City of Bunbury Council

Minutes
25 June 2019
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Acknowledgement of Country

We acknowledge the Traditional Custodians of this land, the Wardandi Noongar people, and pay our respects to Elders past, present and future.

Vision

Bunbury: welcoming and full of opportunities.

Organisational Values

#WEARECOB

WE ARE COMMUNITY
- We are one team
- We keep each other safe
- We display empathy and respect
- We have fun and celebrate our successes
- We work together to achieve great outcomes

WE ARE OPEN
- We are open to opportunities
- We actively listen and think things through
- We are inclusive and treat everyone equally
- We are honest and open in our communications
- We are open to feedback to improve our performance

WE ARE BRAVE
- We lead the change, we own it
- We trust and empower each other
- We have the difficult conversations early
- We hold ourselves to the highest standard
- We have the courage to improve and simplify
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.
1. **Declaration of Opening / Announcements of Visitors**

The Mayor declared the meeting open at 5:30pm

2. **Disclaimer**

The City of Bunbury accepts no responsibility for any act, omission, statement or intimation that occurs during Council Briefings or Council Meetings. The City refuses liability for any loss caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation occurring during Council Briefings or Council Meetings. Any person or legal entity acting or failing to act in reliance upon any statement, act or omission made during a Council Briefing or Council Meeting does so at their own risk.

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

Any statement or intimation of approval regarding any planning or development application made during a Council Briefing or Council Meeting is not to be taken as notice of approval from the City. The City advises that anyone who has an application lodged with the City must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attached to the decision made by Council regarding the application.

**Copyright**

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**Recording and Webstreaming of Meetings**

- All Ordinary and Special Council Meetings are electronically recorded except when Council resolves to go behind closed doors
- All recordings are retained as part of the City’s records in accordance with the General Disposal Authority for Local Government Records produced by the Public Records Office
- Images of the public gallery are not included in the streaming, however the voices of people in attendance may be captured and streamed.
- If you have any issues or concerns regarding the live streaming and recording of meetings, please contact the City’s Governance Officer on 9792 7273.
3. **Announcements from the Presiding Member**

   The Mayor acknowledged the 90th Birthday of the CWA Bunbury Branch and receipt of a plaque to commemorate 90 years of service to the community.

   The Mayor will be meeting with Ministers McGurk and Papalia on Wednesday 26 June 2019.

   The Mayor acknowledged that this would be Ms Stephanie Addison-Brown’s final Council meeting with the City of Bunbury.

4. **Attendance**

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<td>Members:</td>
<td>Councillor S Morris</td>
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<td>Councillor J Hayward</td>
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<td>Councillor M Cook</td>
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<td>Councillor T Smith</td>
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<td>Councillor M Warnock</td>
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<td>Councillor B Kelly</td>
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<td>Councillor B McCleary</td>
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<td>Councillor K Steele</td>
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<td>Chief Executive Officer</td>
<td>Mr M Osborne</td>
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<tr>
<td>Director Corporate and Community Services</td>
<td>Ms S Addison-Brown</td>
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<tr>
<td>Director Planning and Development Services</td>
<td>Mr G Barbour</td>
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<td>Director Works and Services</td>
<td>Mr G Harris</td>
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<td>Manager Governance</td>
<td>Mr G Golinski</td>
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<td>Manager Finance</td>
<td>Mr D Ransom</td>
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<td>Manager Sport and Recreation</td>
<td>Mr J Shepherd</td>
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<td>Manager People and Safety</td>
<td>Mrs O Robertson</td>
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<td>Manager People and Place</td>
<td>Ms I Evans</td>
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<tr>
<td>Team Leader Public Relations</td>
<td>Mr B Russell</td>
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<td>Media and Communications Officer</td>
<td>Mrs LM Gallo</td>
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<tr>
<td>Members of the Press</td>
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4.1 **Apologies**

   Nil, Councillor Steck was absent

4.2 **Approved Leave of Absence**

   Cr Brown is on approved leave of absence from all Council-related business from 22 June to 24 July 2019 inclusive.

   Cr Miguel is on approved leave of absence from all Council-related business from 16 June to 25 June 2019 inclusive.
5. **Declaration of Interest**

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

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

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

(a) a proposed change to a planning scheme affecting land that adjoins the person’s land; or

(b) a proposed change to the zoning or use of land that adjoins the person’s land; or

(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person’s land.”

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

Cr Steele declared an impartiality interest in item 10.4.4 Proposed Deed of Lease. Cr Steele will remain in the chamber and will participate in the debate and vote on this 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**

Nil

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 City of Bunbury Council held 11 June 2019 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the City of Bunbury Council held 11 June 2019 be confirmed as a true and accurate record.

Voting Requirement: Simple Majority Required

Outcome – Council Meeting 25 June 2019

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

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

Council Decision 165/19

The minutes of the Ordinary meeting of the City of Bunbury Council held 11 June 2019 be confirmed as a true and accurate record.

CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”
7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

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<td>Author:</td>
<td>Various</td>
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<tr>
<td>Executive:</td>
<td>Various</td>
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Summary

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

1. Title: Disability Access and Inclusion Committee Minutes 7 June 2019
   Author: Ryan Campbell
   Appendix: MTBN 1

2. Title: Youth Advisory Council Committee Minutes 5 June 2019
   Author: Danika Wellington
   Appendix: MTBN 2

Council Committee Recommendation

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

1. Disability Access and Inclusion Committee Minutes 7 June 2019
2. Youth Advisory Council Committee Minutes 5 June 2019

Voting Requirement: Simple Majority Required

Outcome – Council Meeting 25 June 2019

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

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

Council Decision 166/19

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

1. Disability Access and Inclusion Committee Minutes 7 June 2019
2. Youth Advisory Council Committee Minutes 5 June 2019

CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”
8. Petitions, Presentations, Deputations and Delegations

8.1 Petitions
Nil

8.2 Presentations
Nil

8.3 Deputations

Shenae Norris, Regional Education Officer Cancer Council WA

Shenae Norris requested to address item 12.1 “Cr Kelly Motion on Notice”.

Council Decision 167/19

Pursuant to clause 6.9(2)(b) of Councils Standing Orders, Council approves Shenae Norris deputation request to address item 12.1 “Cr Kelly Motion of Notice” and allows a period of up to 5 minutes to present to Council.

CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”

8.4 Council Delegates’ Reports
Nil

8.5 Conference Delegates’ Reports
Nil
9. **Method of Dealing with Agenda Business**

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

Pursuant to Standing Order 5.5, the Council “adopted by exception” (i.e. without discussion) those recommendations listed for items 10.1.1, 10.3.1, 10.3.2, 10.4.1, 10.4.2, 10.4.3, 10.4.4, 10.4.5, 10.4.6.

Item 10.2.1 was then discussed and voted on separately. All items have been renumbered with the items voted “by exception” listed first.

The items “adopted by exception” were moved Cr Cook, seconded Cr McCleary.
10. **Reports**

10.1 **Disability Access and Inclusion Committee – DAIP Progress Report 2018/19 (was listed as item 10.1.1 on the Agenda)**

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<tr>
<td>Responsible Officer:</td>
<td>Ryan Campbell, Community Partnerships Officer</td>
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<tr>
<td>Responsible Manager:</td>
<td>Kerry Shaw, Acting Manager People and Place</td>
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<tr>
<td>Executive:</td>
<td>Stephanie Addison-Brown, Director Corporate and Community Services</td>
</tr>
<tr>
<td>Authority/Discretion</td>
<td>☒ Legislative ☐ Review</td>
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<tr>
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<td>☐ Information Purposes</td>
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**Attachments:** Appendix RAC-1: DAIP Progress Report 2018/19

**Summary**

The Disability Access and Inclusion Committee (DAIC) considered the DAIP Progress Report (attached at Appendix RAC-1) at its meeting held 1 June 2018 and are referring it to Council for endorsement.

**Executive Recommendation**

That Council endorse the DAIP Progress Report for submission to the Disability Services Commission.

**Voting Requirements:**  *Simple Majority*

**Strategic Relevance**

**Theme 1:** Our community and culture  
**Goal:** A safe, healthy and cohesive community, with a rich cultural life, and supportive social environment  
**Objective 1.5:** Establish Bunbury as the Most Accessible Regional City in Australia by 2020

**Regional Impact Statement**

The DAIP progress report will be submitted to the State Government, and it is possible some achievements may be recognised by the Minister for Disability Services to be included in the State DAIP report which is published across the State.

**Background**

Each financial year local governments are required by law *(Disability Services Act 1993 (amended 2004)*) to submit a DAIP Progress Report documenting strategies implemented over a twelve month period. The Department of Communities, Disability Services recently announced that the progress reporting templates and online reporting were open for submissions and are due to be submitted by 1 July 2019. The City has gone through the DAIP implementation plan and documented the progress of all the items projected to be completed for the 2018/19 financial year.
Council Policy Compliance

The City of Bunbury is bound by the City’s Disability Access and Inclusion Plan 2017 – 2022 (DAIP) which is a legislative requirement under the Disability Services Act 1993 (amended 2004).

Legislative Compliance

Disability Services Act 1993 (amended 2004)
Local Government Act 1995

Officer Comments

One of the core functions of the DAIC is to monitor the implementation of the City’s DAIP which is outlined in point 3 of its Terms of Reference.

Analysis of Financial and Budget Implications

There are no financial implications associated with this report.

Community Consultation

Not applicable

Councillor/Officer Consultation

Nil

Applicant Consultation

Not applicable

Timeline: Council Decision Implementation

The DAIP Progress Report is submitted to Council for endorsement in order that it can be submitted to the Disability Services Commission by 1 July 2019.

Outcome of Meeting 25 June 2019

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

Council Decision 168/19

That Council endorse the DAIP Progress Report for submission to the Disability Services Commission.

CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”
10.2 Greater Bunbury Early Years Strategy and Action Plan 2018-2023 (was listed as item 10.3.1 on the Agenda)

<table>
<thead>
<tr>
<th>Applicant/Proponent:</th>
<th>Internal Report</th>
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<tbody>
<tr>
<td>Responsible Officer:</td>
<td>Kerry Shaw, Acting Manager People and Place</td>
</tr>
<tr>
<td>Responsible Manager:</td>
<td>Kerry Shaw, Acting Manager People and Place</td>
</tr>
<tr>
<td>Executive:</td>
<td>Stephanie Addison-Brown, Director Corporate and Community Services</td>
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<tr>
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<td>☐ Review  ☐ Quasi-Judicial  ☐ Information Purposes</td>
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<tr>
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Summary

The City of Bunbury in conjunction with the Shires of Capel and Dardanup collaborated with other state government and not-for-profit agencies and organisations to create an Early Years Strategy and Action Plan that could be used as a framework to guide multiple local government areas and key stakeholders in the development of early childhood (0-5 years) focused implementation and action plans. Key external stakeholders included the Greater Bunbury Early Years Network Group and Investing in our Youth. With a Department of Local Government, Sport and Cultural Industries grant and in partnership with Edith Cowan University (South West), the Greater Bunbury Early Years Strategy and Action Plan 2018-2023 (attached at Appendix DDCS 2) was developed.

Executive Recommendation


Voting Requirement: Simple Majority

Strategic Relevance

Theme 1: Our community and culture

Goal: A safe, healthy and cohesive community, with a rich cultural life, and support social environment.

Objective 1.2: An active community, able to access a wide range of sporting, recreation and leisure options.

Objective 1.6: A community that provides for the particular needs of the young and the old.

Regional Impact Statement

The strategy will benefit LGAs, community groups, organisations, service providers and schools by providing a framework that can be used to guide the direction of early childhood initiatives and will inform planning for early years’ programs, spaces and places, facilities, services, activities and events.

The Greater Bunbury Early Years Strategy and Action Plan 2018-2023 will ensure a consistent, multidisciplinary and collaborative approach to ensuring children have the best possible start in life and that their families are adequately supported.
This collaborative approach has the added benefit of strengthening networks and knowledge sharing amongst key stakeholders and will have a positive impact on children, families, organisations, service providers and the communities within which they reside and in turn the region.

**Background**

In October 2017 the City of Bunbury commenced a project to develop a Bunbury Geographe Early Years Strategy and Action Plan 2018-23. With support from the Shires of Capel and Dardanup, the City submitted an application for a Department of Local Government, Sports and Cultural Industries grant, partnered with Edith Cowan University (South West) and commenced a community engagement process comprising a series of workshops and meetings with key stakeholders as outlined below:

- Eaton Daycare;
- Eaton Family Centre;
- Eaton Primary School;
- Glen Huon Primary School;
- Investing in our Youth;
- Kingston Primary School;
- Playgroup WA;
- South West Aboriginal Medical Centre (SWAMS);
- Relationships Australia WA;
- River Valley Primary School;
- WA Country Health Service;
- City of Bunbury;
- Shire of Capel;
- Shire of Dardanup;
- Edith Cowan University (ECU); and
- Dardanup Primary School

Following the community engagement and consultation process the Greater Bunbury Early Years Strategy and Action Plan 2018-2023 was developed.

The Greater Bunbury Early Years Network were presented with a draft of the strategy and action plan and provided with the opportunity to provide feedback. As a result of feedback received from the respective Local Government Officers and members of the Greater Bunbury Early Years Network Group, a core stakeholder group comprising representatives from the City of Bunbury, Shire of Dardanup, Shire of Capel and Investing in our Youth was formed. The core stakeholder group then attended additional meetings to refine and revise the draft strategy and action plan before presenting it to the Greater Bunbury Early Years Network Group and respective Boards and Councils for endorsement.

The Greater Bunbury Early Years Network Group supported and endorsed the final draft strategy at its meeting on 6 March 2019.

The Shire of Dardanup endorsed the strategy at its Ordinary Council Meeting held 15 May 2019.

The Shire of Capel endorsed the strategy at its Ordinary Council Meeting on 22 May 2019.
The Greater Bunbury Early Years Strategy and Action Plan 2018-2023 is now presented to Council for endorsement.

**Council Policy Compliance**

Not applicable

**Legislative Compliance**

Not Applicable

**Officer Comments**

This strategy and action plan encourages a multi-disciplinary approach and promotes collaboration. Actions associated with each strategic area will be used to guide and drive the development of relevant implementation plans for key stakeholders.

Whilst a final draft was presented to key stakeholders in 2018, the collaborative approach to final edits through multiple agencies took several months to complete. The final draft was endorsed by the Greater Bunbury Early Years Network on 6 March 2019. Graphic design and content edits to the document were made with the final document ready for presentation to relative Boards and Councils.

The City committed to implementing the Greater Bunbury Early Years Strategy and Action Plan 2018-2023 in 2018 by supporting the Greater Bunbury Early Years Network Group to deliver the first ever ‘Nature Play in the Park Event’ on 18 May 2019 during National Families week. Well known nature play facilitators *Nature Play WA* delivered mud play and cubby house making at Queens Gardens. The Greater Bunbury Early Years Network also had representation with stallholders facilitating a space to provide educational resources, information about services and play-based activities in line with all four strategic areas (Health and Wellbeing, Learning, Family Capacity and Collaboration) of the Greater Bunbury Early Years Strategy and Action Plan 2018-2023.

The City of Bunbury was represented at this event by Senior Community Partnerships Officer and the Bunbury Public Libraries who facilitated sensory nature play activities and sensory story-time with interactive elements, and provided information to visitors around weekly literacy and learning programs for 0-5 year olds such as Better Beginnings rhyme-time, story-time, toddler time and little explorers (a STEM learning based program).

The event also addressed the following domains measured by the Australian Early Childhood Census (AEDC):

- Physical Health and wellbeing;
- Social Competence;
- Emotional maturity;
- Language and Cognitive development; and
- Communication skills

The City will maintain membership on the Greater Bunbury Early Years Network Group and commits to working collaboratively across the four strategic areas of Health and Wellbeing, Learning, Family Capacity and Collaboration. A prominent focus area specific to the City of Bunbury...
is a commitment to continue to support and build on the Better Beginnings Early Literacy and Learning program offered at the City’s Bunbury and Withers Library facilities.

Once endorsed, the City will continue utilise the Greater Bunbury Early Years Strategy and Action Plan 2018-2023 to inform the planning and implementation of early childhood development programs and initiatives, build on partnerships with Early Years’ service providers and promote collaboration between the City of Bunbury and the Greater Bunbury Early Years Network Group.

**Analysis of Financial and Budget Implications**

The total cost of the project was $30,000. The City of Bunbury, Shire of Capel and Shire of Dardanup each contributed $3,333.33 in their 2017-18 budgets. The City sought funding through the Department of Local Government, Sport and Cultural Industries for the sum of $20,000 to bring the project to fruition. The project costs contributed to the engagement of Edith Cowan University (South West) to facilitate the process compile the data and produce the first draft. Council has committed $5,000 per annum for the next five (5) years until 2023-2024 to support implementation of the Greater Bunbury Early Years Strategy and Action Plan 2018-2023. There are no additional whole of life costs associated with the development of this strategy.

**Community Consultation**

A significant amount of community engagement and consultation occurred as part of the process in the development of this strategy.

The City of Bunbury, Shire of Capel, Shire of Dardanup and other state government and not-for-profit agencies (listed below) collaborated on the Greater Bunbury Early Years Strategy and Action Plan 2018-2023 project to create this document. Investing in our Youth (lead agency for Schools of the Future) and the Greater Bunbury Early Years Network Group were consulted through a series of workshops in and meetings in 2017 and 2018 and were invited to provide comment on the direction and scope of the strategy at every step in the process.

The drive to develop a strategy in the first instance was community directed, with community stakeholders and government agencies including but not limited to, Early Childhood Education and Care services; parent-led playgroups; supported playgroups; children’s health and safety representatives and groups; children’s recreation and public spaces; library services and recreational facilities.

Organisations involved in the process included: Eaton Daycare; Eaton Family Centre; Eaton Primary School; Glen Huon Primary School; Investing in our Youth; Kingston Primary School; Playgroup WA; South West Aboriginal Medical Centre (SWAMS); Relationships Australia WA; River Valley Primary School; WA Country Health Service; City of Bunbury; Shire of Capel; Shire of Dardanup; Edith Cowan University (ECU); and Dardanup Primary School. These groups and services continued to be at the centre of the strategy and action plan throughout the development process.

**Councillor/Officer Consultation**

City Officers from relevant teams were included in the development of the Greater Bunbury Early Years Strategy and Action Plan 2018-2023.
Applicant Consultation

Not applicable

Timeline: Council Decision Implementation


Outcome of Meeting 25 June 2019

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

Council Decision 169/19


CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”
10.3 Bunbury Regional Theatre Inc: Amendments to Constitution and Membership *(was listed as item 10.3.2 on the Agenda)*

<table>
<thead>
<tr>
<th>Applicant/Proponent:</th>
<th>Bunbury Regional Theatre Inc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible Officer:</td>
<td>Stephanie Addison-Brown, Director Corporate and Community Services</td>
</tr>
<tr>
<td>Responsible Manager:</td>
<td>Stephanie Addison-Brown, Director Corporate and Community Services</td>
</tr>
<tr>
<td>Executive:</td>
<td>Stephanie Addison-Brown, Director Corporate and Community Services</td>
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<table>
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<td>☐ Advocacy</td>
<td>☐ Review</td>
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<tr>
<td>☒ Executive/Strategic</td>
<td>☐ Quasi-Judicial</td>
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<td>☐ Legislative</td>
<td>☐ Information Purposes</td>
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<table>
<thead>
<tr>
<th>Attachments:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Appendix DCCS 2 - Letter from BREC re Board Membership</td>
</tr>
<tr>
<td></td>
<td>Appendix DCCS 3 - Revised Constitution (tracked)</td>
</tr>
</tbody>
</table>

**Summary**

The purpose of this report is twofold:

1. For Council to consider amendments to the Constitution of the Bunbury Regional Theatre Inc (more commonly known as the Bunbury Regional Entertainment Centre (BREC) Board); and

2. For Council to consider ratifying membership for the BREC Board.

**Executive Recommendation**

That Council:

1. Endorse the revised Constitution for the Bunbury Regional Theatre Inc. as presented at Appendix DCCS 3.

2. Endorse the appointment of the following members to the Board of the Bunbury Regional Theatre Inc. from 1 July 2019:
   a. Diane Greville
   b. Jane Andel
   c. Gerard Robertson
   d. Paul Springate
   e. Glenn Neill

**Voting Requirement: Simple Majority**

**Strategic Relevance**

**Theme 1:** Our community and culture

**Goal:** A safe, healthy and cohesive community, with a rich cultural life, and supportive social environment.

**Objective 1.4:** Arts, culture, heritage and events that enrich our understanding and enjoyment of life, celebrate our identity, and bring the community together.
Regional Impact Statement

BREC services the broader Bunbury-Geographe region as the premier regional entertainment venue.

