those premises, the Local Government Act 1995, ~~the Local Government (Miscellaneous Provisions) Act 1960~~, the Food Act 2008, the Building Act 2011 and any written laws relating to planning, including the Local Planning Scheme.

DAH06 Section 55 Certificates

This delegation is amended to reflect the correct title of the Department of Racing Gaming and Liquor. The words “any written laws relating to planning, including the Local Planning Scheme” have been included in the explanation note.

Delegation with Tracked Changes

To satisfy requests made from time to time by the ~~Office of Liquor, Racing and Gaming Department of Racing, Gaming and Liquor~~ in their pursuit of the provisions of the Gaming and Wagering Commission Act 1987, Council authorises the Chief Executive Officer to sign Certificates of a Local Government (Section 55 Certificates).

Explanation: Section 55 Certificates serve to provide advice that those parts of a premises subject to applications for gaming activities conform with the Health Act 1911, to the relevant Act relating to sewerage and drainage and to any subsidiary legislation made under those Acts or the Local Government Act 1995 and ~~Town Planning legislation~~ any written laws relating to planning, including the Local Planning Scheme.

DASPO1 Flood Prone Land

This delegation is amended to include reference to the Local Planning Scheme, as per the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Delegation with Tracked Changes

Pursuant to the provisions of ~~the Local Planning Scheme section 5.42 of the Local Government Act 1995~~ the Chief Executive Officer is delegated the authority to determine matters relating to flood prone land as shown on the plans and administer Council’s Local Planning Policies accordingly, with regard to matters relative to section 70A of the Transfer of Land Act 1893.

DASPO2 Development Applications

This delegation has been reworded to accurately reflect the intention of the power and duty, and also includes updated legislation reference as per the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Delegation with Tracked Changes

~~To determine applications for development approval subject to the Local Planning Scheme and section 68 (2) (a) and (b) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015. Pursuant to the provisions of the City of Bunbury Town Planning Scheme No. 7 the Chief Executive Officer is delegated the authority to approve development applications involving use which is classified as “P”, “D”, “A”, and “X” use in the scheme text, subject to the relevant conditions.~~

DASPO3 Local Planning Scheme and Local Planning Policy Compliance

This delegation was originally titled Town Planning Scheme No. 7 and Local Planning Policy Compliance. The delegation title and power and duty are amended to reflect the correct legislation reference as per the *Planning and Development (Local Planning Schemes) Regulations 2015*, the *Local Government Act 1995* and the *Planning and Development Act 2005*.

Delegation with Tracked Changes

TITLE: ~~Town Planning Scheme No. 7 and~~ Local Planning Scheme and Local Planning Policy Compliance

~~Pursuant to the provisions of section 5.42 (1)(b) of the Local Government Act 1995 and the Local Planning Scheme, the Chief Executive Officer is delegated the authority to initiate action in accordance with section 214 (2), (3) or (5) of the Planning and Development Act 2005 to ensure compliance. Clause 11.3 of City of Bunbury Town Planning Scheme No. 7, the chief Executive Officer is delegated the authority to initiate appropriate action to ensure compliance with Town Planning Scheme provisions and Local Planning Policies (clause 10.2)~~

~~Pursuant to the provisions of section 82, Part 10 of the Planning and Development (Local Planning Scheme) Regulations 2015, the Chief Executive Officer is delegated authority to initiate action in accordance with section 13, Part 3, and section 80, Part 10 of the Planning and Development (Local Planning Scheme) Regulations 2015 to ensure compliance.~~

DASPO4 Residential Design Codes

This delegation is amended to reflect the correct legislation reference as per the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Delegation with Tracked Changes

~~Pursuant to the provisions of the Local Planning Scheme and the provisions of State Planning Policy 3.1 Residential Design Codes (as amended), clause 11.3 of the city of Bunbury Town Planning Scheme No. 7, Residential Design Codes 2010 and relevant Local Planning Policies, the Chief Executive Officer is delegated the authority to determine applications relating to and including additions to single houses, multiple dwellings, ancillary dwellings and group dwellings which may include determination of setback variations.~~

DASPO6 Planning and Development Act 2005 – Enforcement and Legal Proceedings

This delegation refers to enforcement and compliance of the Town Planning Scheme No. 7 and Planning and Development Act 2005. Officers consider the original delegation a duplication of *DASPO3 Local Planning Scheme and Local Planning Policy Compliance* and have proposed a rewritten delegation which provides authorised officers the power to issue infringements where

there is reason to believe that a person has committed a prescribed offence in accordance with sections 214, 218, 220 and 221 of the *Planning and Development Act 2005*. The power and duty also includes authorised officers the authority to extend the time to pay the penalty and withdraw the infringement notice.

Delegation with Tracked Changes

~~Pursuant to the provisions of Part 13 of the Planning and Development Act 2005 and Clause 11.3 of the City of Bunbury Town Planning Scheme No. 7 the Chief Executive Officer is delegated the authority to prosecute any owner or occupier of land who failed to comply with Council's Town Planning Scheme provisions.~~

Pursuant to the provisions of section 234 of the Planning and Development Act 2005, the City of Bunbury hereby authorises its Compliance Officer for the purposes of section 228 – to give an infringement notice to an alleged offender, where the officer has reason to believe a person has committed a prescribed offence as listed in section 42, Part 5 of the Planning and Development Regulations 2009.

Pursuant to the provisions of section 234 of the Planning and Development Act 2005, the City of Bunbury hereby authorises its Chief Executive Officer, Manager Sustainability Planning and Development and Team Leader Development Assessment and Compliance for the purposes of sections 229, 230 or 231 or for the purposes of 2 or more of those sections.

DASPO8 Built Strata Applications

This delegation is amended to include the words “and in accordance with written laws relating to planning”.

Delegation with Tracked Changes

Pursuant to the provisions of Section 5.42 of the Local Government Act 1995, and in accordance with written laws relating to planning, authority is delegated to the Chief Executive Officer to make decisions under Section 25 of the Strata Titles Act 1985 in respect of Built Strata applications except for those applications listed as exceptions in WAPC Planning Bulletin 52/2009.

Analysis of Financial and Budget Implications

Nil

Community Consultation

Not applicable

Councillor/Officer Consultation

The Policy Review and Development Committee considered the review of delegations at its meeting held 26 November 2015.

10.2 Chief Executive Officer Reports

10.2.1 Disposal of City of Bunbury Freehold Land – Arrangement

Applicant/Proponent:	Internal
Responsible Officer:	Felicity Anderson, Manager Major Projects and Property
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Nil

Summary

The contract with Southern Districts Estate Agency (SDEA) for the marketing and disposal of City of Bunbury freehold land ended 30 September 2015 after a two (2) year agreement and trial.

The Executive Leadership Team requests Council consider an alternate approach in accordance with the *Local Government Act 1995* that is expected to provide greater return to the City.

Executive Recommendation

That Council:

1. Note the outcomes of the land disposal trial using an external real estate agency;
2. Agree to the City of Bunbury undertaking the promotion, negotiation and sale of freehold land in accordance with the Local Government Act 1995.
3. Review the arrangement to dispose of City of Bunbury Freehold land in two years.

Background

In August 2013 Council decided (254/13):

“Council endorses the engagement of SDEA Nominees Pty Ltd to provide a marketing and sales service for disposal of surplus freehold land.”

During the time of contract a number of lots have been sold through Southern District Estate Agency in accordance with the contract conditions and Local Government Act.

Those sites sold or under contract for sale include:

- * Lot 66 Ocean Drive
- * Lot 200 Mangles St
- * Lot 201 Mangles St
- * Lot 1 Lockwood Cres
- * Lot 361 Geographe Way.

Council Policy Compliance

Council Policy: Land Rationalisation and Acquisitions

Legislative Compliance

Section 3.58 of the *Local Government Act 1995*

Officer Comments

Through recent investigations into the promotion and sale of Council freehold land it was found that one option the City has not previously explored is for the Council to offer the land under an Expression of Interest (EOI) format. This format would allow land to be advertised to the market through an EOI. The EOI would gauge interest and allow for negotiations to take place before coming back to Council for decision, with all activity and due process in accordance with the Act.

It is considered that dealing directly with Council and its Officers will eliminate one level of negotiation and potentially save staff resource time negotiating with the agent and the commission fees payable to the agent.

For example, on larger and development sites of value the commission fees payable can amount to a considerable sum, e.g. based on a 2% fee for a \$2,000,000 site this would amount to \$40,000. This cost is on top of marketing and advertising fees payable. In addition Council Officers are often engaged to liaise with potential buyers to determine development options and considerations.

At present the City already promotes key land holdings for sale through its Investment Prospectus and feel it is best positioned to discuss and negotiate with developers on options. This proposal is to formalise the process in accordance with the Act, to sell these key land holdings and any additional freehold land the Council may identify for disposal.

As any decision on the final sale and acceptable terms and conditions are agreed to by Council resolution it is not considered that there would be any conflicts of interest, nor would there be scope for perceptions of bias through the disposal process. Further, it is not considered that the disposal should be subject to any delegation other than the negotiation of terms of conditions outside of the sale price.

Analysis of Financial and Budget Implications

There is the potential to save the commission payable to agents.

Community Consultation

Not applicable

Councillor/Officer Consultation

Discussion have been held with the Executive and relevant officers.

10.2.2 Bunbury Hotel Investment Analysis

Applicant/Proponent:	Internal Report
Author:	Andrew Brien, Chief Executive Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-1: Proposal to Assist the City of Bunbury

Summary

At the Boutique and Lifestyle Hotels World Conference held 27-29 July 2015 inclusive, the Chief Executive Officer had the opportunity to promote the City of Bunbury with a focus on the development opportunities within the City of Bunbury.

Following discussions between the CEO and a number of attendees, the City of Bunbury was provided with a proposal to attract further investment in the accommodation sector.

Attached at Appendix CEO-1 is a copy of the initial proposal received from Minnett Consulting Pty Ltd to assist the City of Bunbury. In consultation with the South West Development Commission (SWDC) it has been identified that there is further potential to progress with the concept development proposal to assist in the work identified in the original proposal.

Executive Recommendation

That Council:

1. Provide financial contribution for the Bunbury hotel investment analysis with matching funds from the South West Development Commission contribution to a maximum of \$20,000;
2. Note that Tourism WA had previously identified funding which may be available to contribute to the project;
3. Note that the engagement of a consultant to undertake this work will be based on an expression of interest process to be assessed jointly by officers of the South West Development Commission and the City of Bunbury.

Background

It is proposed that the way to best market the various opportunities within the City of Bunbury would be for the City to consider an investment Showcase for all sites with a citywide information memorandum prepared for and specifically aimed at hotel/tourism investors. This will complement the City's Investment Prospectus and enable more efficient assessment of the available site by prospective developers.

Council Policy Compliance

Not Applicable

Legislative Compliance

Not Applicable

Officer Comments

Following meetings between the CEO and the SWDC, the Commission has confirmed they would be supportive of working with the City through the provision of financial and in-kind assistance to undertake the development of the Bunbury hotel investment analysis. This is provided on the basis that the report will cover all the key sites in Bunbury currently owned by the City and be available to all serious possible investors and for the basis of the business case for the Bunbury Waterfront Development. It has also been identified that whilst the initial site analysis would be specific for Council owned land, the report will need to provide generic information that could be made available to any developer looking to build hotel accommodation within the Bunbury area.

Discussions to date have also included analysis of infrastructure requirements and it was felt this should be undertaken once the first report has been completed.

Analysis of Financial and Budget Implications

From discussions with the SWDC, it is felt that that the study would cost no more than \$50,000.

This would see an equal contribution from both the City of Bunbury and South West Development Commission (split 50:50 i.e. up to \$20k each plus a contribution from Tourism WA of \$10,000).

The City of Bunbury contribution will be sourced from savings from other areas of Council and will be identified in the February Budget Review.

Community Consultation

It is felt that this is not applicable at this time as any interest derived from external companies wishing to develop business within Bunbury on any of the parcels contained within the document, would be subject to a separate report to Council requiring endorsement and legislative consultation/advertising periods.

Councillor/Officer Consultation

Council has in the past provided support for the proposals to draw new business and in particular, new accommodation providers within the City of Bunbury.

10.2.3 Proposed Disposal of a Portion of Lot 5013 Montgomery Road, South Bunbury

File Ref:	Lot 5013 Montgomery Road, South Bunbury
Applicant/Proponent:	Paul Oosthuizen, owner 3 and 5 Treen Street, South Bunbury
Responsible Officer:	Felicity Anderson, Manager Major Projects and Property
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-2: Location Plan – 5013 Montgomery Road

Summary

The City of Bunbury (the “City”) has received an application from Paul Oosthuizen, the property owner of 3 and 5 Treen Street, South Bunbury (the “Applicant”), to purchase a portion of the adjoining Crown Reserve. The adjoining Crown Reserve is Lot 5013 Montgomery Road, South Bunbury, being Reserve 28947 for the purpose of drainage (the “Reserve”).

Executive Recommendation

That Council

1. Agrees to relinquish the Management Order vested in the City over Lot 5013 Montgomery Road, South Bunbury, being Reserve 28947 for the purpose of drainage, in order to allow the Crown to dispose of the land to the adjoining land owner.
2. Agrees to the disposal of a portion of Lot 5013 Montgomery Road, South Bunbury, being Reserve 28947 for the purpose of drainage, to the adjoining property owner of 3 and 5 Treen Street, South Bunbury, subject to the terms and conditions as specified in this report and the following:
 - (a) Compliance with Section 87 of the Land Administration Act 1997; and
 - (b) An easement being effected in order to protect the existing Aqwest infrastructure located within the Reserve.

Background

The City received an application from the owners of 3 and 5 Treen Street, South Bunbury, to purchase a portion of the Reserve adjoining their property. The Applicants identified the rear access to be a security risk for their homes and would therefore wish to move their fences to close access to the Reserve.

The Applicant obtained the written consent of the adjoining property owners, who also sighted this Reserve as a security risk and identifying their wishes to also purchase their available portions.

The adjoining property owners of 1 Treen Street, 7 Treen Street and 17 Montgomery Road have expressed their desire to purchase their portion and an application will be processed in due course.

The adjoining property owner from 112 Minnipup Road has not made comment in relation to purchasing their portion.

With the written consent of adjoining property owners, the Officers have also sought feedback from relevant service providers, all of which had no objections to the proposal.

The Reserve features a 300mm diameter gravity main that runs through the Reserve at an angle and has been identified as Aqwest infrastructure. Aqwest have no objections to the proposal however, an easement to protect access will be required should the Reserve be disposed of.

The Applicant has been made suitably aware of the infrastructure, the likelihood that building over the infrastructure will not be permitted and that an easement will be required. Accordingly the Applicant has made comment within their application that they are aware of this and will not be building over the area.

The Applicant had originally requested the ability to purchase the entire Reserve, citing they would take responsibility for the Reserve as a whole in terms of maintenance and any access for Aqwest.

The purchase of the entire portion was rejected by the City's Planning Department, advising that the proposal is not supported as it goes against the Western Australian Planning Commissions (WAPC) Development Control Policy 2.2 – Residential Subdivision at provision 3.4.1 states, that, "*Single Residential lots should be rectangular in shape to accommodate project housing*". The creation of irregular shaped lots also goes against general planning principle.

As such, and with the agreement of the adjoining landowners to purchase a portion each, the Officer has progressed and the Applicant has agreed to a disposal as depicted in the plan **attached** at Appendix CEO-2.

Council Policy Compliance

No Council Policy applies in this instance.

Legislative Compliance

Compliance with Section 87 of the *Land Administration Act 1997* is required which includes relevant service provider consultation and a thirty (30) day submission period for community consultation.

Officer Comments

The relinquishment of the Management Order over this Reserve would mean the City no-longer has a responsibility to maintain the Reserve and this responsibility would be taken up by the private land owners.

The City receives no remuneration for the disposal of the Reserve and the sub-division and purchase of the Land will be negotiated between the Applicant and the Department of Lands.

The adjoining land owners, service providers and in particular Aqwest have shown their support for the disposal.

Analysis of Financial and Budget Implications

There are no financial or budget implications for the City.

Community Consultation

Advertising in a local newspaper for thirty (30) days will be undertaken, should Council endorse the disposal.

All adjoining landowners have been consulted and the following Service Providers were afforded the opportunity to make a submission:

- * ATCO Gas
- * Aqwest
- * Department of Planning
- * Water Corporation
- * Telstra
- * Main Road Western Australia
- * Department of Lands

No objections have been received.

Councillor/Officer Consultation

The item was tabled at the City's Development Coordination Unit (DCU) meeting, where no objections were received. Concerns over infrastructure within the Reserve were raised, however, with Aqwest's consent, this has been resolved.

10.2.4 Application for Development Approval - Proposed Amendment (Modification to Condition c) - Units 16C & 17C at the Homemaker Centre - Lot 107 #42 Strickland Street, Bunbury

File Ref:	DA/2009/121/2
Applicant/Proponent:	Planning Solutions on behalf of JMD Engineering
Responsible Officer:	Andrew Brien, Chief Executive Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-3: Location plan Appendix CEO-4: Proposed floor plan Appendix CEO-5: SAT decision - Citygate Properties Pty Ltd and City of Bunbury [2009] WASAT 249 Appendix CEO-6: Applicant's covering letter Appendix CEO-7: Additional information from applicant

Summary

In accordance with the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, an application for an amendment to development approval has been received from Planning Solutions acting on behalf of JMD Engineering requesting to amend or delete a condition of approval. As the original decision was made through the State Administrative Tribunal it is considered appropriate for the Council to determine the matter.

It is considered that the original decision and conditions in relation to this matter were appropriate and as such approval to remove the condition outright is not supported, however a temporary approval, particular to Units 16C and 17C is considered to be a reasonable compromise.

Executive Recommendation

That Council resolves to:

1. Temporarily approve, for a maximum period of two (2) years , to amend condition c of the previous development approval granted at Lot 107 #42 Strickland Street, Bunbury (application reference: DA/2009/121/2) 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 is a temporary planning approval and the development the subject of this planning approval must cease on 08 December 2017 at which time this approval will expire.
 - 1.3 This planning approval to temporarily delete the requirements of Condition (c) pertains to Units 16C and 17C only.
 - 1.4 All other conditions and advice notes of the original planning approval (DA/2009/121/1) remain applicable.

Advice Note:

- a. Separate approvals for signage are required from the City of Bunbury, if signage exceeds the requirements listed at Schedule 9 – Exempted Advertisements in the City of Bunbury Town Planning Scheme No.7.

Background

The subject tenancy is located on the first floor of Block C of the complex known as the Homemaker Centre, at Lot 107 (42) Strickland Street, Bunbury. Block C is a building comprising showrooms, service industry and takeaway food outlets on the ground floor and seven 200m² office tenancies on the first floor of the development.

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

Block C was constructed in accordance with an approval granted by the State Administrative Tribunal in December 2009 (original approval). The SAT decision of this application **attached** at Appendix CEO-5.

Condition (c) of the original approval imposed the following restriction on the office tenancies on the first floor of Block C:

- (c) In order to ensure that the net lettable area (nla) of any office comprising Units 6 - 12 in the approval plans does not exceed 200 square metres:
 - i) No two office units may be let to, or used by, the same tenant, or by related entities as defined in s 9 of the Corporations Act 2001 (Cth);
 - ii) Every office unit must operate as a separate business premise; and
 - iii) The 'partitions' shown on the approved plans must not be moved to allow any office to exceed 200 square metres net lettable area.

At the time when the original application for the Block C at the Homemaker Centre was approved, the clause in relation to office floor space in the Mixed Business Zone read:

“Office floor space in the Mixed Business Zone shall be limited to not more than 200m² NLA”.

Note: this clause was changed with Scheme Amendment #41 in 2011, as a result of the 2009 SAT appeal.

In 2009, Citygate Properties challenged the then TPS7 clause at SAT stating that, *The Scheme is imprecise as to whether the 200 m² of office floor space limitation is to be applied to:*

- (a) *the entire Mixed Business Zone; or*
- (b) *on a per lot or strata lot basis; or*
- (c) *per individual office premises or tenancy.*

At that time SAT permitted 200 sq m per individual office premises or tenancy of ‘office’ space. Subsequently in 2011, the TPS7 clause was amended with Scheme Amendment #41 to reflect the City’s original intent that the 200 sq m of Office space is per lot.

This means that the Homemaker Centre lot already contains seven (7) times more ‘office’ net lettable area than permitted under the current TPS7 clause.

The basis for a temporary approval is that currently there is no appropriate office space available in the CBD. However there are a number of DA's currently being approved meaning that office space in the CBD may be available within the next two years.

Council Policy and Legislative Compliance

The following regulatory and policy documents are applicable to the assessment of this application for development approval:

- * *Planning and Development Act 2005;*
- * *City of Bunbury Town Planning Scheme No. 7 (TPS7);*
- * *Planning and Development (Local Planning Schemes) Regulation 2015; and*
- * *Local Planning Policy Office Use within the Mixed Business Zone.*

Officer Comments

Proposal

JMD is an engineering firm currently comprising approximately 32 professional drafters, designers, engineers and administration staff. JMD originally commenced in 2007 as a home business before operating from a tenancy at the Leschenault Quays Shopping Centre and finally moving to its current premises in unit 17C at the Homemaker Centre.

JMD has grown and continues to grow. Currently unit 17C cannot accommodate the expansion of JMD. As a result, it is proposed to expand its office operations into part of the adjoining Unit 16C.

The proposed floor plan is **attached** at Appendix CEO-4 and supporting information from the applicant is **attached** at Appendices CEO-6 and CEO-7.

Planning framework

Currently, clause 5.10.3.5.2 of TPS7 states:

“Within the Mixed Business Zone, a maximum net lettable area of 200 sq m per lot and 200 sq m per strata or survey strata scheme, applies for “office” uses (exclusive of ‘incidental’ office uses)”.

The total floor area proposed to be used by JMD will exceed 200m² net lettable area.

Clause 5.5.1 of TPS7 allows for the variations to site and development standards and requirements:

“Zoning Table (Table No 1) controls are not subject to this clause. Except for development in respect of which the Residential Planning Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit”.

The City therefore has discretion to approve the proposal subject to clauses 5.5.2 and 5.5.3:

5.5.2 *“In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general*

locality or adjoining the site which is subject of consideration for the variation, the local government is to:

- (a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 9.4; and*
- (b) have regard to any expressed views prior to making its decision to grant the variation”.*

Note: the City’s planning section would typically advertise for community consultation, such application which proposes to use the variation clause (5.5.1) to vary a TPS7 provision. In this case, it is considered that the variation may affect owners or occupiers in the City Centre, and owners and occupiers of existing businesses in the Mixed Business zone which are 200 sq m in net lettable area or less, both of which are deemed to be ‘in the general locality’,

5.5.3 *“The power conferred by this clause may only be exercised if the local government is satisfied that:*

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and*
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality”.*

It is noted that Local Planning Policy Office Use within the Mixed Business Zone (LPP), which provides guidance to considering the appropriateness of new office development with Mixed Business Zone is relevant to this application. An objective of the LPP is to provide for the limited and controlled occurrence of small offices outside the City Centre Zone, at a size and scale that will not challenge or undermine the commercial primacy of the CBD.

Analysis of Financial and Budget Implications

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

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

Community Consultation

Given that the matter is for a temporary approval within an existing building it is not considered necessary for community consultation on this matter.

The City’s planning section would typically advertise for community consultation, such application which proposes to use the variation clause (5.5.1) to vary a TPS7 provision. In this case, it is considered that the variation may affect owners or occupiers in the City Centre, and owners and occupiers of existing businesses in the Mixed Business zone which are 200 sq m in net lettable area or less, both of which are deemed to be ‘in the general locality’,

Councillor/Officer Consultation

The application has been considered by all members of Development Coordination Unit (DCU) and no objections have been received if the matter is to be considered as a temporary approval.

10.3 Director Corporate and Community Services

10.3.1 Bunbury CBD Digital Screen

Applicant/Proponent:	Internal Report
Responsible Officer:	Julian Bowron, Manager Community, Arts & Culture
Executive:	John Kowal , Acting Director Corporate & Community Services
Attachments:	Appendix DCCS-1: Business Case

Summary

As a result of Council’s consideration of an earlier report that reviewed the rear projection outdoor screen at the Bunbury Library, a business case analysis of the viability of a high resolution digital screen in the Bunbury CBD has been completed.

Executive Recommendation

That Council:

1. Note the Business Case as submitted by Council officers.
2. Not pursue the purchase and installation of a digital screen in the Bunbury CBD due to insufficient return on investment to ensure its viability.

Background

Council Officers provided a report to Council at its Ordinary Meeting held 15 September 2015 with regard to the review of the rear projection outdoor screen at the City Library. Council Decided (327/15).

“That Council:

1. *Acknowledge the limitations of the current City Library digital screen and associated equipment and note the estimated cost of replacement with a high performance LED screen when making provision for future digital screen needs.*
2. *Request Council Officers prepare a report/recommendation in the form of a business case to ensure that visual display options are explored for the CBD including ANZAC Park and that the potential exists for the unit to be self-supporting and hired out on a commercial basis.”*

In accordance with the Council decision, Council officers have prepared a Business Case that investigates the viability of the installation of a high resolution digital screen in the Bunbury CBD.

Council Policy Compliance

There is no Council Policy relevant to this item.

Legislative Compliance

There are no legislative requirements in relation to this report or the Business Case.