Background

On 1 July 2016 the Associations Incorporation Act 2015 came into effect and replaced the Associations Incorporation Act 1987. All associations that were incorporated under the Associations Incorporation Act 1987 are now incorporated under the Associations Incorporation Act 2015, and each association must review and update its rules by 1 July 2019 to ensure the rules comply with the requirements of the new Act.

Mr Simon Jacob, Chair of the BREC Board has written to the City seeking Council endorsement of the revised Constitution as presented at Appendix DCCS 3. The existing Constitution for the Bunbury Regional Theatre Inc. requires any amendments to be approved by the Council of the City of Bunbury.

Further, BREC’s Executive Director Ms Fiona de Garis has requested that Council ratify the appointment of members to the BREC Board following four positions becoming vacant as at 1 July 2019 (correspondence attached at Appendix DCCS 2). Again, the Constitution requires Council’s endorsement in this regard.

All four retiring members have renominated for their positions, with an additional nomination received from Mr Glenn Neill. Note the Board resolved to increase its membership by one to accommodate the additional nomination. The Board unanimously considered that the additional flexibility of appointing an additional community member was warranted in this instance.

Council Policy Compliance

N/A

Legislative Compliance

The BREC Board is required to amend its Constitution by 30 June 2019 to ensure compliance with the Associations Incorporations Act 2015.

Officer Comments

It is evident that the proposed amendments to the Constitution are a result of the requirements of the Associations Incorporations Act 2015. Officers have perused the proposed changes and are satisfied that they are not to the detriment of the City.

Analysis of Financial and Budget Implications

Nil

Community Consultation

Nil
Councillor/Officer Consultation

The proposed amendments have been reviewed by the Executive Leadership Team and the Governance team.

Applicant Consultation

Nil

Timeline: Council Decision Implementation

The Applicant will be made aware of Council’s decision in this regard immediately.

Outcome of Meeting 25 June 2019

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

Council Decision 170/19

That Council:

1. **Endorse the revised Constitution for the Bunbury Regional Theatre Inc. as presented at Appendix DCCS 3.**

2. **Endorse the appointment of the following members to the Board of the Bunbury Regional Theatre Inc. from 1 July 2019:**
   a. Diane Greville
   b. Jane Andel
   c. Gerard Robertson
   d. Paul Springate
   e. Glenn Neill

CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”
## 10.4 Resumption of Land & Dedication of Land as Road Reserve – Portion Lot 34 #53 Hayes Street, East Bunbury (was listed as item 10.4.1 on the Agenda)

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<th>File Ref:</th>
<th>A06939</th>
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<tr>
<td>Applicant/Proponent:</td>
<td>Internal</td>
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<tr>
<td>Responsible Officer:</td>
<td>Jane Dawson, Senior Lands Officer</td>
</tr>
<tr>
<td>Responsible Manager:</td>
<td>Felicity Anderson, Manager Economic Development &amp; Lands</td>
</tr>
<tr>
<td>Executive:</td>
<td>Gary Barbour, Director Planning &amp; Development</td>
</tr>
<tr>
<td>Authority/Discretion</td>
<td>☒ Advocacy ☐ Review ☒ Executive/Strategic ☐ Quasi-Judicial ☐ Legislative ☐ Information Purposes</td>
</tr>
<tr>
<td>Attachments:</td>
<td>Appendix DPDS 1 – Location Plan</td>
</tr>
</tbody>
</table>

### Summary

The City is conducting road widening at the intersection of Albert Road and Hayes Street and requires the resumption of land from Trevor Evans (the “Owner”) for installation of a truncation at the corner of Lot 34 #53Hayes Street, East Bunbury. A location plan is attached at Appendix DPDS 1.

### Executive Recommendation

That Council agrees to:

1. Approve the purchase of portion of Lot 34 #53Hayes Street, East Bunbury as depicted on Appendix DPDS 1 from Trevor Evans; and
2. Approves the dedication of 4.504m² being a portion of Lot 34 #53Hayes Street, East Bunbury as road reserve to allow for the road widening at the intersection of Albert Road and Hayes Street.

### Voting Requirement: Simple Majority

### Strategic Relevance

**Theme 3** Our Places and Spaces  
**Goal** A natural and built environment that reflects Bunbury’s core values  
**Objective 3.1** A city that is easy to get around with attractive streetscapes and pathways

### Regional Impact Statement

To enable road widening at the intersection of Albert Road and Hayes Street.

### Background

The City of Bunbury proposes to conduct road widening at the intersection of Albert Road and Hayes Street, East Bunbury. A truncation will be required at the corner of Lot 34 #53Hayes Street.

The land will need to be purchased by the City and dedicated as road reserve for the City to proceed with the road widening.
Council Policy Compliance

No council policy applies.

Legislative Compliance

The resumption process will take place in accordance with the Land Administration Act 1997.

Officer Comments

The road needs to be widened at the intersection of Albert Road and Hayes Street, East Bunbury to accommodate the realignment of the cadastral boundary.

Surveyors will survey the truncation area and then create a deposited plan showing the road widening (truncation) and the balance lot. In accordance with section 6 of the Planning and Development Act the deposited plan will be exempt from WA Planning Commission approval, the Surveyor will lodge the deposited plan directly with Landgate who will carry out the normal examination procedures before placing the deposited plan in order for dealings.

Analysis of Financial and Budget Implications

A valuation was received from Landgate in October 2018 valuing the portion of land at $2,500.00 exclusive of GST.

The City will be responsible for all costs associated with the purchase and dedication of the land including survey fees, Landgate fees and Legal fees.

Community Consultation

A letter was forwarded to the Owner of Lot 34 #53 Hayes Street, East Bunbury on 21st March 2019 advising that as part of the City of Bunbury 2019/2020 works schedule, the City intends to commence roadwork’s at the intersection of Albert Road and Hayes Street. In order to proceed with the associated road works, a 4.5m² portion of the property is required for resumption in order to establish an appropriate truncated corner at this intersection.

The Owner had a few concerns prior to the compulsory resumption and these were answered by the Team Leader Airport & Design as follows:

- The resumption process is to take place in accordance with the Land Administration Act 1997 whereby the City is able to resume the land.

- The compensation for this 4.5m² portion of land, which is smaller than most truncations, usually 6x6 is $2,500.00 plus GST.

The Owner also queried if they would be able to sub-divide the Lot after the reduction in their lot area due to the truncation.

- The Senior Planning Officer has advised that the truncation will not affect any future plans for a sub-division into two lots.
The Owner has agreed to the resumption of the land by the City to the valuation of $2,500.00.

A copy of the recommendation has been provided to the Owner.

Councillor/Officer Consultation

In 2018 the Acting Team Leader Engineering requested the Economic Development & Lands Department commence the process to purchase a portion of private land for a truncation and have the land dedicated as road reserve at portion of Lot 34 #53 Hayes Street, East Bunbury.

The Team Leader Airport & Design and Senior Planning Officer were approached to provide relevant feedback as part of the consultation process.

Applicant Consultation

The City of Bunbury is the Applicant and requires the resumption of land for the installation of a truncation to enable road widening at the intersection of Albert Road and Hayes Street.

Timeline: Council Decision Implementation

The Owner will be contacted immediately following the Council decision to purchase the land and dedicate the land into road reserve.

Outcome of Meeting 25 June 2019

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

Council Decision 171/19

That Council agrees to:

1. Approve the purchase of portion of Lot 34 #53 Hayes Street, East Bunbury as depicted on Appendix DPDS 1 from Trevor Evans; and

2. Approves the dedication of 4.504m² being a portion of Lot 34 #53 Hayes Street, East Bunbury as road reserve to allow for the road widening at the intersection of Albert Road and Hayes Street.

CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”
10.5 Proposed Deed of Surrender of existing Lease and replacement Lease over Bunbury Airport, Hangar Site 24, Lot 507 South Western Highway, Davenport (was listed as item 10.4.2 on the Agenda)

<table>
<thead>
<tr>
<th>File Ref:</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant/Proponent:</td>
<td>Ian Charles Bawden &amp; Helen Louise Bawden</td>
</tr>
<tr>
<td>Responsible Officer:</td>
<td>Jane Dawson, Senior Lands Officer</td>
</tr>
<tr>
<td>Responsible Manager:</td>
<td>Felicity Anderson, Manager Economic Development &amp; Lands</td>
</tr>
<tr>
<td>Executive:</td>
<td>Gary Barbour, Director Planning &amp; Development Services</td>
</tr>
<tr>
<td>Authority/Discretion</td>
<td>☒ Legislative</td>
</tr>
<tr>
<td>Attachments:</td>
<td>Appendix DPDS 2 – Location Plan Hangar 24</td>
</tr>
</tbody>
</table>

Summary

The City of Bunbury has been approached by Ian Charles Bawden & Helen Louise Bawden (the “Applicant”) requesting Council grant a Deed of Surrender of Lease and grant a replacement Deed of Lease for a term of sixteen (16) years with a further option of five (5) years at Bunbury Airport, Hangar Site 24, over portion of Lot 507 South Western Highway, Davenport, a location plan is attached at Appendix DPDS 2.