Officer Comments

Officer comments are provided in the Business Case

Analysis of Financial and Budget Implications

Information relating to the financial and budget implications is provided for in the Business Case.

Community Consultation

Staff met with David Kerr, Jo O’Dea and Ray Philp from the Bunbury Chamber of Commerce and Industry (BCCI) to gain their responses to a CBD digital screen and likely commercial interest in buying advertising space.

Councillor/Officer Consultation

There has been consultation with the Executive Leadership Team and other relevant Council officers in the drafting of the Business Case.

10.4 Director Planning, Development and Regulatory Services Reports

10.4.1 Application for Retrospective Development Approval – Additions (Display Façade and Transportable Buildings) at Lot 10 (#83) Halifax Drive, Davenport

File Ref:	P14454: DA/2015/103
Applicant/Proponent:	Ghassan Ghaseb on behalf of Westcoast Gyprock Pty Ltd
Author:	Laura Sabitzer, Senior Planning Officer
Executive:	Stephanie Addison-Brown, Acting Director Planning and Development Services
Attachments:	Appendix DPDRS-5 - Location Plan Appendix DPDRS-6 - Development Plans Appendix DPDRS-7 - Site Photos

Summary

A retrospective application for development approval has been received for the addition of a display façade and transportable buildings at Lot 10 (street address number 83) Halifax Drive, Davenport. The additions, which are visible from Halifax Drive, were constructed without first obtaining development approval, and in the case of the display façade, a building permit.

This application has been assessed against the City of Bunbury Town Planning Scheme No.7 (TPS7) and Local Planning Policy: Halifax Industrial Park Precinct Design Guidelines, with variations identified.

It is recommended that Council refuses this application for development approval because the setback and appearance of the display façade and transportable buildings do not meet the applicable TPS7 and Local Planning Policy provisions. The development as existing diverges from the intended streetscape for the Halifax Industrial Park as set out in the objectives of Local Planning Policy: Halifax Industrial Park Precinct Design Guidelines.

Furthermore, as this is a compliance matter, enforcement action by way of a Directions Notice is recommended. A Directions Notice requires specified actions to be completed with a sixty (60) day timeframe.

It is noted that the City of Bunbury can consider a new application for development approval for similar structures, where any additions were setback in a manner consistent with the existing main building line, finished to a quality standard and transportable buildings were screened from view to the street.

Executive Recommendation

That Council resolves to:

1. Refuse the application for retrospective planning approval (application reference: DA/2015/103) for additions (display façade and transportable buildings) at Lot 10 (# 83) Halifax Drive, Davenport, in accordance with the City of Bunbury Town Planning Scheme No. 7 (TPS7), for the following reasons:

- (a) the 1 metre setback of the display façade from the Halifax Drive lot boundary is not in accordance with the minimum 9m building setback (from street), as required at Table 3 of the Scheme.
- (b) the additions are contrary to the objectives of Local Planning Policy: Halifax Industrial Park Precinct Design Guidelines and the following policy provisions:
 - (i) provision 8.2.1, as the additions does not meet the minimum front setback requirement;
 - (ii) provision 8.5, as the transportable buildings does not meet the requirement that open air storage areas are to be located behind the front setback area and screened from public view; and
 - (iii) provision 8.8, as the transportable buildings does not meet the requirement that outbuildings and other structures are to be located behind the front setback area and are to form an integral part of the building design.
- (c) the existing external appearance of the display façade is not finished to a quality standard and therefore is contrary to item (m) of deemed clause 67 in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Advice Note:

- (1) The City of Bunbury can consider an application for development approval, where any additions were located behind the front setback area (i.e. setback 7m from the Halifax Drive lot boundary in a manner consistent with the existing main building line), with the display façade finished to a quality and professional standard and the transportable structures appropriately screened from view to the street.
2. Issue a Directions Notice under section 214 of the *Planning and Development Act 2005*, which requires the following actions to be undertaken within sixty (60) days from the date the Directions Notice is issued:
- (a) the removal of the display façade;
 - (b) the removal or relocation of the transportable buildings to behind the building line of the main building; and
 - (c) if the transportable buildings are to remain on-site, the transportable buildings are to be appropriately screened from view to the street.
3. Advise the applicant and landowner of Council’s decision.

Background

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

Property Address:	Lot 10 (# 83) Halifax Drive, Davenport
Zoning:	Industry Zone
Existing Land Use:	Industry - General
Lot Area:	10,798m ²

The subject site is located in the Halifax Industrial Park, and currently contains warehouse buildings, bitumen hardstand and car parking areas. The site is owned and occupied by Westcoast Gyprock.

The lots surrounding the subject site are also included in the 'Industry Zone', and are currently vacant, with exception of Lot 412, where a warehouse development is currently under construction.

A location plan showing the subject site and its surrounds is **attached** at Appendix DPDRS-5.

It has come to the City of Bunbury's attention that a display façade and transportable buildings, which are visible from Halifax Drive have been constructed without first obtaining development approval. Consequently, the purpose of this application is to seek retrospective development approval for the additions.

The development plans and photographs of the subject additions are **attached** at Appendices DPDRS-6 and DPDRS-7.

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
- City of Bunbury Town Planning Scheme No.7 (TPS7)
- Local Planning Policy: Halifax Industrial Park Precinct Design Guidelines; and
- Local Planning Policy: Draft Sea Containers and Transportable and Relocatable Storage Containers and Structures

Officer Comments

Display Façade

A display façade has been constructed in front of the existing main building at the property. It is setback at minimum 1m from the Halifax Drive lot boundary and is up to 3.2m in height. It has been indicated that the purpose of the display façade is to display and promote wall panels and windows.

Please refer to the development plans and photographs **attached** at Appendices DPDRS-6 and DPDRS-7.

The location (setback) and appearance of the display façade does not comply with the aims and objectives of Local Planning Framework.

Both Table 3 of the Scheme and clause 8.2.1 of Local Planning Policy: Halifax Industrial Park Precinct Design Guidelines requires a minimum setback of 9m from the primary street. In this case, the display façade has been constructed only 1m from the Halifax Drive lot boundary. However, it is noted that the existing main building is setback approximately 7m from the Halifax Drive lot boundary.

The constructed setback of the display façade is not supported, as it is contrary to the objectives of Local Planning Policy: Halifax Industrial Park Precinct Design Guidelines. In particular the objective:

“To achieve and maintain a high quality of urban design, landscaping and visual appearance of commercial and industrial buildings that establishes and protects local streetscape character and amenity within the Halifax Industrial Park Precinct”.

It is assumed that the external appearance of the display façade is unfinished. Although the display façade is not recommended for approval, if it is to be approved or rebuilt behind the building line of the main building, then the structure should be finished to a quality and professional standard.

It is noted that Local Planning Policy: Halifax Industrial Park Precinct Design Guidelines at provision 9.1 AD1.1.1 requires building facades facing a primary street to be constructed from brick, painted concrete, masonry or glass. The proposed material of the display façade is a masonry veneer wall cladding system, and if finished to a quality and professional standard, is deemed to be an acceptable building material.

Transportable Buildings (including Sea Containers)

There are a number of transportable buildings and sea containers located onsite that are visible from the public street.

Please refer to the development plans and photographs **attached** at Appendices DPDRS-6 and DPDRS-7.

The applicant has advised that, “...the transportable/demountable buildings are only stored onsite to be sold or waiting to be relocated to other sites”. However, according to the City of Bunbury’s aerial mapping records, these structures have been onsite for over a year.

Regardless of whether the transportable buildings and sea containers are stored temporarily or located permanently onsite, they are not situated in accordance with Local Planning Policy: Halifax Industrial Park Precinct Design Guidelines. This is because seven (7) of the transportable buildings or sea containers are located within the front setback area, and are visible from Halifax Drive.

Local Planning Policy: Halifax Industrial Park Precinct Design Guidelines at provision 8.5 states that, *“All open air storage areas shall be located behind the front setback area and screened from public view by fencing, walls or landscaping to the satisfaction of the local government”.*

Furthermore, Local Planning Policy: Halifax Industrial Park Precinct Design Guidelines at provision 8.8 states that, *“All structures including but not limited to plant rooms, service areas, garages, collection areas and bin enclosures shall be located at the side and rear of buildings. Structures proposed at front of buildings shall not be located within the front setback area and shall form an integral part of the building design”.*

The current location of the transportable buildings and sea containers also restricts vehicle access to the site using the eastern crossover on Halifax Drive.

The existing siting of the transportable buildings and sea containers detracts from the intended streetscape for Halifax Industrial Park as set out in the objectives of Local Planning Policy: Halifax Industrial Park Precinct Design Guidelines, and does not meet the applicable policy provisions.

Therefore, it is recommended that the existing siting of the transportable buildings and sea containers should not be approved, and if the owner wishes the transportable buildings or sea

containers to remain onsite, then the buildings/containers should be at a minimum relocated to behind the building line of the main building.

In terms of the draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures, the development standards for sea containers in the 'Industry Zone' are discretionary. It is considered that if the sea containers were located to behind the building line of the main building and did not impede existing car parking provision, landscaping or drainage areas, that the retention of the sea containers onsite would be acceptable.

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.

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

Community Consultation

The recommendation is to refuse the application for development approval for retrospective additions. Accordingly, the application has not been advertised for public comment.

Councillor/Officer Consultation

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

Delegation of Authority

The application for retrospective planning approval is referred to Council for decision, as officers of the City of Bunbury do not have delegation to refuse the application.

10.4.2 Application for Development Approval for Change of Use to ‘Industry - Noxious’ and Proposed Additions (Compressor and Dust Extraction Units) at Lot 30 (# 22) Palmer Crescent, Davenport

File Ref:	P07308-02, DA/2015/196/1
Applicant/Proponent:	David Evans
Responsible Officer:	Laura Sabitzer, Senior Planning Officer
Executive:	Stephanie Addison-Brown, A/Director Planning, Development and Regulatory Services
Attachments:	Appendix DPDRS-14: Location Plan Appendix DPDRS-15: Site Plan Elevations and Sections Appendix DPDRS-16: Letter responding to submissions during advertising Appendix DPDRS-17: Applicant’s Supporting Information Appendix DPDRS-18: Minutes Extract 15-04-2015 Appendix DPDRS-19: Schedule of Submissions Confidential Appendix CRUSC-5-1: Confidential Legal Advice

Summary

An application for development approval has been submitted for an ‘Industry - Noxious’ use, including sand blasting and spray painting activities, at Lot 30 (street address number 22) Palmer Crescent, Davenport.

In early 2014, temporary planning approval was granted for the land use which has since lapsed. This latest application for development approval is for the continuation of the land use and the addition of a compressor unit and dust extraction unit.

This matter is currently subject to two separate State Administrative Tribunal (SAT) appeals, with the applicant appealing conditions of the temporary planning approval which required scientific monitoring and activities to be carried out behind closed doors, as well as a Stop Work Directions notice which was issued by the City of Bunbury in August 2013 following Council’s initial refusal of the application for development approval.

The matter is listed for a SAT hearing on Friday 11 December 2015, to follow this Council decision. Consequently, the purpose of this report is for Council to consider whether to:

- * approve the application on a permanent basis; or
- * approve the application on a temporary, time limited basis; or
- * refuse the application.

Public consultation on the application has occurred, with a total of 53 submissions received during the advertising period; of which 36 were objections and 13 were comments of support or no objection. The issues of land use conflict, non-compliance with previous planning conditions, potential health impacts, and the environmental emissions of dust, fume and noise; were the main concerns raised during the consultation period.

The application for development approval was also referred to the Department of Environment Regulation, Department of Health, Department of Parks and Wildlife, Department of Water and Department of Planning; with no submissions of objection received.

Council Officers have reviewed all options in relation to the application and have concerns in relation to the environmental impacts of the proposed development. Whilst a refusal would be the proposed recommendation based on these concerns, without the support of State Government Departments the Council may not be in position to effectively defend the position should the refusal end up in a legal dispute. Council staff have contacted the Department of Environmental Regulation on multiple occasions to try and work through the issues in relation to this development application and the environmental impacts but to date have not received any formal response. Given the lack of State Government Agency objection, the proposed course of action is to provide a temporary approval to allow time to effectively assess the impact of the development on the environment. Further, “it is noted..... with the planning conditions imposed”

Further it is noted that the applicant has an inconsistent history of compliance with the Local Planning Scheme and their conditions of planning approval. Therefore, it is recommended that temporary development approval for up to three (3) years be granted subject to conditions, in order for the applicant to demonstrate to the City of Bunbury that the business can be operated in accordance with the planning conditions imposed.

Executive Recommendation

That Council resolves to:

1. Grant temporary development approval (DA/2015/196/1) for a maximum period of three (3) years in accordance with section 72 of Part 9 — Procedure for Dealing With Applications for Development Approval under Schedule 2 — Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*, to permit a change of use to ‘Industry - Noxious’ and proposed additions (compressor unit and dust extraction unit) at Lot 30 (# 22) Palmer Crescent, Davenport, in accordance with the City of Bunbury Town Planning Scheme No. 7, subject to the following conditions:
 - 1.1 This temporary development approval is also deemed to be granted under the Greater Bunbury Region Scheme (GBRS).
 - 1.2 All development shall be in accordance with the approved development plans which form part of this temporary development approval.
 - 1.3 This is a temporary development approval and the development the subject of this temporary approval must cease on 31 March 2018 at which time this approval will expire pursuant to:
 - (a) clause 10.6 of the City of Bunbury Town Planning Scheme No. 7; and
 - (b) section 72 dealing with temporary development approval under Part 9 — Procedure for Dealing With Applications for Development Approval of Schedule 2 — Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
 - 1.4 This planning approval temporarily supersedes any previous planning approval granted for the subject site.
 - 1.5 All works required to satisfy a condition of this temporary development 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.

- 1.6 Within sixty (60) days from the date of this temporary development approval, the applicant is to submit to the City of Bunbury an Environmental Management Plan prepared by an appropriately qualified person or body and to the specifications and satisfaction of the City of Bunbury at the applicant's expense. The Environmental Management Plan is to address but not be limited to an assessment of the risks and potential impacts of land use activities on the conservation values of adjacent bushland (e.g. from potential offsite emission of sand blasting and/or spray painting materials).
- Once the Environmental Management Plan is approved by the City of Bunbury, the development shall implement and subsequently operate in accordance with the approved Environmental Management Plan.
- 1.7 Within sixty (60) days from the date of this temporary development approval, the applicant is to install the compressor unit and dust extraction unit and is to provide written confirmation of the installation to the City of Bunbury. It is the responsibility of the applicant to ensure that the units are maintained in working order.
- 1.8 Within sixty (60) days from the date of this temporary development approval, a minimum of 16 car parking bays, including one car parking bay provided for the exclusive use of disabled persons in accordance with the relevant Australian Standards (AS2890.1) are to be line marked onsite. The line marking is to be maintained so that the delineation of the car parking bays remains clearly visible at all times.
- 1.9 There shall be no sandblasting or spray painting carried out in the open.
- 1.10 Except with the prior written consent of the City of Bunbury, the approved temporary use must only operate between the following times (excluding Sundays and public holidays):
- (a) 7am and 5pm Monday to Friday inclusive; and
 - (b) 7am and 1pm Saturday.
- 1.11 There shall be no storage of materials within the parking, access driveways, or landscaped areas.
- 1.12 The approved landscaping areas are to be maintained to the satisfaction of the City of Bunbury.
- 1.13 All verge areas abutting the boundaries of the subject site must remain clear at all times and must not be used for any other purpose including car parking, trade display, storage and signage to the satisfaction of the City of Bunbury.
- 1.14 The applicant shall install a solid fence, with a minimum height of 1.8m above natural ground level, along the boundaries of the subject lot adjoining the 'Regional Open Space Reserve'.

Advice Notes:

- (1) 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.
- (2) The purpose for the temporary development approval is for the applicant to demonstrate to the City of Bunbury that the business can be operated in accordance with the conditions imposed.
- (3) Prior to the expiration of this temporary development approval, a new application for development approval is to be submitted and approved by the City of Bunbury, if the applicant wants to continue the use at the site.
- (4) This is a temporary 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 (BCA) and a separate building permit must be granted before the development commences. The applicant/owner is advised to liaise further with the City of Bunbury's Building Certification team on (08) 9792 7000.
- (5) The Environmental Management Plan is to include consideration of and be guided, as a minimum, by the following legislation, policy and codes of practice documents, as applicable:
 - * Stormwater Management Manual for Western Australia;
 - * Department of Water, Water Quality Protection Notes (WQPN), available online at www.water.wa.gov.au, including:
 - WQPN 52 Storm water management at industrial sites,
 - WQPN 93 Light industry near sensitive waters,
 - WQPN 65 Toxic and hazardous substances: storage and use;
 - * Environmental Protection (Metal Coating) Regulations 2001;
 - * Environmental Protection (Abrasive Blasting) Regulations 1998;
 - * AS/NZS 4114.1:2003 Spray Painting Booths, Designated Spray Painting Areas and Paint Mixing Rooms - Design, Construction and Testing;
 - * Model Code of Practice – Abrasive Blasting available online at www.safeworkaustralia.gov.au;
 - * Model Code of Practice – Spray Painting and Powder Coating available online at www.safeworkaustralia.gov.au; and
 - * Compliance with all relevant material safety data sheets, product labels and manufacturer's instruction manuals.
- (6) Leach drains or soak wells must not be located beneath areas subject to vehicular traffic.
- (7) The City of Bunbury advises that the development the subject of this planning approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions.

- (8) The City of Bunbury advises that the development the subject of this planning approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment.
 - (9) The development the subject of this planning approval must comply with the requirements of the Health Act 1911 and City of Bunbury Health Local Laws 2001.
 - (10) The Department of Water advises that the development is to be in accordance with the following Department of Water’s Water Quality Protection Notes (WQPN):
 - * WQPN 52 Stormwater Management at Industrial Sites;
 - * WQPN 51 Industrial Wastewater Management and Disposal; and
 - * WQPN 65 Toxic and Hazardous Substances - Storage and Use.These documents are available from the Department for Water’s website at www.water.wa.gov.au or contact the Department of Water, Bunbury regional office on (08) 9726 4111.
 - (11) The Department of Water advises that the plant area should have a low permeability pad or floor that has been chemically sealed to minimise seepage and assist in clean-up of spilt fluids. The plant area should contain chemical spills by for example, impervious perimeter bund or internal collection sump.
 - (12) The Department of Water advises that fuel or chemicals stored on site should be contained with a secure weatherproof impervious flooring compound.
 - (13) The Department of Water advises that uncontaminated stormwater is to be kept and treated separately from contaminated or potentially contaminated stormwater within the subject lot. Uncontaminated stormwater should be treated in accordance with the Stormwater Management Manual for Western Australian (2004-2007).
 - (14) The Department of Water advises that site staff and contractors should be made aware of practices designed to minimise contamination loss to stormwater management systems, and site operators and designated staff should be trained to supervise the response to spill incidents.
2. Should a breach of planning condition(s) occur, instructs the CEO to commence prosecution for an offence under section 218 of the *Planning and Development Act 2005* (as amended).
 3. Advises the applicant, landowner and submitters of Council’s decision.

Background

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

Property Address:	Lot 30 (# 22) Palmer Crescent, Davenport
Zoning (TPS7):	Industry Zone
Zoning (GBRS):	Industrial Zone
Lot Area:	4,072m ²

The subject site is located adjacent to the cul-de-sac of Palmer Crescent. The subject site is bounded by industrial development to the north and south-east; and to the east and south east adjoins land reserved as Regional Open Space (i.e. Armanta Drive Reserve and Loughton Park respectively). Loughton Park contains playground equipment, which is located approximately 109m from the subject lot. Adjacent to the reserves is the residential area of Kinkella Park, with closest residential lot located approximately 113m from the subject lot.

A location plan showing the subject site and its surrounds is **attached** at Appendix DPDRS-14.

Existing development of Lot 30 (# 22) Palmer Crescent consists of two large sheds, with the front shed being used for sandblasting activities and the rear shed used for spray painting activities. With this application minor additions of a compressor and dust extraction unit are proposed to the existing sandblasting shed.

The development plan is **attached** at Appendix DPDRS-15 and other supporting information from the applicant is **attached** at Appendices DPDRS-16 and DPDRS-17.

The site has been the subject of previous Council decisions and ongoing SAT appeals. A summary of the key decisions are as follows:

Date	Decision
April 2013	A retrospective application for planning approval to change the use of the premises to operate a sandblasting and spray painting business at the address was received. The application was received following complaints to the City of Bunbury from nearby residents.
July 2013	<p>Council refused the retrospective application for planning approval for the following reasons:</p> <ul style="list-style-type: none"> * The development is contrary to the provisions of clause 10.2 (d) of the City of Bunbury Town Planning Scheme No. 7 (Scheme), in that the proponent has not fully demonstrated that the proposed development (sandblasting and spray painting) would comply with the <i>Environmental Protection (Abrasive Blasting) Regulations 1998</i> or the <i>Environmental Protection (Metal Coating) Regulations 2001</i>. * Furthermore, the Lot (at the time of determining the application) is not served by mains power, and as such, the proponent is unable to comply with the aforementioned regulations. The absence of mains power for the proposed development would be contrary to clause 10.2(s) of the Scheme. * In the absence of a site specific environmental assessment (to establish the need for appropriate buffer distances and assess the impact(s) arising from the proposed development (sandblasting and spray painting activities), the City of Bunbury considers that the propose development would be likely to have an adverse impact on the environment and the established resident amenity in the locality, by reason of dust, noise, vibration, and smell from the development. * The proposed development would therefore be incompatible with its setting and contrary to clause 10.2, criteria (b), (d), (i), (n) and (z) of the Scheme. <p>Note: the reference to mains power in the reason for refusal should be to three phase power.</p>

Date	Decision
August 2013	Following the refusal of planning approval, the City of Bunbury issued a Stop Work Direction under s. 214 of the <i>Planning and Development Act 2005</i> .
August 2013	The applicant appealed the refusal of planning approval and the Stop Work Direction to the SAT. The SAT agreed to a stay of enforcement proceedings, pending resolution of the SAT review.
August 2013	During initial mediation, SAT issued under section 31 of the <i>State Administrative Tribunal Act 2004</i> , an order for Council to reconsider its decision of refusal of planning approval. Council resolved to affirm its original decision and reasons to refuse the application.
August 2013	The Department of Environment Regulation (then Department of Environment and Conservation) required the operator to cease sandblasting activities in the open.
November 2013	Further to confidential consideration of the City of Bunbury’s legal advice, Council resolved to not actively oppose the SAT appeal. Council resolved to seek a mediated outcome at SAT dependent on a three month temporary approval, during which time the applicant would be required to bring into operation all of the necessary environmental control measures. It was also resolved by Council, that upon the expiry of temporary approval, a subsequent application approved would also be time limited.
December 2013	<p>At SAT mediation, the City of Bunbury’s officers presented Council’s resolution. The applicant advised that a temporary planning approval was no longer an acceptable position, and requested a time-unlimited planning approval. The City of Bunbury’s lawyer advised that as no agreement could be reached between the parties, a full hearing on the matter is requested. However, the SAT Presiding Member stated before SAT would proceed to full hearing all options of mediation should be fully exhausted.</p> <p>SAT issued a second order under section 31 of the <i>State Administrative Tribunal Act 2004</i>, for a further invitation to Council to reconsider its decision.</p>
February 2014	Council under section 31 of the <i>State Administrative Tribunal Act 2004</i> , resolved to issue planning approval with strict time-limited conditions requiring actions from the applicant.
April 2014	<p>The previous Council resolution was conflicting as to whether the intention was for temporary planning approval or a time unlimited approval.</p> <p>Council resolved, pursuant to section 31 of the <i>State Administrative Tribunal Act 2004</i> to grant temporary planning approval for thirteen (13) months, subject to conditions (Ordinary Council meeting 15 April 2015 – Council decision 131/14).</p> <p>That Council, pursuant to section 31 of the <i>State Administrative Tribunal Act 2004</i>, sets aside the original decision to refuse the application and substitutes</p>

Date	Decision
	<p>its new decision resolving to grant a temporary planning approval for thirteen (13) months, with the following conditions:</p> <ol style="list-style-type: none"> 1. The temporary planning approval and development must cease on (date fixed 13 months from date of decision) at which time the approval will expire pursuant to clause 10.6 of the City of Bunbury Town Planning Scheme No. 7. 2. Development shall be in accordance with the approved development plans (dated 7 August 2013) that form part of the planning approval. 3. Within 21 days of the date of the approval, the applicant shall provide the City of Bunbury with verification from a suitably qualified person that the sandblasting operations are in full compliance with the <i>Environmental Protection (Abrasive Blasting) Regulations 1988</i>. 4. Within 21 days of the date of the approval, the applicant shall provide the City of Bunbury with verification from a suitably qualified person that the spray painting operations are in full compliance with the <i>Environmental Protection (Metal Coating) Regulations 2001</i>. 5. The applicant shall instruct a suitably qualified independent consultant to undertake scientific monitoring of the impacts arising from the development, in respect of the following matters: noise, air quality (dust), and odour for a continuous period of not less than 11 months; and 6. The results shall be analysed and submitted to Council in the form of a scientifically validated independent consultants report, at the end of the monitoring period. The monitoring results shall be made available, on request, to the City during the monitoring period. 7. The brief for the monitoring and scientific report shall be agreed with the City of Bunbury within four (4) weeks of the date of the decision notice. The monitoring and scientific report shall be carried out in accordance with the agreed brief. 8. There shall be no sandblasting or spray painting carried out in the open and in both cases must be carried out behind closed doors. 9. The applicant shall submit to the City a Management Plan based on the parameters set out in 'Suckling Civil & Structural Engineers Management Plan' within 21 days of the date of the decision notice. The Management Plan shall be strictly adhered to at all times unless any variance is agreed to in writing by the City of Bunbury. 10. Notwithstanding the submitted plan, a minimum of 16 car parking bays shall be provided on the land the subject of this planning approval and to the satisfaction of the City of Bunbury. A minimum of one of those car parking bays shall be provided for the exclusive use of disabled persons in accordance with AS/NZS 2890.6:2009 and to the satisfaction of the City of Bunbury. Car parking bays shall remain accessible, at all times, and be used solely for the purposes of car parking. 11. There shall be no storage of materials within the parking, access driveways, or landscaped areas. 12. All verge areas abutting the boundaries of the subject site must remain clear at all times and must not be used for any other purpose including car parking, trade display, storage and signage to the satisfaction of the City of Bunbury. 13. Except with the prior written consent of the City of Bunbury, the