Executive Recommendation

That Council agrees to the surrender of the existing lease and agrees to grant a new Lease to Ian Charles Bawden & Helen Louise Bawden at hangar Site 24 over portion of Lot 507 (DP74949) South Western Highway, Davenport for a term of sixteen (16) years with a further option of five (5) years, subject to:

1. The surrender and new lease being prepared including the standard terms and conditions;

2. The Applicant agreeing to pay all costs associated with the surrender and lease application including document preparation and advertising;

3. Advertising for the disposal being undertaken in accordance with the provisions of Section 3.58 of the Local Government Act 1995; and

4. Approval of the Minister for Lands for the lease being obtained.

Voting Requirement: Simple Majority

Strategic Relevance

| Theme: | Our Community and Culture |
| Goal: | A safe, healthy and cohesive community, with a rich cultural life and supportive social environment |
| Objective 1.5 | Establish Bunbury as the most accessible regional city in Australia |
Regional Impact Statement

Bunbury airport is the only airport in the Bunbury Geographe region offering private hangar lease space and contributes to Bunbury becoming more accessible.

Background

The Bunbury Airport is comprised within Reserve 27686, Lot 507 South Western Highway, Davenport and is held by the City under Management for the purpose of “Airport” with the power to lease subject to the consent of the Minister for Lands.

Pursuant to Section 18 of the Land Administration Act 1997, the Minister for Lands approval is required from the Office of the Minister for Lands subject to the final document executed by the parties being on the same terms as that provided to the Department of Lands.

Current Lease Details

<table>
<thead>
<tr>
<th>Lease Type:</th>
<th>Airport land - Lease over land</th>
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</thead>
<tbody>
<tr>
<td>Commencement Date:</td>
<td>1 July 2011</td>
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<tr>
<td>Assigned:</td>
<td>To Bawden in November 2011</td>
</tr>
<tr>
<td>Term:</td>
<td>Ten (10) years with a further option of five (5) years</td>
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<tr>
<td>Expiry Date:</td>
<td>30 June 2026</td>
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<tr>
<td>Lease Area m²:</td>
<td>281 square metres</td>
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<tr>
<td>Rental @ $6.16m² (2018/19 financial year):</td>
<td>$1,730.12 per annum inclusive of GST subject to CPI increase annually.</td>
</tr>
<tr>
<td>Rent Review:</td>
<td>Every Anniversary from the date of commencement, determined by CPI and market rental every 3rd anniversary</td>
</tr>
<tr>
<td>Outgoings:</td>
<td>Responsibility of the Lessee</td>
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<tr>
<td>Insurance:</td>
<td>The Lessee to maintain Public Risk, Building and General Insurance Policies over the premises with Public Liability to be set at $10(M)</td>
</tr>
<tr>
<td>Preparation and Registration of Lease Documents:</td>
<td>Lessee responsibility</td>
</tr>
<tr>
<td>Special Conditions:</td>
<td>Lessee responsible for structural maintenance of the hangar and maintaining and upkeep of the demised premises</td>
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Proposed new Lease Details

<table>
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<tr>
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<tbody>
<tr>
<td>Commencement Date:</td>
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<td>Term:</td>
<td>Sixteen years (16) with a further option of five (5) years</td>
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<td>Expiry Date:</td>
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<td>Lease Area m²:</td>
<td>281m²</td>
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<td>Rental:</td>
<td>$1,730.12 inclusive of GST per annum (will increase on 1 July 2019 in accordance with current lease terms and CPI). The rental will remain at the existing fee with no changes to lease conditions, the only changes to the lease will be the lease term to be increased.</td>
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<tr>
<td>Rent Review:</td>
<td>Every Anniversary from the date of commencement, determined by CPI</td>
</tr>
<tr>
<td>Outgoings:</td>
<td>and market rental every 3rd anniversary.</td>
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<tr>
<td>---</td>
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</tr>
<tr>
<td>Responsibility of the Lessee:</td>
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</tr>
<tr>
<td>Insurance:</td>
<td>The Lessee to maintain Public Risk, Building and General Insurance Policies over the premises with Public Liability to be set at $10(M).</td>
</tr>
<tr>
<td>Preparation and Registration of Lease Documents:</td>
<td>$575.00 document preparation plus GST and $60.00 advertising plus GST</td>
</tr>
<tr>
<td>Special Conditions:</td>
<td>Lessee responsible for structural maintenance of the hangar and maintaining and upkeep of the demised premises.</td>
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The Applicant has reviewed a Draft Deed of Surrender and Draft Deed of Lease and is in agreement to the terms and conditions as outlined.

**Council Policy Compliance**

Not applicable.

**Legislative Compliance**

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

**Officer Comments**

The Applicant has held a lease at the Bunbury Airport over Hangar 24 since July 2011 and have now approached the City requesting an increase in their lease term to Sixteen years (16) years with a further option of five (5) years allowing them a term of 21 years.

**Analysis of Financial and Budget Implications**

The annual lease rental calculated is based upon a report provided by the Valuer General following the Valuer General’s extensive review of similar airports throughout Western Australia in 2011, increased by CPI annually and is consistent with the lease fees charged to existing airport hangar owners.

The Applicant to pay minimum rated annual rates of $1,164.00 and Emergency Services Levy $82.00 and all outgoings.

**Community Consultation**

Advertising in accordance with the provisions of Section 3.58 of the *Local Government Act 1995* will be undertaken with any submissions received referred to Council for consideration.

**Councillor/Officer Consultation**

The Team Leader Airport and Design and the Senior Lands Officer have been in discussions with the Applicant and agreed to put forth to Council the request for a Deed of Surrender and replacement Deed of Lease over Hangar 24.

The Applicant advised the Senior Lands Officer upon review of the draft standard surrender and lease templates and terms that they are agreeable to enter into a Lease for a term consisting of sixteen (16) years with a further option of five (5) years.
Applicant Consultation

The Applicant contacted the Team Leader Airport Design to enquire if the City had any available hangars at the Bunbury Airport. The Team Leader referred the Lessee to the Senior Lands Officer to proceed with negotiations for the proposed Surrender of lease and replacement new lease. The lessee has advised they wish to take up the City’s offer from 2017 of a twenty one (21) year lease term to be split into a first term of sixteen years (16) with a further option of five (5) years.

The Applicant has reviewed a draft Deed of Surrender and Draft Deed of Lease and is in agreement to the clauses and conditions as outlined in the Lease template and is hopeful of proceeding to council for consideration for a term of 21 years consisting of sixteen (16) years and further term of five (5) years.

A copy of the recommendation has been provided to the Applicant.

Timeline: Council Decision Implementation

The Applicant will be contacted immediately following the Council decision to implement the lease as soon as possible.

Outcome of Meeting 25 June 2019

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

Council Decision 172/19

That Council agrees to the Surrender of the existing lease and agrees to grant a new Lease to Ian Charles Bawden & Helen Louise Bawden at hangar Site 24 over portion of Lot 507 (DP74949) South Western Highway, Davenport for a term of sixteen (16) years with a further option of five (5) years, subject to:

1. The surrender and new lease being prepared including the standard terms and conditions;

2. The Applicant agreeing to pay all costs associated with the surrender and lease application including document preparation and advertising;

3. Advertising for the disposal being undertaken in accordance with the provisions of Section 3.58 of the Local Government Act 1995; and

4. Approval of the Minister for Lands for the lease being obtained.

CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”
10.6 Proposed Deed of Lease – Butlion Family Trust Over Portion Of Bunbury Airport, Hangar Site 57, Lot 507 South Western Highway, Davenport (was listed as item 10.4.3 on the Agenda)

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<th>File Ref:</th>
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<tr>
<td>Applicant/Proponent:</td>
<td>Butlion Family Trust</td>
</tr>
<tr>
<td>Responsible Officer:</td>
<td>Jane Dawson, Senior Lands Officer</td>
</tr>
<tr>
<td>Responsible Manager:</td>
<td>Felicity Anderson, Manager Economic Development &amp; Lands</td>
</tr>
<tr>
<td>Executive:</td>
<td>Gary Barbour, Director Planning &amp; Development Services</td>
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<tr>
<td>Attachments:</td>
<td>Appendix DPDS 3 – Location Plan Hangar 57</td>
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</table>

Summary

The City of Bunbury has been approached by Butlion Family Trust (the “Applicant”) requesting Council grant a Deed of Lease over Bunbury Airport, Hangar Site 57, over portion of Lot 507 South Western Highway, Davenport which is currently vacant, a location plan is attached at Appendix DPDS 3.

Executive Recommendation

That Council agrees to grant a Deed of Lease to Butlion Family Trust, Hangar Site 57 over portion of Lot 507 (DP74949) South Western Highway, Davenport for a term of ten (10) years with a further option of eleven (11) years, subject to:

1. The lease being prepared including the standard terms and conditions;
2. The Applicant agreeing to pay all costs associated with the lease application including document preparation and advertising;
3. Advertising for the disposal being undertaken in accordance with the provisions of Section 3.58 of the Local Government Act 1995; and
4. Approval of the Minister for Lands for the lease being obtained.

Voting Requirement: Simple Majority

Strategic Relevance

<table>
<thead>
<tr>
<th>Theme</th>
<th>Our Community and Culture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal</td>
<td>A safe, healthy and cohesive community, with a rich cultural life and supportive social environment</td>
</tr>
<tr>
<td>Objective 3.1</td>
<td>Establish Bunbury as the most accessible regional city in Australia</td>
</tr>
</tbody>
</table>

Regional Impact Statement

Bunbury Airport is the only airport in the Bunbury Geographe region offering private hangar lease space and contributes to Bunbury becoming more accessible.
Background

The Bunbury Airport is comprised within Reserve 27686, Lot 507 South Western Highway, Davenport and is held by the City under Management for the purpose of “Airport” with the power to lease subject to the consent of the Minister for Lands.