Date	Decision
	approved use must only operate between the following times (excluding Sundays and public holidays): (a) 7am and 5pm Monday to Friday inclusive; and (b) 7am and 1pm Saturday.
May 2014	The applicant appealed Conditions (5) and (6) of the temporary planning approval to SAT. At the SAT Directions Hearing on the appeal of conditions, the SAT Presiding Member referred the matter for mediation.
June 2014	SAT mediation on both appeal matters; the Stop Work Direction and conditions (5) and (6) of the temporary planning approval. Applicant’s lawyer stated the condition in relation to scientific monitoring was unreasonable, primarily due to the costs.
August 2014	The SAT Presiding Member ordered that the mediation in adjourning to enable both the City of Bunbury and the applicant to continue discussions on environmental monitoring.
November 2014	The purpose of this mediation at SAT was for representatives from the Department of Health and Department of Environment Regulation to present their views on the appealed conditions (5) and (6). Following considerable discussion on the conditions, the mediation was adjourned by SAT until April 2015 for the applicant to address the dust extraction system in the sand blasting shed, how the spray painting shed may be vented and to prepare a management plan.
April 2015	The SAT mediation is adjourned to further meditation to provide the applicant with opportunity to decide on how he wishes to proceed. At this SAT mediation the City of Bunbury advised that the temporary planning approval was expiring in a month and explained to the applicant of the draft proposed Local Planning Scheme No. 8 zoning for the subject land and potential implications for his business activities.
July 2015	This application for development application was submitted.

The SAT appeals are now pending the outcome of this application for development approval, as the previously granted temporary planning approval has now expired. Please refer to the Officer Comments section for further information on the SAT appeals.

Legislative and Council Policy Compliance

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

- * *Planning and Development Act 2005;*
- * *Planning and Development (Local Planning Schemes) Regulations 2015;*
- * *State Administrative Tribunal Act 2004;*
- * Greater Bunbury Region Scheme (GBRS);
- * City of Bunbury Town Planning Scheme No. 7 (TPS7); and
- * Local Planning Policy: Access and Parking for Pedestrians, Bicycles and Vehicles.

Officer Comments

Land Use

Planning Framework

This application seeks approval for the activities of sandblasting and spray painting at the subject site. These activities fall within the definition of the 'industry – noxious' land use class as contained in Schedule 1 of the Scheme, which is defined as:

*“An industry:
Which by reason of the processes involved, the method of manufacture, the nature of the materials used or produced, and/or the emissions or other by-products released into the atmosphere, water or ground requires separation from other land uses and/or buildings in the interests of human enjoyment or comfort...”*

The land use class of 'industry – noxious' is listed in Table No. 1 – Zoning Table of the Scheme as an 'A' use in the 'Industry Zone', which means that the use is not permitted unless the local government has exercised its discretion and has granted development approval after giving special notice (i.e. public advertising for a minimum of 14 days) in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* at Schedule 2, deemed clause 64. Council in exercising its discretion to grant development approval is to have due regard to the matters listed in the Regulations at Schedule 2, deemed clause 67, including:

- (a) the aims and provisions of the Scheme;
- (b) the requirements of orderly and proper planning;
- (c) any approved State Planning Policy;
- (d) any environmental protection policy approved under the *Environmental Protection Act 1986*;
- ...
- (g) any local planning policy for the Scheme area;
- ...
- (n) the amenity of the locality including the following -
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development.
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
- ...
- (r) the suitability of the land for the development taking into account the possible risk to human health or safety;
- ...

- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application;
- (za) the comments or submissions received from any authority consulted under clause 66;
- (zb) any other planning consideration the local government considers appropriate.

In the revised draft City of Bunbury Local Planning Scheme No. 8 (proposed to supersede City of Bunbury Town Planning No. 7), the subject land is proposed to be included in a 'Light Industry Zone'. Under this zone it is proposed that the land uses of 'Industry – Noxious' and 'Industry – General' would be designated as not permitted 'X' uses.

The applicant is aware of the implications of the draft Local Planning Scheme No. 8 requirements, though the SAT mediation process.

It is advised that as the draft Local Planning Scheme No. 8 is currently not a 'seriously entertained' document and therefore the proposed draft zoning and land use compatibility cannot be a valid planning reason for refusing this application for development approval.

On the other hand, permanent rather than temporary approval of this application for development approval could potentially result in the use having 'non-conforming use' rights if the proposed draft zoning and land use compatibility are gazetted. A 'non-conforming use' right is where a continued use at a subject site, which was lawful immediately prior to the gazettal of the current Local Planning Scheme can continue at the subject site, albeit of the Local Planning Scheme provisions. 'Non-conforming use' rights have limitations, such as the continuance of the use, extensions and changes to the use and/or building and destruction of buildings; which are specified in the Local Planning Scheme.

For this application for development approval, temporary development approval valid for three (3) years is recommended.

Land Use Compatibility

The land use is outside of the established generic buffer distances set out in the Environmental Protection Authority guidance document 'Separation Distances between Industrial and Sensitive Land Uses No. 3'. This guidance document identifies appropriate buffer distances between industrial development and sensitive land uses e.g. recreational and residential development. In this case the site adjoins land used for recreation and is at minimum 115m away from residential development and 100m away from the playground equipment.

The buffer distance for spray painting is 200m and sandblasting is on a case-by-case basis. Paragraph 4.4.1 of the Guidance note states 'where the separation distance is less than the generic distance, a scientific study based on site and industry-specific information must be presented to demonstrate that a lesser distance will not result in unacceptable impacts'.

The applicant has advised that "a three-phase generator has been installed at the property and operates to provide three-phase power for both the dust extraction system used in the sandblasting activities and the compressors used in the spray painting activities at the property".

“The quantities of paint used vary on a monthly basis between 100 litres and approximately 500 litres, depending on workloads and other various factors that affect the volume of work to be carried out. The annual quantity of paint used exceeds the thresholds for prescribed premises under the Environmental Protection Act which is 1,000 litres per annum”.

Environmental Considerations

Environmental Assets

The subject site abuts land which is reserved under the Greater Bunbury Region Scheme (GBRS) as ‘Regional Open Space’. The reserved land contains:

- * conservation category wetlands;
- * a mapped occurrence of *Diuris drummondii*, commonly known as the Tall Donkey Orchid. *Diuris drummondii* is listed as declared rare flora under the Wildlife Conservation Act 1950 (WC Act) and as vulnerable flora under the Environmental and Biodiversity Conservation Act 1999 (EPBC Act);
- * a known population of *Austrostipa bronwenae*, which is listed as declared rare flora under the WC Act;
- * Department of Parks and Wildlife has advised that the Swan Coastal Plain Community Type 9 Threatened Ecological Community protected under the EPBC Act, is highly likely to be present;
- * a known habitation of the protected Western Ringtail Possums; and
- * likely foraging habitat of Western Australian black cockatoos, which are listed as threatened species under the EPBC Act.

As these environmental assets are located in proximity of the subject site, an environmental management plan is recommended at condition vi.

Dust and Odour

In 2014, the Department of Health undertook dust analysis

The Department of Health also investigated the issue of odour from the subject business, Geographe Sandblasting. It was concluded that:

“Odour appears to be sufficiently managed on the premises with the existing odour filtration system; to further reduce the potential for incidental odour emission, spray painting could take place well inside the shed away from the open door”.

Noise

Noise from the premises is required to comply with the *Environmental Protection (Noise) Regulations 1997*.

State Administrative Tribunal (SAT) Appeal

The matter is currently subject to two SAT appeals:

- * DR238/2013, which relates to the appeal of conditions (5) and (6) of this temporary planning approval, Council decision 131/14 of ordinary Council meeting on 15 April 2014.

Condition (5) required the applicant to engage a suitably qualified independent consultant to undertake scientific monitoring of the impacts arising from the development, for a continuous period of not less than 11 months and condition (6) required that no sandblasting or spray painting be carried out in the open and must be carried out behind closed doors.

- * DR297/2013, which relates to a Stop Work Direction issued by the City of Bunbury under s. 214 of the *Planning and Development Act 2005*. SAT agreed to a stay of enforcement proceedings, pending resolution of the SAT review.

The SAT appeal matter is ongoing and is now pending a new application for development approval, as the time period for the previous temporary planning approval has now expired.

A directions hearing on the SAT appeal matter is listed for 11 December 2015, following Council's determination of the new application for planning approval on 8 December 2015.

The lawyer, who is representing the City of Bunbury on the SAT matter, has provided confidential legal advice, as circulated **under separate cover** at CRUSC-5-1, to Council on determining this application for development approval.

Analysis of Financial and Budget Implications

This matter is currently subject to two separate State Administrative Tribunal (SAT) appeal procedures. At this stage, the current legal costs spent are approximately \$62,000.

Community Consultation

The development application was advertised for public comment from 21 October 2015 to 6 November 2015. Public consultation measures included the following:

- * letters sent to surrounding landowners;
- * notification signs on-site;
- * public notice of proposal published in a locally circulated newspaper;
- * notice of proposal on the City of Bunbury's website; and
- * copies of the plans and supporting information made available at the City of Bunbury's Customer Service Centre.

In total, 53 submissions were received, of which 36 were objections and 13 were comments of support or no objections.

The main issues raised in submissions were in relation to land use compatibility, non-compliance with previous planning conditions, health impacts, and the environmental emissions of dust, fume and noise; were the main concerns raised during the consultation period.

Refer to the Schedule of Submissions **attached** at Appendix DPDRS-19.

Previously, the matter has been subject to extensive community consultation and media attention during the original determination of the application.

Referrals to External Agencies

The development application was referred to the following State Government departments for referral comment:

- * Department of Planning advises that the development application requires approval under the Greater Bunbury Region Scheme (GBRS) as the subject site abuts land reserved as 'Regional Open Space'. The GBRS application can be determined by the local government if it accepts referral advice from the Department of Environment Regulation, Department of Parks and Wildlife and the Department of Water.
- * Department of Environment Regulation is yet to provide the City of Bunbury with a response.
- * Department of Parks and Wildlife indicates that it trusts environmental planning issues to be appropriately managed through the planning system.

It is recommended that Environmental Protection Authority guidance document 'Separation Distances between Industrial and Sensitive Land Uses No. 3', be considered as part of the application for development approval.

It has previously been advised that it is recommended that suitable industrial fencing be installed near the boundary of the subject lot adjacent to the adjoining regional open space reserves. The fence is to prevent dust and other particulates from being blown from the subject site into the adjoining reserves.

- * Department of Health has no objection to the proposal, subject to the new use complying with the Department of Environment Regulation requirements related to sand blasting/spray painting and noise regulations as appropriate.

In mid-2014, Department of Health investigated the risks to health from dust and odour emissions from the subject lot. In summary the Department of Health advised that "no sandblasting or spray painting under any circumstance should be allowed to occur in the open".

This is discussed in the Officers Comment section.

- * Department of Water has provided advice notes, which would require the applicant to take specific actions to protect the local water resource and mitigate against water quality risks.

The subject land abuts a conservation category wetland. The Department of Water considers the development application to have a low level risk to water quality for the ground and surface water environments. Sand blasting and spray painting can involve hydrocarbons and petroleum products that can be harmful to receiving environments. Managing the movement of waters from the facility is imperative to ensure receiving water bodies are not contaminated.

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 development 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 Application for Development Approval for Four Grouped Dwellings at Lot 2 (#7) Taunton Street, East Bunbury

File Ref:	P14502 / DA/2015/257/1
Applicant/Proponent:	Tangent Nominees Pty Ltd T/A Summit Homes Bunbury and South West
Author:	Matthew Wansborough, Planning Officer
Executive:	Stephanie Addison-Brown, Director Planning and Development Services
Attachments:	Appendix DPDRS-1 - Proposed Development Plans Appendix DPDRS-2 - Shade Indicative Plan Appendix DPDRS-3 - Schedule of Submissions Appendix DPDRS-4 - Location Plan

Summary

An application for planning approval was lodged by Summit Homes Bunbury and South West seeking to replace the existing single house at Lot 2 (street address number 7) Taunton Street, East Bunbury with four grouped dwellings with associated new street access.

The application proposes variations to the Deemed-to-Comply provisions of State Planning Policy 3.1 Residential Design Codes (the R-Codes) in relation to:

- building setbacks from a communal street;
- walls on a lot boundary; and
- outdoor living area within the street setback area.

The development application was advertised for public comment from 22 October 2015 to 4 November 2015 inclusive. In total, seven submissions were received, of which six were objections. The main issues raised in submissions were in relation to creating adverse impacts on the amenity of the local area.

It is considered that the proposal substantively satisfies the Design Principles of the R-Codes, and would generally represent orderly and proper planning. Therefore, for the reasons set out below, the application for development approval is recommended to be approved.

Executive Recommendation

That Council:

1. In accordance with the *Planning and Development Act 2005* (as amended), hereby resolves to grant development approval for four Grouped Dwellings at Lot 2 (# 7) Taunton Street, East Bunbury, subject to the following conditions:
 - 1.1 At all times, the development the subject of this planning approval must comply with the definition of Grouped Dwelling as contained in State Planning Policy 3.1 Residential Design Codes.
 - 1.2 All development shall be in accordance with the approved development plans (attached) which form part of this planning approval.
 - 1.3 This planning 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.
- 1.4 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.
 - 1.5 Before the development is occupied, external clothes drying facilities must be provided for each dwelling in accordance with clause 5.4.5 of the State Planning Policy 3.1 Residential Design Codes. External clothes drying facilities must be effectively screened from public view at all times and to the satisfaction of the City of Bunbury. Details to be submitted with the building permit application.
 - 1.6 Rubbish bin storage areas must be screened from public view at all times in accordance with clause 5.4.5 of State Planning Policy 3.1 Residential Design Codes and to the satisfaction of the City of Bunbury.
 - 1.7 Before the development is occupied, bollard style security lighting must be provided along shared driveways and paths and must be designed, baffled, located maintained at all times thereafter to the satisfaction of the City of Bunbury.
 - 1.8 Front walls and fences within the primary street setback area must be visually permeable 1.2 metres above the natural ground level in accordance with clause 5.2.4 of State Planning Policy 3.1 Residential Design Codes and to the satisfaction of the City of Bunbury.
 - 1.9 Walls and fences must be truncated or reduced to no higher than 0.75 metres above natural ground level within 1.5 metres setback of where walls and fences adjoin vehicle access points, where a driveway meets a public street and where two streets intersect, to the satisfaction of the City of Bunbury and in accordance with clause 5.2.5 of State Planning Policy 3.1 Residential Design Codes.
 - 1.10 All verge areas abutting the boundaries of the subject site must remain clear at all times and must not be used for any other purpose including car parking, trade display, storage and signage to the satisfaction of the City of Bunbury.
 - 1.11 The boundary (parapet) 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.
 - 1.12 Before the development is occupied, the landscaped area(s) shown in green on the approved development plan(s) must be planted, established, reticulated and thereafter maintained to the satisfaction of the City of Bunbury.
 - 1.13 With the building permit application, a landscaping plan must be submitted for approval to the specifications and satisfaction of the City of Bunbury. The landscape plan must address the following:
 - a site plan of existing and proposed development with natural and finished ground levels;
 - the location, species and size of existing vegetation and vegetation to be removed;
 - exact species, location and number of proposed plantings;
 - a key or legend detailing proposed species type grouped under the subheadings of tree, shrub and ground cover;
 - mulching or similar treatments of garden beds including edges;
 - details of reticulation of landscaped areas including the source of the water supply and proposed responsibility for maintenance;
 - treatment of paved areas (parking and pedestrian areas);
 - screening of car parking areas; and
 - fence material, height and treatment.
 - 1.14 Before the development is occupied, the landscaped area(s) must be planted, established and reticulated in accordance with the endorsed landscape plan(s).

- These areas must be maintained as landscaped areas at all times and to the satisfaction of the City of Bunbury.
- 1.15 All verge areas shall be suitably grassed or planted and maintained at all times. The verge shall not be used for the purpose of parking nor for overflow parking in the case of a common driveway being shared. Additional hardstand or gravel sealing other than the cross-over will not be permitted on the verge.
 - 1.16 Existing trees located within the verge are a City of Bunbury asset, and as such, must be retained except where otherwise approved for removal by the City of Bunbury.
 - 1.17 The property owner / developer shall purchase street tree/s to be installed within the verge area.
 - 1.18 Before the development is commenced, detailed design plans shall be prepared in accordance with relevant Australian Standards, Austroad Guidelines, and City of Bunbury requirements, for all access, car parking and pedestrian movement requirements, to the specifications and satisfaction of the City of Bunbury. Once plans are approved construction is to be in accordance with the approved plans and be completed before the development is occupied.
 - 1.19 Before the development is occupied, the access way, car parking and turning area shall be constructed in accordance with the development approval to the specifications and satisfaction of the City of Bunbury.
 - 1.20 Before the development commences, a crossover permit must be obtained from the City of Bunbury. Construction and maintenance of the crossover shall be in accordance with the crossover permit.
 - 1.21 Before the development is occupied, all disused or redundant vehicular crossover(s) must be removed and the area reinstated to the satisfaction of the City of Bunbury.
 - 1.22 Before the development is occupied, any alterations, relocation or damage of existing infrastructure within the road reserve must be completed and reinstated to the specification and satisfaction of the City of Bunbury.
 - 1.23 Before the development is commenced, a path network contribution of \$1,659 must be paid to the City of Bunbury in accordance with the City of Bunbury's Schedule of Fees and Charges.
 - 1.24 Before the development commences, a damage bond to the value of \$1,000 must be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy: Bonds.
 - 1.25 A minimum of 1m³ of storm water storage for each 65m² of impervious area must be provided on site in accordance with the City of Bunbury's Information Guide – Stormwater Disposal from Private, Commercial and Industrial Properties.
 - 1.26 Detailed design plans of the proposed stormwater management must be submitted for approval prior to the development commencing, and be implemented in accordance with the approved plan prior to the development being occupied.
 - 1.27 This property is situated on the Preston River Flood Plain and is susceptible to flooding. Habitable rooms in any building construction shall have a minimum finished floor level of 2.1 metres AHD in accordance with the City of Bunbury's Local Planning Policy: Development in Flood Affected Areas.
 - 1.28 Before the development is occupied, the property must be connected to the Water Corporation reticulated sewerage system.
 - 1.29 Laundry shall have a minimum floor area of 3m² and the minimum width of the room shall be not less than 1.5m.

Advice Notes:

- (1) The City of Bunbury advises that where a planning 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.
- (2) An application for an extension of time to an existing planning approval shall require a formal written request, signed by both the land owner and applicant (if applicable) and the payment of the appropriate application fee (as per the Council's Fees and Charges Schedule), details of the relevant planning approval are required (e.g. DA number, date of approval, property address). An application shall be received within one month prior to the expiration of the Planning Approval. An extension of time shall only be granted once. Should an extension of time expire a new application for Planning Approval will be required.
- (3) This is a planning 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.
- (4) The City of Bunbury advises that the site is identified as high to moderate risk of acid sulphate soils. The owner is advised to contact the Department of Environment Regulation before commencing any site works to determine the implications of this and whether there is an obligation to prepare an acid sulphate soils assessment report and implement an acid sulphate soils management plan. Further information can be obtained from the Department of Environment Regulation's Acid Sulfate Soils Branch on (08) 6467 5000 or at www.der.wa.gov.au.
- (5) Any landscaping to the verge other than lawn requires an approved Verge Treatment Permit in accordance with the City's QF214 'Verge Treatment Guidelines Forms'. Approval must be sought prior to any works to the verge commencing. A copy of the Verge Treatment Guidelines can be obtained on the City of Bunbury's website www.bunbury.wa.gov.au/Pages/Roads-Footpaths-and-Verge%20Permits.aspx.
- (6) Species, size and quantities will be determined by the City of Bunbury. Please contact the Landscape and Open Space Operations department on 9792 7087 to discuss requirements.
- (7) It is the owner's responsibility to ensure all required approvals are obtained for the project prior to works commencing on site (including any specified conditions attached to the Planning Approval).
Separate approvals that are required to be issued prior to works commencing could include a building permit (*Building Act 2011* and *Building Regulations 2012*), health approval (*Health Act 1911*, *Food Act 2008*, Local Laws, etc. for onsite waste disposal, food premises, hairdressing premises, skin penetration premises or for public buildings) Water Corporation approval, cross over permit (Council's Engineering and Civil Operations), landscaping approval for any works on verge (Landscape and Open Space Operations), etc.
Failure to obtain any required approvals prior to works commencing can result in separate statutory fines under the relevant legislation (e.g. first offence for building without a Building Permit is \$50,000 under section 9 of Part 2 under the *Building Act 2011*).
Further information can be obtained from the City of Bunbury website www.bunbury.wa.gov.au, or by contacting the Building Certification team (08)

9792 7120.

- (8) Plans and specifications must be submitted to the Water Corporation for approval, which can be made through the Corporation's Bunbury office at Level 3, 61 Victoria Street or by contacting (08) 9791 0400 (www.watercorporation.com.au).
- (9) All documentation submitted with the building permit application shall be in accordance with the Building Regulations 2012 and the Building Code of Australia – Volume 2, including in particular, detailed plans and specifications for the site works (including finished ground and floor levels), storm water and roof run-off disposal, existing easements, cross-over and parking areas (including pavement type), to the satisfaction of Council.
- (10) Energy efficiency details of the proposed project to comply with the Building Code of Australia – Volume 2, (Housing Provisions) Part 3.12 for Climate Zone 5.
- (11) When a new crossover is proposed, and before construction of it can commence, a separate verge crossover application must be submitted and approved. A permit application form can be obtained on the City of Bunbury's website www.bunbury.wa.gov.au.
- (12) Please be aware that the subject land is located in a high groundwater table area. Treatments such as subsoil drainage may be required to prevent any increases to groundwater table levels on adjoining properties.
- (13) The development the subject of this planning approval must comply with the requirements of the Health Act 1911.
- (14) The development the subject of this planning approval is required to comply with the City of Bunbury Health Local Laws 2001.
- (15) The City of Bunbury notes that there may be a possibility of the existence of Acid Sulphate Soils (ASS) on the land concerned. At the time of subdivision and/or, at the time of the construction of any buildings/structures on the land, the proponent is to ensure compliance with all relevant legislation and/or standards in this regard.
- (16) The City of Bunbury contains many places of Aboriginal Heritage significance. Proponents are advised to consider Aboriginal heritage issues and their obligations under the Aboriginal Heritage Act 1972 at an early stage of planning. Further information can be obtained from the Department of Aboriginal Affairs on (08) 9235 8000 or by visiting www.daa.wa.gov.au/en/Heritage-and-Culture/.
- (17) This development approval issued by the City of Bunbury does not remove any responsibility the applicant may have in obtaining a vegetation Clearing Permit from the Department of Environment Regulation in accordance with the Environment Protection Act 1986. Further information can be obtained from the Department of Environment Regulation on 9725 4300 (Bunbury Office) or by visiting www.der.wa.gov.au.
- (18) This development approval issued by the City of Bunbury does not remove any responsibility the applicant may have in notifying Department of the Environment of the proposal for consideration of impacts in accordance with the Environment Protection and Biodiversity Conservation Act 1999. Further information can be obtained from Department of the Environment on (02) 6274 1111 or by visiting www.environment.gov.au/topics/about-us/legislation/environment-protection-and-biodiversity-conservation-act-1999/.

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

Background

The subject site is located within the well-established residential neighbourhood of East Bunbury at the south eastern end of the Leschenault Inlet. The area has been undergoing change in recent years with a number of new residential dwellings being constructed upon existing lots (e.g. # 4 and # 6 at the western end of Taunton Street). The existing development on the site consists of a large single storey dwelling with a garage on its eastern side and a large outdoor living area to the rear. The development site is surrounded by single storey residential dwellings and associated private gardens.

A location plan showing the subject site and its surrounds is **attached** at Appendix PDRS-4.

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

Property Address:	Lot 2 (#7) Taunton Street, East Bunbury
Zoning:	Residential Zone
Residential Density Coding:	R20/40
Existing Land Use:	Single House
Lot Area:	1,155m ²

The proposal is to demolish the existing single house and replace it with four grouped dwellings arranged in pairs along the eastern and western sides of the lot, with a new access driveway running approximately north-south down the middle of the lot. The two (2) southernmost proposed dwellings (Units 1 and 4) are to be accessed from an outdoor living area facing onto Taunton Street, with double garages to the rear. The two northern most proposed dwellings (Units 2 and 3) face onto the access driveway with double garages to the side and outdoor living areas to the north.