Pursuant to Section 18 of the Land Administration Act 1997, the Minister for Lands approval is required from the Office of the Minister for Lands subject to the final document executed by the parties being on the same terms as that provided to the Department of Lands.

Proposed new Lease Details

<table>
<thead>
<tr>
<th>Lease Type:</th>
<th>Airport land - Lease over land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commencement Date:</td>
<td>1 July 2019</td>
</tr>
<tr>
<td>Term:</td>
<td>Ten years (10) with a further option of eleven (11) years</td>
</tr>
<tr>
<td>Expiry Date:</td>
<td>30 June 2029</td>
</tr>
<tr>
<td>Lease Area m²:</td>
<td>300m²</td>
</tr>
<tr>
<td>Rental @ $5.80m²:</td>
<td>$1,740.00 inclusive of GST, subject to annual CPI and market rent review three yearly (subject to Council determination)</td>
</tr>
<tr>
<td>Rent Review:</td>
<td>Every Anniversary from the date of commencement, determined by CPI and market rental every 3rd anniversary.</td>
</tr>
<tr>
<td>Outgoings:</td>
<td>Responsibility of the Lessee.</td>
</tr>
<tr>
<td>Insurance:</td>
<td>The Lessee to maintain Public Risk, Building and General Insurance Policies over the premises with Public Liability to be set at $10(M).</td>
</tr>
<tr>
<td>Preparation and Registration of Lease Documents:</td>
<td>$575.00 document preparation plus GST and $60.00 advertising plus GST</td>
</tr>
<tr>
<td>Special Conditions:</td>
<td>Lessee responsible for structural maintenance of the hangar and maintaining and upkeep of the demised premises.</td>
</tr>
</tbody>
</table>

The Applicant has reviewed a Draft Deed of Lease and is in agreement to the terms and conditions as outlined.

Council Policy Compliance

Not applicable.

Legislative Compliance

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

Officer Comments

The City of Bunbury has four (4) sites which have not yet been leased. New leases will increase airport revenue through rental income and rates revenue.

The Applicant has been a member of the Bunbury Aero Club for 9 years, owns 2 planes and has been leasing space from Peter Heyworth at the Bunbury Airport for the last 2 years.
The Applicant has advised the hangar will be used to store two planes with one plane being a gyroplane for training purposes.

**Analysis of Financial and Budget Implications**

The annual lease rental calculated is based upon a report provided by the Valuer General following the Valuer General’s extensive review of similar airports throughout Western Australia in 2011 and is consistent with the lease fees charged to existing airport hangar owners.

The Applicant to pay minimum rated annual rates of $1,164.00 and Emergency Services Levy $82.00 and all outgoings.

**Community Consultation**

Advertising in accordance with the provisions of Section 3.58 of the *Local Government Act 1995* will be undertaken with any submissions received referred to Council for consideration.

**Councillor/Officer Consultation**

The Team Leader Airport and Design and the Senior Property Officer have been in discussions with the Applicant and agreed to put forth to Council the request for a Deed of Lease over Hangar 57.

The Applicant advised the Senior Property Officer upon review of the draft standard lease template and terms that they are agreeable to enter into a Lease and be granted a lease term of 21 years consisting of ten (10) years and further term of eleven (11) years.

**Applicant Consultation**

The Applicant has been in discussions with the Senior Property Officer to discuss a lease over Hangar 57.

The Applicant has reviewed a draft Deed of Lease and is in agreement to the clauses and conditions as outlined in the Lease template and is hopeful of proceeding as soon as possible with a lease for a term of 21 years consisting of ten (10) years and further term of eleven (11) years.

A copy of the recommendation has been forwarded to the Applicant.

**Timeline: Council Decision Implementation**

The Applicant will be contacted immediately following the Council decision to implement the lease as soon as possible.
Outcome of Meeting 25 June 2019

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

Council Decision 173/19

That Council agrees to grant a Deed of Lease to Buttion Family Trust, Hangar Site 57 over portion of Lot 507 (DP74949) South Western Highway, Davenport for a term of ten (10) years with a further option of eleven (11) years, subject to:

1. The lease being prepared including the standard terms and conditions;

2. The Applicant agreeing to pay all costs associated with the lease application including document preparation and advertising;

3. Advertising for the disposal being undertaken in accordance with the provisions of Section 3.58 of the Local Government Act 1995; and

4. Approval of the Minister for Lands for the lease being obtained.

CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”
10.7 Proposed Deed of Lease – Marist Cricket Club Inc. & Dynamos Soccer Club Inc. over portion Lot 73 Blair Street, South Bunbury “Forrest Park” (was listed as item 10.4.4 on the Agenda)

<table>
<thead>
<tr>
<th>File Ref:</th>
<th>F00316</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant/Proponent:</td>
<td>Marist Cricket Club Inc. &amp; Dynamos Soccer Club Inc.</td>
</tr>
<tr>
<td>Responsible Officer:</td>
<td>Gemma Stewart, Lands Officer</td>
</tr>
<tr>
<td>Responsible Manager:</td>
<td>Felicity Anderson, Manager Economic Development and Lands</td>
</tr>
<tr>
<td>Executive:</td>
<td>Gary Barbour, Director Planning and Development Service</td>
</tr>
<tr>
<td>Authority/Discretion:</td>
<td>☒ Legislative</td>
</tr>
<tr>
<td></td>
<td>☐ Advocacy</td>
</tr>
<tr>
<td></td>
<td>☐ Review</td>
</tr>
<tr>
<td></td>
<td>☐ Executive/Strategic</td>
</tr>
<tr>
<td></td>
<td>☐ Quasi-Judicial</td>
</tr>
<tr>
<td></td>
<td>☐ Information Purposes</td>
</tr>
<tr>
<td>Attachments:</td>
<td>Appendix DPDS 4- Location Plan</td>
</tr>
</tbody>
</table>

Summary

Marist Cricket Club Inc. and Dynamos Soccer Club Inc. (the “Applicants”) are seeking Councils consent to a new lease for a further one (1) year from 1 July 2019 followed by a month by month term until the redevelopment of the new facility over portion Lot 73 Blair Street, South Bunbury “Forrest Park”. A location plan is attached at Appendix DPDS 4.

Executive Recommendation

That Council agrees to grant a lease to the Marist Cricket Club Inc. and Dynamos Soccer Club Inc. over portion Lot 73 Blair Street, South Bunbury “Forrest Park”, for a term of one (1) year followed by a month by month term, on the terms and conditions as specified in the report to Council and:

1. The Applicants agreeing to pay all costs associated with the lease application including document preparation and advertising; and


Voting Requirement: Simple Majority

Strategic Relevance

<table>
<thead>
<tr>
<th>Theme 1</th>
<th>Our Community and Culture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal</td>
<td>A safe, healthy and cohesive community, with a rich cultural life and supportive social environment</td>
</tr>
<tr>
<td>Objective 1.2</td>
<td>An active community, able to access a wide range of sporting, recreation and leisure options</td>
</tr>
</tbody>
</table>

Regional Impact Statement

The proposal in line with the proposed development will provide improved facilities that will benefit multiple sporting and community groups throughout the Bunbury-Geographe Region.

Background

The Applicants have held a lease over portion Lot 73 Blair Street, South Bunbury “Forrest Park” for use of the clubrooms since 2010.
The lease expired 30 June 2015 and the lessee has been in holding over pending Council adoption of the Sporting and Community Leases & Licence Policy as well as the Community Sport & Recreation Strategy. The Applicants have now expressed their desire to enter into a new lease agreement.

**Current Lease Details**

<table>
<thead>
<tr>
<th>Details</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commencement:</td>
<td>1 July 2010</td>
</tr>
<tr>
<td>Term:</td>
<td>Five (5) years</td>
</tr>
<tr>
<td>Expiry Date:</td>
<td>30 June 2015</td>
</tr>
<tr>
<td>Area:</td>
<td>Approximately 525m²</td>
</tr>
<tr>
<td>Rental:</td>
<td>$710.03</td>
</tr>
<tr>
<td>Rent Review:</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Permitted Use:</td>
<td>Clubrooms</td>
</tr>
<tr>
<td>Outgoings:</td>
<td>Responsibility of the lessee</td>
</tr>
<tr>
<td>Insurance:</td>
<td>The lessee to maintain Public Risk Policy and General Insurance Policy over the premises with Public Liability to be set at $10M</td>
</tr>
<tr>
<td>Document Preparation:</td>
<td>The Applicants are to pay all document preparation fees</td>
</tr>
<tr>
<td>Special Conditions:</td>
<td>Ongoing maintenance is the responsibility of the lessee.</td>
</tr>
</tbody>
</table>

**Proposed New Lease**

<table>
<thead>
<tr>
<th>Details</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commencement:</td>
<td>1 July 2019</td>
</tr>
<tr>
<td>Term:</td>
<td>One (1) year</td>
</tr>
<tr>
<td>Expiry Date:</td>
<td>30 June 2020</td>
</tr>
<tr>
<td>Area:</td>
<td>Approximately 525m²</td>
</tr>
<tr>
<td>Rental:</td>
<td>$0 in accordance with the Sporting &amp; Community Leases and Licence Policy</td>
</tr>
<tr>
<td>Rent Review:</td>
<td>Not applicable in accordance with the Sporting &amp; Community Lease and Licence Policy</td>
</tr>
<tr>
<td>Permitted Use:</td>
<td>Clubrooms and Storage Sheds</td>
</tr>
<tr>
<td>Outgoings:</td>
<td>Responsibility of the lessee</td>
</tr>
<tr>
<td>Insurance:</td>
<td>The lessee to maintain Public Risk Policy and General Insurance Policy over the premises with Public Liability to be set at $10M</td>
</tr>
<tr>
<td>Document Preparation:</td>
<td>The Applicants are to pay all document preparation fees and advertising.</td>
</tr>
<tr>
<td>Special Conditions:</td>
<td>Ongoing maintenance is the responsibility of the lessee.</td>
</tr>
</tbody>
</table>

**Council Policy Compliance**

Sporting & Community Leases and Licences Policy

**Legislative Compliance**

Advertising is in accordance with section 3.58 of the *Local Government Act 1995*. 
Officer Comments

The Applicants have been in holding over pending approval of the Sporting & Community Leases and License Policy which was adopted on 26 June 2018; see Council Decision 186/18 and the Community Sport & Recreation Strategy.