Each of the four proposed dwellings are single storey in height and consist of 3 bedrooms, 2 bathrooms (1 ensuite), living/dining room, kitchen, laundry room and store area. The dwellings are proposed to be of standard construction with colourbond metal sheeting roofs, brick walls and some rendered elements.

The proposed development plans are **attached** at Appendix DPDRS-1.

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
- State Planning Policy 3.1 Residential Design Codes (the 'R-Codes')
- City of Bunbury Town Planning Scheme No.7 (TPS7)
- Local Planning Policy: Access and Parking for Pedestrians, Bicycles and Vehicles

Officer Comments

Land Use

The subject lot has an area of 1,155m² and is included in the 'Residential Zone' with a residential density coding of 'R20/40' under the Local Planning Scheme. Under the Scheme and Part 5.1.1 of

the Residential Design Codes (R-Codes), a maximum of five grouped dwellings can be permitted on the lot based on an average site area of 220m². As such, the proposal consists of four grouped dwellings with an average site area of 289m².

The acceptability of the proposed grouped dwellings in terms of their detailed design is assessed in relation to the requirements in the R-Codes as follows.

Setbacks from the Communal Street

The proposed Units 2 and 3 are setback by only 2m from the communal street, whereas the requirement is for a 2.5m setback in order for the proposal to be Deemed-to-Comply with clause C2.1(iv) of the R-Codes. It is considered that, as the proposal will provide adequate privacy and open space for units 2 and 3, can accommodate parking, landscaping and utilities and is designed to create an appropriate streetscape, the proposal is consistent with the Design Principles of the R-Codes Part 5.1.2 P2.1/P2.2.

Walls on a Lot Boundary

The southern elements of both Units 1 and 4 have a wall which abuts the adjoining lots (to the north west and south east respectively). In both cases, the wall is less than two thirds of the balance of the lot boundary behind the street setback. As this occurs on more than one boundary it is not Deemed-to-Comply with regard to clause C3.2(iii) of the R-Codes. However, it is considered that the proposal is consistent with the Design Principles in clause 5.1.3, as it does not adversely impact upon the amenity of neighbouring properties and makes a positive contribution to the street scape in that it is consistent with other newer properties on the street such as those at # 4 and # 6 Taunton Street.

Outdoor Living Areas

The provision of outdoor living areas within the street setback area, as is proposed for Units 1 and 4 at the southern end of the lot, is not Deemed-to-Comply in relation to Part 5.3.1 C1.1 of the R-Codes. Therefore, the proposal has to be assessed against the following Design Principles P1.1:

R-Codes Design Principle 5.3.1 P1.1 (p.25)
Outdoor living areas which provide spaces:
- Capable of use in conjunction with a habitable room of the dwelling;
- Open to winter sun and ventilation; and
- Optimise use of the northern aspect of the site.

In relation to the first criterion, the outdoor living area of both Units 1 and 4 is accessed via the front door of the property and sliding french doors direct from the living/dining room, and is therefore considered to be capable of use in conjunction with a habitable room.

It is considered that the proposal will create a significant amount of overshadowing of the proposed outdoor living areas, with up 75% of the area being in shade at midday on 21 June (indicative plan is **attached** at Appendix DPDRS-2). This overshadowing causes some concern that the proposal is not consistent with the first part of Design Principle 5.3.1 P1.1 second bullet point in that it would not be sufficiently open to the winter sun.

However, the proposed outdoor living area would benefit from a certain degree of winter sunshine and, whilst alternative locations for the outdoor living areas were discussed with the proponent, it is not clear that a better alternative solution could be achieved which would improve solar access to the outdoor living areas and not result in adverse impacts on the street scape in terms of blank facades and reduced passive surveillance.

Therefore, on balance, it is considered that the proposal is predominantly consistent with the Design Principles in Part 5.3.1 P1.1 in that it satisfies the majority of the criteria and this outweighs any impairment associated with reduced solar access in winter. The proposal is considered to be consistent with the second part of the second bullet point in that it is open and ventilated.

In relation to the third criterion, whilst the proposal is not fully able to optimise the northern aspect of the site, particularly in relation to Unit 4. It has been able to do this in relation to Units 2 and 3. Therefore, on balance, it is considered that the proposal is consistent with this Design Principle.

It is considered that the proposal is Deemed-to-Comply with all other requirements of the R-Codes.

Conclusion

The provision of the proposed outdoor living areas for Units 1 and 4 on the southern side of the lot within the Primary Street setback is, on balance, considered to be consistent with the Design Principles of Part 5.3.1 of the R-codes. The proposed outdoor living areas are considered to be acceptable in relation to the other Design Principles in Part 5.3.1 and in terms of residential amenity and impact on the street scene.

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 22 October 2015 to 4 November 2015 inclusive. Public consultation measures included the following:

- letter sent to surrounding landowners
- copies of plans and supporting information made available at the City of Bunbury's customer service centre.

In total, seven (7) submissions were received, of which six (6) were objections.

The main issues raised in submissions were in relation to creating adverse impacts on the amenity of the local area, particularly in terms of the following:

- the visual impact of outdoor living areas within the streetscape;
- increased on-street car parking causing congestion and affecting road safety;
- increased noise from outdoor living areas within the street setback;
- creation of an unwelcome precedent for other development in the area; and
- moving the building line into the street.

Full details of the submissions made and the officer comments in response can be found in the Schedule of Submissions **attached** at Appendix DPDRS-3.

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.

10.5 Director Works and Services Reports

10.5.1 Landscape Maintenance Request for Tender RFT1516-00005

File Ref:	RFT1516-00005
Applicant/Proponent:	Internal, City of Bunbury
Responsible Officer:	David Russell, Senior Contracts and Procurement Officer
Executive:	Greg Golinski, Acting Director Works and Services
Attachments:	Confidential Appendix CRUSC-3-1: Tender Evaluation Report

Summary

Tenders for Landscape Maintenance to various Council locations have been received and Council is requested to consider appointing the preferred Tenderers as detailed within this report.

Executive Recommendation

That Council:

1. Accept the offer made by Perfect Landscapes for Landscape Maintenance for Part A - Wardandi Memorial Park.
2. Accept the offer made by Landscape Maintenance Solutions for Landscape Maintenance for Part B – South West Sports Centre, Part C Glen Iris, Part D Lady Mitchell, Part E Rocky Point, Part G Marlston Hill, Part H Pelican Point, Part I Riverlea Stage 1, Part J Koombana North and Part L Back Beach.
3. Accept the offer made by LD Total for the Landscape Maintenance for Part F – Bunbury Wildlife Park and Part K – Boulters Heights.
4. Authorise the Chief Executive Officer to enter into contracts with the endorsed contractors for Landscape Maintenance as endorsed by Council.

Background

The City has previously undertaken maintenance of its open space using a combination of internal staff and contractors. There has historically been an ad-hoc approach to the use of contract labour for this purpose, and this tender progresses this approach to ensure best value for money for the City, as well as seeks to consolidate the contracts such that they expire at the same time for ease of management. Staff identified the relevant areas that were conducive to be tendered to best meet the needs of the City.

The tender was advertised in the West Australian and the Bunbury South West Times newspapers on 9 and 10 September 2015 respectively. The tender document was made available via www.tenderlink.com/bunbury/.

A total of 155 suppliers viewed the advertisement, 42 companies downloaded the documentation, and at closing seven (7) responses was received from:

1. **Activ Property Care Pty Ltd** – PO Box 201, Wanneroo WA 6946

2. **Landscape Maintenance Solutions** – PO Box 3304, Mandurah East WA 6210
3. **LD Total** – 64 Mill Point Road, South Perth WA 6151
4. **Natural Area Management Solutions Pty Ltd** – 99c Lord Street, Whiteman WA 6068
5. **Perfect Landscapes** – PO Box 1405, Bunbury WA 6231
6. **Quality Lawn Care and Maintenance** – 11 Wright Street, Bunbury WA 6230
7. **Dirt Design** – PO Box 411, Capel WA 6271

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

- * Manager Landscape and Open Space
- * Construction and Maintenance Team Leader
- * Supervisor Horticulture Civil and Open Space
- * Senior Contracts and Procurement Officer (non-voting/chairperson)

The tenders were evaluated using the following criteria:

Compliance Criteria – Yes / No answers

Qualitative Criteria weighting – Parts A through to D

1. Price 30%
2. Relevant Experience / Key Personnel 20%
3. Tenderers Resources 20%
4. Social/Community Benefit 30%

Qualitative Criteria weighting – Parts E through to L

1. Price 50%
2. Relevant Experience / Key Personnel 30%
3. Tenderers Resources 20%

An evaluation of the tender prices (and ranking) has been undertaken, but because the results are "commercial in confidence" details are listed in a Confidential Report that has been circulated under separate cover at Confidential Appendix CRUSC-3-1.

Council Policy Compliance

Tendering for goods and services is conducted in accordance with:

- * Purchasing Local Preferences Policy
- * Access and Inclusion Policy

Legislative Compliance

Advertising and processing of tenders was conducted in accordance with:

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

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

Officer Comments

This is the first time that the City has undertaken a consolidated approach to the procurement of Landscape Maintenance Services, which has previously been done on an ad-hoc basis. The tender was issued in separable portions so that the City had more flexibility in selecting a Contractor(s) while still achieving best value for money and competitive pricing.

It should also be noted that the contracts for each part or separable portion have extension periods at twelve monthly intervals, which offers the City flexibility should circumstances change.

All members of the evaluation panel have signed a declaration of confidentiality and interest to ensure probity.

Analysis of Financial and Budget Implications

The 2015/16 budget for Landscape and Open Space operations contains a base allocation of \$1,293,765 for contract expenditure (labour and materials), from which the prospective contracts will be funded. It is important to note that this amount is for work across the entire City, and not just the 12 locations that are addressed as part of this tender.

As per the tender evaluation report, the total annual contract amount for the 12 locations as tendered is \$478,061 ex GST. The current spend (internal staff plus contract labour) for these same 12 locations is \$515,281 ex GST, representing a saving of \$37,220.

This saving is further enhanced by the fact that the Landscape and Open Space department is current carrying 5 FTE vacancies. These positions were not filled in anticipation of this tender process being undertaken.

Should Council award the contracts as recommended, an assessment will then be undertaken to establish the most efficient and effective deployment of staff resources across the remaining open space areas, which is expected to result in an improvement in service levels across the City, without impacting on available budgets.

Community Consultation

Community Consultation was not necessary for this procurement as it is purely an operational matter. It should be noted however, that areas such as Boulton Heights and Marlston Hill have been included as a Contractor based service to ensure that clear service levels have been identified to ensure that ratepayers receive an appropriate level of service.

Councillor/Officer Consultation

Consultation took place with internal staff lead by the previous Director of Works and Services and the Manager of Landscape and Open Space. Staff in the areas of horticulture, reticulation, procurement and contracts have been involved in the development and evaluation of the tender.

10.5.2 Tender for the Construction of the SES Headquarters and Incident Control Centre RFT1516-00019

File Ref:	RFT1516-00019
Applicant/Proponent:	Internal, City of Bunbury
Responsible Officer:	David Russell, Senior Contracts and Procurement Officer
Executive:	Greg Golinski, Acting Director Works and Services
Attachments:	Confidential Appendix CRUSC-4-1: Tender Evaluation Report

Summary

Tenders for the construction of the State Emergency Services (SES) Headquarters and Incident Control Centre have been received and Council is requested to appoint the preferred Tenderer as the Contractor.

Executive Recommendation

That Council:

1. Accept Baroven Pty Ltd (Smith Construction) as the preferred tenderer for the construction of the SES Headquarters and Incident Control Centre.
2. Authorise the Chief Executive Officer to enter into negotiation with Baroven Pty Ltd to vary the specification to ensure it is within budget allocation.
3. Authorise the Chief Executive Officer to enter into a contract with Baroven Pty Ltd for the construction of the SES Headquarters and Incident Control Centre if it can be negotiated within the budget allocation.

Background

The existing State Emergency Service Headquarters is a sixty-five old year old building that was originally designed as a residential home and is therefore not purpose built. Modifications have been made by the SES volunteers to make it more functional as an emergency incident control centre and equipment storage facility.

In 2013, the Department of Fire and Emergency Services (DFES) indicated that due to the age and inappropriateness of the facility, it would be amenable to an application for a grant to fund a new fit-for-purpose facility. The DFES model would provide a multi-hazard Incident Control Centre and be the home for the SES, in Bunbury. For the prototype, the Margaret River facility was chosen as the most suitable design and the SES Unit have worked with the Margaret River SES to amend the design to improve its functionality.