The Applicants have complied with all terms and conditions of the current Lease.

The reason a lease for one (1) year is being offered, to be followed by a month by month agreement is to align the lease terms with the redevelopment of the new facility at Forrest Park. This is due to commence in 2020/2021.

Analysis of Financial and Budget Implications

In accordance with the Sporting & Community Leases and License Policy no rental fees are payable. The Applicant’s will be responsible for minimal rates, outgoings, advertising fees and document preparation fees.

Community Consultation

Advertising is in accordance with section 3.58 of the Local Government Act 1995.

Councillor/Officer Consultation

The Senior Lands Officer and Lands Officer have been in discussions with the Director Works and Services who recommended that the Applicants be offered a one (1) year lease at this stage (expiring 30 June 2020) as the pavilion is in the top 3 priorities for upgrade in 2020/2021. It is recommended they then enter into a month by month agreement on 1 July 2020 until the redevelopment of the facility is completed.

The Team Leader South West Sport Centre and Community Recreation has advised:

The City’s Sport and Recreation Department is aware and supportive of the proposed terms and conditions for the Applicant. The City’s Community Sport and Recreation Strategy is in its final stages of development and will outline the future of both these sporting clubs at Forrest Park.

Applicant Consultation

The Lands Officer has been in discussion with representatives of Marist Cricket Club Inc. and Dynamos Soccer Club Inc. to discuss a new lease with both Clubs agreeing to a one (1) year lease term to be followed by a month by month agreement until the completion of the new facility.

A copy of the recommendation has been shared with the Lessee and they are in agreement to the terms.

Timeline: Council Decision Implementation

The Applicant will be contacted immediately following the Council decision to implement the lease as soon as possible.
**Outcome of Meeting 25 June 2019**

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

<table>
<thead>
<tr>
<th>Council Decision 174/19</th>
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</thead>
<tbody>
<tr>
<td>That Council agrees to grant a lease to the Marist Cricket Club Inc. and Dynamos Soccer Club Inc. over portion Lot 73 Blair Street, South Bunbury “Forrest Park”, for a term of one (1) year followed by a month by month term, on the terms and conditions as specified in the report to Council and:</td>
</tr>
<tr>
<td>1. The Applicants agreeing to pay all costs associated with the lease application including document preparation and advertising; and</td>
</tr>
</tbody>
</table>

CARRIED UNANIMOUSLY

9 votes “for” / nil votes “against”
10.8 Proposed Surrender of existing Licence and replacement Licence with amended area – Western Australian State Association of Hang Gliding Federation Australia over portion of Ocean Drive Road Reserve, South Bunbury (was listed as item 10.4.5 on the Agenda)

<table>
<thead>
<tr>
<th>File Ref:</th>
<th>A04906</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant/Proponent:</td>
<td>Western Australian State Association of Hang Gliding Federation Australia</td>
</tr>
<tr>
<td>Responsible Officer:</td>
<td>Gemma Stewart, Lands Officer</td>
</tr>
<tr>
<td>Responsible Manager:</td>
<td>Felicity Anderson, Manager Economic Development and Lands</td>
</tr>
<tr>
<td>Executive:</td>
<td>Gary Barbour, Director Planning and Development Services</td>
</tr>
</tbody>
</table>

**Authority/Discretion**
- ☐ Advocacy
- □ Review
- □ Executive/Strategic
- □ Quasi-Judicial
- ☒ Legislative
- □ Information Purposes

**Attachments:**
- Appendix DPDS 5 - Location Plan
- Appendix DPDS 6 - Report from Team Leader Sustainability and Environment Planning

**Summary**

Western Australian State Association of Hang Gliding Federation Australia (the “Applicant”) are seeking Council’s consent to the surrender of their existing licence agreement to be replaced with a licence agreement with an amended area for a term of five (5) years over Back Beach Ridge, Portion of Ocean Drive Road Reserve, South Bunbury. A location plan is attached at Appendix DPDS 5.

**Executive Recommendation**

That Council agrees to the surrender of licence and grant a replacement licence with amended area to the Western Australian State Association of Hang Gliding Federation Australia over Back Beach Ridge, Portion of Ocean Drive Road Reserve, South Bunbury on the terms and conditions as specified in the report to Council and:

1. The Applicant agreeing to pay all costs associated with the licence application including document preparation and advertising; and


**Voting Requirement: Simple Majority**

**Strategic Relevance**

<table>
<thead>
<tr>
<th>Theme 1</th>
<th>Our Community and Culture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal</td>
<td>A safe, healthy and cohesive community, with a rich cultural life and supportive social environment.</td>
</tr>
<tr>
<td>Objective 1.2</td>
<td>An active community, where diverse cultures are valued, and residents have a sense of belonging.</td>
</tr>
</tbody>
</table>
Regional Impact Statement

There are limited opportunities for extreme sports like hang gliding in the South West. This location provides exposure and promotes Bunbury as a “hang gliding” destination option that allows for public viewing.

Background

The Applicant has held a licence over Back Beach Ridge, portion of Ocean Drive Reserve, South Bunbury since 2012 with several renewals being agreed to by Council.

Council agreed to a five (5) year licence extension on 1 August 2015.

The Applicant has requested approval to increase the licence area due to a larger amount of paragliding and hang gliding members using the site over the past two (2) years.

Current Lease Details

<table>
<thead>
<tr>
<th>Lease Type:</th>
<th>Licence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commencement:</td>
<td>1 August 2015</td>
</tr>
<tr>
<td>Term:</td>
<td>Five (5) years</td>
</tr>
<tr>
<td>Expiry Date:</td>
<td>31 July 2020</td>
</tr>
<tr>
<td>Area:</td>
<td>Approximately 200m²</td>
</tr>
<tr>
<td>Rental:</td>
<td>$550.00 Annual</td>
</tr>
<tr>
<td>Permitted Use:</td>
<td>Hang gliding and Paragliding only</td>
</tr>
<tr>
<td>Outgoings:</td>
<td>Responsibility of the Applicant</td>
</tr>
<tr>
<td>Insurance:</td>
<td>The Applicant to maintain Public Risk Policy and General Insurance Policy over the premises with the Public Liability to be set at ten ($10) million dollars.</td>
</tr>
<tr>
<td>Document Preparation:</td>
<td>The Applicant is to pay all document preparation fee</td>
</tr>
<tr>
<td>Special Conditions:</td>
<td>Compliance with Civil Aviation Safety Authority (CASA) requirements/regulations.</td>
</tr>
<tr>
<td></td>
<td>There is to be no disturbance of the dunes and if any does occur it is to be repaired at the Licensee’s expense and the City may decide to revoke permission for the activity.</td>
</tr>
<tr>
<td></td>
<td>The Applicant is to ensure the use of the Back Beach Site will only be permitted by person holding appropriate current certification.</td>
</tr>
<tr>
<td></td>
<td>The Applicant implements appropriate including document preparation.</td>
</tr>
<tr>
<td></td>
<td>The Applicant to pay all costs Associated with the Licence application including document preparation.</td>
</tr>
<tr>
<td></td>
<td>The Applicant are to install a permanent hang glider use area</td>
</tr>
</tbody>
</table>
Proposed New Lease

| Lease Type:          | Sporting and Community Licence  
|                     | • Land                           |
| Commencement:       | 1 August 2019                    |
| Term:               | Five (5) years                   |
| Expiry Date:        | 31 July 2024                     |
| New Lease Area:     | Approximately 550m²              |
| Rental:             | Not applicable in accordance with the Sporting & Community Leases and Licence Policy |
| Permitted Use:      | Hang gliding and Paragliding only |
| Outgoings:          | Responsibility of the Applicant  |
| Insurance:          | The Applicant to maintain Public Risk Policy and General Insurance Policy over the premises with the Public Liability to be set at ten ($10) million dollars. |
| Document Preparation: | The Applicant is to pay all document preparation fees and advertising. |
| Special Conditions: | Compliance with Civil Aviation Safety Authority (CASA) requirements/regulations.  
|                     | There is to be no disturbance of the surrounding dunes and if any does occur it is to be repaired at the Licensee’s expense and the City may decide to revoke permission for the activity.  
|                     | The Applicant is to ensure the use of the Back Beach Site will only be permitted by person holding appropriate current certification.  
|                     | The Applicant implements appropriate including document preparation.  
|                     | The Applicant to pay all costs associated with the Licence application including document preparation.  
|                     | The Applicant is to install a permanent hang glider use area sign to inform the general public that the area is an officially recognised site. The sign is to be approved by the City’s Planning department prior to installation.  
|                     | Licensee to maintain Public Risk and General Insurance cover over the premises with Public Liability to be set at $10(M) |
Council Policy Compliance

Sporting & Community Leases and Licence Policy

Legislative Compliance

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

Officer Comments

At a meeting held on 25 January 2019 between the City and the Applicant, the Applicant has requested:

- An increase in the licence area to approximately 550m².
- Requested approval to in-fill a portion of the existing dune site to cater for an extra take-off and landing area.
- Extend the current fence adjacent to the footpath for safety between the hang gliders and pedestrians.

With the proposed redevelopment along Ocean Drive commencing in the 2019/2020 financial budget the City’s Manager Engineering has advised the City is willing to assist the Applicant by placing the sand from the proposed footpath works within the new proposed licence area.

Hang gliding at this location allows community members who wish to participate in the sport a safe area to conduct their activities and adds another unique dimension to the beautiful Bunbury coastline.