Based on that model, costings were developed for construction and fit-out and these informed the grant application that went to DFES in March of 2014. The City was subsequently advised in August of 2014 that it had been successful in its application. The funding is available through a Treasury Loan over ten years, with DFES funding all principal payments and interest.

The proposed site was temporarily unavailable while some issues around the site being 'potentially contaminated' with a caveat over the land prior to any development taking place. This issue has now been resolved and the land is now available to be utilised for the construction phase.

The grant request amount was based on a cost analysis made up from a quotation from Perkins to build the Margaret River facility in Bunbury plus additional pricing to provide essential services and site works. The grant price also included indicative costings to 'fit-out' the incident control centre with furniture and technology. It can now be seen from the resultant tender prices (construction only), that the grant will no longer fund the construction and site costs.

At its meeting held 14 October 2015, Council Decided (386/14):

1. *Council agrees to provide the Department of Fire and Emergency Services (DFES) with a self-supporting loan up to \$1,100 000 for the design and construction of the Bunbury SES Head Quarters and Incident Control Centre. The loan is to be repaid over 10 years with all loan repayments (both principle and interest) being the responsibility of DFES.*
2. *The proposed loan is advertised in accordance with the requirements of Section 6.20(2) of the Local Government Act 1995.*

The tender was advertised in the West Australian and the Bunbury South West Times newspapers on 21 and 2 October 2015 respectively. The tender document was made available via www.tenderlink.com/bunbury/.

A total of 161 suppliers viewed the advertisement, 47 companies downloaded the documentation, and at closing nine (9) responses were received from:

1. Pindan Pty Ltd – PO Box 93, Belmont WA 6984
2. Perkins (WA) Pty Ltd – 1 Hales Street, Bunbury WA 6230
3. Orontide Wovodich Pty Ltd – Lot 50 Proffit Street, Bunbury WA 6230
4. Innovest Construction – 1/88 Commonage Road, Dunsborough WA 6281
5. Devlyn Constructions Bunbury Pty Ltd – PO Box 6100, Bunbury WA 6230
6. CPD Group Pty Ltd - 113 Kew Street, Welshpool WA 6106
7. Civilcon Constructions Pty Ltd - 6 Wimbridge Road, Picton WA 6229
8. BG Grieve Builder - PO Box 1727, Bunbury WA 6231
9. Baroven Pty Ltd (Smith Construction) – Unit 1, 32 Halifax Drive, Bunbury WA 6230

An evaluation panel comprising internal staff as well as an external panel member evaluated the responses as follows:

- * Manager Building and Trades
- * Senior Building and Structures Officer
- * MCG Architects – Design Architect
- * Senior Contracts and Procurement Officer (non-voting/chairperson)

The tenders were evaluated using the following criteria:

Compliance Criteria – Yes / No answers

Qualitative Criteria weighting

1. Relevant Experience 30%
2. Key Personnel and Experience 25%
3. Tenderer's Resources 20%

4. Demonstrated Understanding 25%

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

Council Policy Compliance

Tendering for goods and services is conducted in accordance with:

- * Purchasing Local Preferences Policy
- * Access and Inclusion Policy

Legislative Compliance

Advertising and processing of tenders was conducted in accordance with:

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

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

Officer Comments

The procurement for the construction phase of the tender excluding construction contingency is over the budgeted allocation by an amount of \$224, 390.67 excluding GST. As contained within the Tender Evaluation Report circulated under separate cover at Confidential Appendix CRUSC-4-1 there are two options to endeavour to proceed within the budgeted allocation.

Assuming Council endorses Baroven Pty Ltd (Smiths Construction) as the preferred tenderer (but prior to entering into a Contract) the following course of action is proposed to ensure the contract is within the allocated budget.

1. Request from the City of Bunbury to DFES to provide additional funding to cover "site works" and "provision of utilities" to increase the funding available for the project; and
2. Negotiation with Baroven Pty Ltd to identify any savings or amendment to the specification to reduce the cost.

Within the tender documentation the Principal has the right to accept the submission partly or wholly so acceptance of the tender excluding some price items is permitted.

All members of the evaluation panel have signed a declaration of confidentiality and interest to ensure probity.

Analysis of Financial and Budget Implications

Project PR-3612 is funded through a self-supporting loan over a 10 year period. The budgeted expenditure amount for the project is \$1,088,783 excluding GST. The first loan repayment will be invoiced to DFES in December 2015 for an amount of \$64,864.13 (6 monthly invoice).

Expenditure excluding GST

Financial Year	Committed	Actual
2014/15	N/A	\$2,270
2015/16	\$22,030	\$111,342

The amount of budgeted funds available for the project is \$953,141 excluding GST. Of this amount, procurement allocated for the construction of the SES facility excluding construction contingency is \$860,791.40 excluding GST.

The procurement for the construction phase of the project is over the budgeted allocation by \$224,390.67 excluding GST.

Community Consultation

The SES Unit in Bunbury has been involved prior to the grant application process and have an active interest in the outcome of this project. They have been involved in inspections of the Margaret River facility and the selection of materials for the tender documents. They will be forming a unit sub-committee when the tenders are let, to prepare for the move into the new facility.

Most of the Bunbury SES Unit members were involved in the fit-for-purpose inspection of the Margaret River facility and were pivotal in improving the design with MCG Architects to ensure that any issues with the Margaret River facility were improved upon.

No formal community consultation has occurred, as the location of the proposed facility is not adjacent any residential areas and is not likely to present any community issues. It should be noted that moving from the current Carey Park location is likely to be positively accepted as evening and weekend training may be considered noisy and intrusive for residential areas.

Councillor/Officer Consultation

There have been a number of City Officers involved in this project. Consultation has occurred with Finance, Works and Services, Environment, Planning, Community Safety, Law and Emergency Management and Contracts and Procurement. The matter has also been before Council, to endorse the loan application.

Councillor Cook was involved in the early stages of the project whilst a member of the Bunbury SES.

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 allow for referral of the Draft Regional Action Plan and Regional Marketing Plan to stakeholders for feedback to be referred to the Steering Committee in a timely manner.

Recommendation

That Council pursuant to section 5.4 of Councils Standing Orders, agree to receive the item 14.1 entitled "*Bunbury Wellington and Boyup Brook Regional Tourism Development Strategy*".

14.1 *Bunbury Wellington and Boyup Brook Regional Tourism Development Strategy*

Applicant/Proponent:	Internal Report
Author:	Kristina Knight, Manager Tourism and Events
Executive:	John Kowal, Director Community and Corporate Services
Attachments:	Appendix DCCS-2: Bunbury Wellington and Boyup Brook Regional Tourism Development Strategy 2015; Appendix DCCS-3: Bunbury Wellington and Boyup Brook Regional Tourism Development Summary Report; and Appendix DCCS-4: Regional Action Plan and Regional Marketing Plan

Summary

A Draft Regional Tourism Development Strategy has been developed in cooperation with the Bunbury Wellington Group of Councils. Members of the group include the Shires of Dardanup, Collie, Harvey, Capel, Donnybrook-Balingup and Boyup Brook as well as the City of Bunbury.

The purpose of the Regional Tourism Development Strategy is to create a unified approach to the management of tourism development, marketing and infrastructure.

As a member of the Bunbury Wellington Group of Councils, and given the work undertaken to date in relation to the development of a regional approach to tourism, it is considered appropriate for Council to consider and support the proposed way forward.

Executive Recommendation

That Council:

1. Receive the following three draft reports:
 - (a) Bunbury Wellington and Boyup Brook Regional Tourism Development Strategy 2015;
 - (b) Bunbury Wellington and Boyup Brook Regional Tourism Development Summary Report; and
 - (c) Regional Action Plan and Regional Marketing Plan;
2. Refer the Draft Regional Action Plan and Regional Marketing Plan to the respective tourism stakeholders and request provision of feedback by 29 February 2016;

3. Request that member Councils refer the stakeholder feedback to the Steering Committee for review and report back to the Bunbury Wellington Group of Councils by 31 March 2016.

Background

In 2012 a tourism working group comprising of the Bunbury Wellington Group of Councils, South West Development Commission and Regional Development Australia came together to develop a sub-regional tourism strategy that would complement the Tourism Futures South West plan and the South West Regional Blueprint.

Evolve Strategic Solutions were appointed to investigate the best way to facilitate tourism growth in the region. The resultant strategy and summary documents focus on the following areas:

- * Identifying tourism opportunities, priorities and gaps
- * Developing a unified tourism brand for the region
- * Marketing, governance and product development
- * Identifying infrastructure and product priorities

A meeting of the Bunbury Wellington Group of Councils was held on Wednesday 2 December 2015 to discuss the report and bring a regional approach to each respective member Council for consideration.

The Bunbury Wellington Group of Councils resolved at this meeting to:

That the Bunbury Wellington Group of Councils:-

1. *Receive the following three draft reports*
 - a. *Bunbury Wellington and Boyup Brook Regional Tourism Development Strategy 2015;*
 - b. *Bunbury Wellington and Boyup Brook Regional Tourism Development Summary Report; and*
 - c. *Regional Action Plan and Regional Marketing Plan;*
2. *Refer the three draft documents (as amended) to each of the member Councils;*
3. *Refer the Draft Regional Action Plan and Regional Marketing Plan to the respective tourism stakeholders and request provision of feedback by 29 February 2016;*
4. *Request that member Councils refer the stakeholder feedback to the Steering Committee for review and report back to the Bunbury Wellington Group of Councils by 31 March 2016.*

Council Policy Compliance

There is no Council Policy relevant to this report.

Legislative Compliance

There is no Legislative Compliance relevant to this report.

Officer Comments

Current tourism marketing undertaken by the City of Bunbury already incorporates the attractions and diversity of the surrounding shires. This is done to build broad appeal and encourage an increased length of stay. Endorsement of the Strategy will formalise this arrangement and ensure commitment to tourism by the rest of the region which is currently ad-hoc in its spend and priorities.

It is considered that the Strategy will provide the basis for a coordinated approach to the development of tourism and marketing of the region that will see reduced competition between towns through a pooling of resources that will increase reach and effectiveness of tourism marketing campaigns. The governance model proposed will ensure an ongoing commitment to prioritisation, implementation and review.

The Strategy will also provide for an increased involvement by industry in marketing and tourism development initiatives with the ability to secure funding for agreed tourism development priorities.

In discussions at the Bunbury Wellington Group CEO meeting there were a number of issues identified within the draft plans and each local government will consider and comment on these issues through the stakeholder consultation period.

Analysis of Financial and Budget Implications

The City's contribution to the implementation of the Strategy can be funded through the existing operating budget for destination marketing. The City currently has the largest spend on tourism out of the participating local governments and a financial commitment by them will have positive impact on the reach and effectiveness of any marketing undertaken.

Community Consultation

Evolve Strategic Solutions undertook consultation across the region including one on one meetings, phone interviews and eight workshops. Workshops were held in early March 2015 in Collie, Boyup Brook, Donnybrook-Balingup, Capel, Dardanup, Harvey and Bunbury. Approximately 35 people attended the workshop held in Bunbury.

The draft strategy and initial discussion documents were available from the Evolve Strategic Solutions website for feedback throughout the strategy development process. The draft report was also promoted to industry stakeholders and members through the City's e-newsletter to encourage their feedback.

Councillor/Officer Consultation

The CEO – Andrew Brien, Acting Director Planning and Development - Stephanie Addison-Brown and Manager Tourism and Events – Kristina Knight participated on the steering group for this project. Destination Marketing Officer – Carmel O'Brien and Senior Visitor Centre Officer – Dee Tucker both attended the Bunbury Workshop and provided feedback into the draft strategy. Councillor Morris and Councillor Cook also attended the Bunbury workshop.

15. Meeting Closed to Public

15.1 *Matters for which the Meeting may be Closed*

These reports are confidential in accordance with section 5.23(2)(a) of the Local Government Act 1995.

Confidential reports and recommendations have been circulated to members **under separate cover** as Confidential Report CRUSC-1 and Confidential Report CRUSC-2. These reports are not for circulation.

Recommendation

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

15.1.1 titled "*Council Works and Services Depot – Feasibility and Purchase*"

15.1.2 titled "*Lot 5 #7 Wellington Street, Bunbury*"

15.1.1 Council Works and Services Depot – Feasibility and Purchase

Applicant/Proponent:	Internal
Author:	Andrew Brien, Chief Executive Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CRUSC-1-1

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

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

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

15.1.2 Lot 5 #7 Wellington Street, Bunbury

Applicant/Proponent:	Internal
Author:	Andrew Brien, Chief Executive Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CRUSC-2

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

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

A confidential report and recommendation has been circulated to members under separate cover (Confidential Report CRUSC-2). The report is not for circulation.

15.2 Public Reading of Resolutions that may be made Public

16. Closure