Analysis of Financial and Budget Implications

In accordance with the Sporting & Community Leases and Licence Policy no rental fees are payable. The Applicant will be responsible for minimal rates, outgoings, advertising fees and document preparation fees.

The future maintenance of the licenced premises will be at the Applicants expense.

Community Consultation

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

Councillor/Officer Consultation

The Lands Officer, Senior Lands Officer, Manager Engineering and Civil Operations, Development Engineer Officer, Team Leader Sustainability and Environmental Planning met the Club on-site on 25 January 2019 to discuss the proposed surrender of licence and a replacement licence for future tenure over the premises.

Following the on-site meeting the Team Leader Sustainability and Environmental Planning has advised:
The proposal will necessitate the clearing of a small area of native vegetation, which is in good-degraded condition. The loss of the vegetation will likely result in only a minor/negligible environmental impact. However, as native vegetation is protected in WA, a clearing permit will be required (N.B. no exemptions are understood to apply in this case).

The full report from the Team Leader Sustainability and Environment Planning can be seen attached at Appendix DPDS 6.

The Manager Engineering and Civil Operations has advised:

*It is recommended Western Australian State Association of Hang Gliding Federation Australia is to install a 1200mm black plastic chain wire fence and obtain a clearing permit following Council Decision.*

The Team Leader South West Sport Centre & Community Recreation is aware and supportive of the proposed terms and conditions.

**Applicant Consultation**

The Lands Officer has been in discussions with representatives of the Applicant to discuss a new licence with an increased licence area.

The Applicant is agreeable to the surrender of licence and to entering into a Sporting & Community licence with an amended licence area for a term of five (5) years with expiry in 2024.

The Applicant’s letter dated 27 November 2018 requested the following:

- An increase in the licence area to approximately 550m².
- Requests in-fill from the City to in-fill the existing dune site to be used for the additional take-off and landing area.
- Approval to extend the current fence adjacent to the footpath for safety between the hang gliders and pedestrians.

A copy of the recommendation has been supplied to the Applicant and they are supportive.

**Timeline: Council Decision Implementation**

The Applicant will be contacted immediately following the Council decision to implement the licence as soon as possible.
Outcome of Meeting 25 June 2019

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

Council Decision 175/19

That Council agrees to the surrender of licence and grant a replacement licence with amended area to the Western Australian State Association of Hang Gliding Federation Australia over Back Beach Ridge, Portion of Ocean Drive Road Reserve, South Bunbury on the terms and conditions as specified in the report to Council and:

1. The Applicant agreeing to pay all costs associated with the licence application including document preparation and advertising; and


CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”
10.9 Resumption of Land Request - Purchase of Land & Dedication of Land as Road Reserve Portion Lot 5 & Portion Lot 66 Estuary Drive, Pelican Point (was listed as item 10.4.6 on the Agenda)

<table>
<thead>
<tr>
<th>File Ref:</th>
<th>A06940</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant/Proponent:</td>
<td>Internal</td>
</tr>
<tr>
<td>Responsible Officer:</td>
<td>Jane Dawson, Senior Lands Officer</td>
</tr>
<tr>
<td>Responsible Manager:</td>
<td>Felicity Anderson, Manager Economic Development &amp; Lands</td>
</tr>
<tr>
<td>Executive:</td>
<td>Gary Barbour, Director Planning &amp; Development</td>
</tr>
<tr>
<td>Authority/Discretion</td>
<td>☒ Advocacy, ☐ Review</td>
</tr>
<tr>
<td></td>
<td>☒ Executive/Strategic, ☐ Quasi-Judicial</td>
</tr>
<tr>
<td></td>
<td>☐ Legislative, ☐ Information Purposes</td>
</tr>
<tr>
<td>Attachments:</td>
<td>Appendix DPDS 7 – Drawing</td>
</tr>
<tr>
<td></td>
<td>Appendix DPDS 8 – Plan</td>
</tr>
</tbody>
</table>

Summary

The City has identified a portion of cycleway along Estuary Drive which encroaches through an approximate 99m² of private land at the junction of Lot 5 Estuary Drive owned by Michael & Merrilyn Gollan (the “Owners”) & Lot 66 Estuary Drive owned by Debbie & Cheryl Brady (the “Owners”). It is proposed to realign the cadastral boundary to coincide with the existing fence and limestone block retaining wall. A location plan is attached at Appendix DPDS 8.

Executive Recommendation

That Council agrees to:

1. Approve the purchase of portion of Lot 5 Estuary Drive, Pelican Point from Michael & Merrilyn Gollan and the purchase of portion of Lot 66 Estuary Drive, Pelican Point from Debbie Brady & Cheryl Brady; and

2. Approve the dedication of 66m² portion of Lot 5 & 30m² portion of Lot 66 Estuary Drive, Pelican Point as road reserve in accordance with section 56(2) of the Land Administration Act 1997 to allow for the realignment of an existing cycleway.

Voting Requirement: Simple Majority

Strategic Relevance

Theme 3 Our Places and Spaces
Goal A natural and built environment that reflects Bunbury’s core values
Objective 3.1 A city that is easy to get around with attractive streetscapes and pathways

Regional Impact Statement

The Estuary Drive cycleway is well-used and provides a safe route for cyclists.
Background

The City of Bunbury proposes to conduct road widening along Estuary Drive during 2019/2020. It is noted that a portion of the cycleway along estuary Drive passes through Lots 5 and Lot 66 Estuary Drive.

The land will need to be purchased by the City and dedicated as road reserve for the City to proceed with the road widening.

Council Policy Compliance

No council policy applies.

Legislative Compliance

Council will agree to indemnify the Minister for Lands against any compensation claim made under the Land Administration Act 1997 on account of the taking of such land.

Officer Comments

The City proposes to widen and upgrade the road pavement and the cycleway adjacent to Lot 5 & Lot 66 during 2019/2020.

The City wrote to the Owners of Lot 5 & Lot 66 Estuary Drive, Pelican Point on 21 March 2019 to advise the City of Bunbury has identified a portion of pathway along Estuary Drive which encroaches through an approximate 96m² to the south eastern portion of the boundaries. The City has advised that it now wished to enter into negotiations with the Owners with regards to the purchase of the portion of the properties as identified.

Consultants will survey the truncation area and then create a deposited plan showing the road widening (truncation) and the balance lot. In accordance with section 6 of the Planning and Development Act the deposited plan will be exempt from WA Planning Commission approval, the Consultants will lodge the deposited plan directly with Landgate who will carry out the normal examination procedures before placing the deposited plan in order for dealings.

A letter was forwarded to the Owners of Lot 5 & Lot 66 Estuary Drive by the City on 21 March 2019 inviting the Owners to enter into negotiations with the City of Bunbury to sell a portion of their relevant lots to accommodate the realignment of the cadastral boundary for the pathway along Estuary Drive.

Further details are addressed in the Applicant Consultation section below.

Analysis of Financial and Budget Implications

A fair market valuation was received in October 2018 valuing the portion of Lot 5 Estuary Drive at $3,960.00 exclusive of GST and portion of Lot 66 Estuary Drive at $2,100.00 exclusive of GST.

The City will be responsible for all costs associated with the purchase and dedication of the land including survey costs of $5,000.00 plus GST and Landgate fees $423.00.
Community Consultation

Not Applicable.

Councillor/Officer Consultation

The Team Leader Airport & Design has commented as follows:

Estuary Drive is a well-used cycleway. At the junction of Lots 5 & 66 Estuary Drive the cycleway intrudes slightly into the private properties. The purpose of the resumption is to correct this error. The resumption re-aligns the cadastral boundary to coincide with the existing fence and limestone block retaining wall.

Engineering Officers and Lands Officers have been responsible for the preparation of this Agenda.

Applicant Consultation

The Senior Lands Officer has been in discussions and negotiations with the Owners since 21 March 2019.

Lot 5 Estuary Drive

The Owners have agreed to the sale of portion of their land to the City on 16 April 2019 and advised the Senior Lands Officer of their decision on 16 April 2019. They had several concerns prior to agreeing to the sale which were answered by the Team Leader Airport & Design as follows:

- The area to be resumed currently contains the cycleway. There are no trees within the resumed area and no trees are proposed to be removed.
- The fence will not be impacted by the resumption and will remain within Mr & Mrs Gollan’s property, therefore the City of Bunbury has no plans to reinstate the fence.
- The City of Bunbury proposes to undertake improvements to the road and cycleway during the 2019/2020 financial year. These works are currently scheduled for October 2019 however this may be subject to change.

Lot 66 Estuary Drive

The Owners’ representative Mr Peter Brady has agreed verbally with the Senior Lands Officer on 11 April 2019 to sell the 30m² portion of the land to the City of Bunbury for the amount of $2,100.00 plus GST. The Senior Lands Officer confirmed this agreement by email on 11 April 2019.

A copy of the recommendation has been provided to the Owners of Lot 5 & Lot 66 Estuary Drive, Pelican Point.

Timeline: Council Decision Implementation

The Owners will be contacted immediately following the Council decision to purchase the land and dedicate the land into road reserve.
Outcome of Meeting 25 June 2019

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

Council Decision 176/19

That Council agrees to:

1. Approve the purchase of portion of Lot 5 Estuary Drive, Pelican Point from Michael & Merrilyn Gollan and the purchase of portion of Lot 66 Estuary Drive, Pelican Point from Debbie Brady & Cheryl Brady; and

2. Approve the dedication of 66m² portion of Lot 5 & 30m² portion of Lot 66 Estuary Drive, Pelican Point as road reserve in accordance with section 56(2) of the Land Administration Act 1997 to allow for the realignment of an existing cycleway.

CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”
10.10 Transfer of Planning and Development Reserve Funds to Trust Account (was listed as item 10.2.1 on the Agenda)

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<thead>
<tr>
<th>Applicant/Proponent:</th>
<th>Internal Report</th>
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<tr>
<td>Responsible Officer:</td>
<td>David Ransom, Manager Finance</td>
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<tr>
<td>Responsible Manager:</td>
<td>David Ransom, Manager Finance</td>
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<tr>
<td>Executive:</td>
<td>Mal Osborne, Chief Executive Officer</td>
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<td>Information Purposes</td>
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Attachments: Nil

Summary

The City currently has funds held in the Planning and Development Act Section 152 Reserve to fund public open space developments or improvements. It has recently been identified that it is a requirement under the Planning and Development Act 2005 to hold these funds in the City’s Trust Account and not in a Reserve Account.

To comply with the requirements of the Planning and Development Act it is proposed to transfer these Reserve funds into the Trust Account.

Executive Recommendation

That Council transfers all funds held in the Planning and Development Act Section 152 Reserve to the City’s Trust Account to comply with the requirements of the Planning and Development Act 2005.

Voting Requirements: Absolute Majority required

Background

The Planning and Development Act 2005 (the Act) provides under Section 152 that a portion of land in a subdivision is set aside and vested in the Crown for parks, recreation grounds or open spaces. Alternatively, under Section 153 the Act allows for payment in lieu of giving land for open space and Section 154 requires that all money received by a local government is to be paid into a separate account of the trust fund of the local government established under Section 6.9 of the Local Government Act 1995.

The City in the past when it has received payments in lieu from land subdivision developers for open space under Section 153 has held these funds in the Planning and Development Act Section 152 Reserve. These Reserve funds are restricted for the purpose of developing future public open space developments or improving to existing public open spaces.

The funds in the Reserve have accumulated over many years and currently have a balance of $703,146.

Council Policy Compliance

Not applicable.
Legislative Compliance

Section 154 of the Planning and Development Act 2005 requires that all money received by a local government, for payment in lieu of open space, is to be paid into a separate account of the trust fund of the local government established under section 6.9 of the Local Government Act 1995.

Officer Comments

While the City has set aside monies in a reserve account for the purpose of developing future public open space developments or improving existing public open spaces, this does not comply with the specific requirement of Section 154 of the Act to hold these funds in the Trust Account.

Analysis of Financial and Budget Implications

The transfer of $703,146 from the Planning and Development Act Section 152 Reserve to the Trust Account has no financial or budget implications as both Reserve and Trust funds are treated as restricted cash and are not included in the Closing Funds Position of the City.

With the approval of the Western Australian Planning Commission funds held in the Trust Account from open space are able to the allocated to future public open space developments or improving existing public open spaces.

Community Consultation

There is no requirement for community consultation on this report.

Councillor/Officer Consultation

The Executive Leadership Team has reviewed this agenda item.

Outcome of Meeting 25 June 2019

The executive recommendation as printed was moved Cr Hayward and seconded Cr Cook.

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

Council Decision 177/19

That Council transfers all funds held in the Planning and Development Act Section 152 Reserve to the City’s Trust Account to comply with the requirements of the Planning and Development Act 2005.

CARRIED UNANIMOUSLY and BY ABSOLUTE MAJORITY
9 votes “for” / Nil votes “against”
11. **Applications for Leave of Absence**

Nil

12. **Motions on Notice**

12.1 **Cr Kelly Motion on Notice**

<table>
<thead>
<tr>
<th>Author:</th>
<th>Councillor Brendan Kelly</th>
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<tr>
<td>Executive:</td>
<td>Mal Osborne Chief Executive Officer</td>
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<tr>
<td>Attachments:</td>
<td>Nil</td>
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Councillor Kelly has submitted the following motion for the Ordinary Council Meeting 25 June 2019.

1. That Council resolves to develop, adopt and apply a local law that bans the smoking of tobacco products at the Koombana Bay foreshore.

2. That Council directs the CEO to draft an appropriate policy position and local law to enact part 1 of this motion.

**Summary**

The purpose of this Motion on Notice is for the Bunbury City Council to resolve to develop, adopt and apply a local law that bans the smoking of tobacco products at the Koombana Bay foreshore.

The local law will be drafted in accordance with the ‘Local Government Act 1995’ (the Act) Part 3, Division 2, Sub division 1, Section 3.5(1) and will ban smoking in all areas of an appropriately prescribed Koombana Bay Foreshore precinct.

**Councillor Recommendation**

1. That Council resolves to develop, adopt and apply a local law that bans the smoking of tobacco products at the Koombana Bay foreshore.

2. That Council directs the CEO to draft an appropriate policy position and local law to enact part 1 of this motion.

**Executive Recommendation**

That Council:

1. Request the CEO, as an interim measure, develop a policy regarding the restriction of smoking in public places to be considered by the Policy Review and Development Committee at its meeting in August 2019.

2. Note the current review of the City’s Local Government and Public Property Local Law, where any policy position regarding smoking restrictions in public places can be accommodated.
Background

The Koombana foreshore is at the heart of Bunbury, set against the waters of the City’s iconic Koombana Bay, a ‘go-to’ area for families and a stop point for visitors travelling to the South West and wanting to let their kids run off energy.

The newly developed foreshore now includes family friendly facilities, such as shade places with seating and barbecues, an accessible children’s playground, open play areas, wheelchair access ramps, a cafe and extensive landscaping.

The City of Bunbury has been honoured with a ‘Park of Year’ award for the Koombana Foreshore redevelopment, which recognises and rewards exceptional examples of best practice design and management.

Tobacco smoking is a leading cause of preventable death and disease and in Western Australia more than 200,000 adults continue to smoke, while over 1,500 people die from smoking-related causes each year (Cancer Council of WA, 2018).

According to the WA Country Health Service, Bunbury’s smoking rate is eighteen percent, a figure that is six percent higher than the State average.

Local governments increasingly aim to build strong, self-reliant and resilient communities and preventing and responding to the harms related to tobacco use is a significant issue. The ban on smoking of tobacco products at the Koombana Bay foreshore reserve should be considered by Council in terms of public health, i.e. the impacts of smoking.

Strategic Relevance

This Motion supports:

- The City of Bunbury’s ‘Strategic Community Plan 2018-2028’ Theme 3, Objective 3.6: “The public health and amenity of the community is protected”.

- The City of Bunbury Local Planning Scheme No. 8 and general aim no.3: “to avoid and/or mitigate land use and development impacts on environmental and public health”.

- Part 5 of the ‘Public Health Act 2016’, which requires local governments to prepare a ‘Local Public Health Plan’.

- The goal of the City of Bunbury ‘Environmental Health Plan, 2006’ to enhance community health and well-being.

- The Mayor and Councillors have previously held the view that the City does not support, encourage or promote the use of tobacco products.

Councillor Comments

The City of Bunbury has an opportunity to follow the spirit and word of public health advocates, who promote anti-smoking messages by acting to reduce the harm caused through exposure to tobacco smoke and cigarette butt pollution.
By taking affirmative action, such as promoting smoke-free public places, the Council can assist to make a significant contribution to the reduction in smoking.

It is the role of Council to determine the local government’s policies and Council may make local laws under the Act.

A local law banning smoking at this public place will send a message to the community and visitors that Bunbury supports a healthy smoke-free lifestyle.

Smoking is an activity contra to common sense and community well-being, particularly in matters of public health and amenity and given the strong State and Federal government anti-smoking campaigns, the Council will be in a sound position to defend its stance.

**Analysis of Financial and Budget Implications.**

The motion has no impact on the City of Bunbury Budget.

**Officer Comments**

Staff have reviewed options for the banning of smoking at Koombana Bay. The Tobacco Products Control Regulations 2006 places restrictions on smoking in some outdoor public places such as patrolled beaches and within 10m of any children’s playground equipment, which provides existing restrictions to some parts of Koombana Bay.

In addition to these regulatory restrictions, some Local Governments such as Joondalup and Cockburn have extended smoking bans to all of their beaches via their property local laws.

Staff are currently reviewing the Local Government and Public Property Local Law and could incorporate smoking restrictions into this Local Law as part of this review.

It is suggested that as an interim measure, staff formulate a policy position on smoking on beaches to inform the Local Law review and future education campaigns.
Outcome of Meeting 25 June 2019

Ms Shenae Norris addressed Council in relation to this matter

The Councillor recommendation as printed was moved Cr Kelly and seconded Cr Smith.

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

Council Decision 178/19

1. That Council resolves to develop, adopt and apply a local law that bans the smoking of tobacco products at the Koombana Bay foreshore.

2. That Council directs the CEO to draft an appropriate policy position and local law to enact part 1 of this motion.

CARRIED BY ABSOLUTE MAJORITY
7 votes “for” / 2 votes “against”
For:  Cr Kelly, Cr Warnock, Cr Smith, Cr Cook, Cr Hayward, Cr McCleary, Cr Steele
Against: Mayor Brennan, Cr Morris
13. **Questions on Notice**

13.1 *Response to Previous Questions from Members taken on Notice*

Nil

13.2 *Questions from Members*

Nil

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

Nil
15. Meeting Closed to Public

15.1 Matters for which the Meeting may be Closed

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

(a) a matter affecting an employee or employees

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

Executive Recommendation

In accordance with sections 5.23(2)(c) of the Local Government Act 1995 and clause 6.2 of the City of Bunbury’s Standing Orders Local Law 2012, Council resolves to close the meeting to members of the public to consider the item titled “CEO Performance Review Panel Report”.

Outcome – Council Meeting 25 June 2019

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

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

Council Decision 179/19

In accordance with sections 5.23(2)(c) of the Local Government Act 1995 and clause 6.2 of the City of Bunbury’s Standing Orders Local Law, Council resolves to close the meeting to members of the public to consider the item titled “CEO Performance Review Panel Report”.

CARRIED UNANIMOUSLY
9 votes “for” / nil votes “against”

The meeting was closed to the public, press and officers at 5.54pm.
15.1.1 CEO Performance Review Panel Report

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<tr>
<th>Applicant/Proponent:</th>
<th>CEO Performance Review Panel</th>
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<tr>
<td>Responsible Person:</td>
<td>Gary Brennan, Mayor</td>
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<tr>
<td>Executive:</td>
<td>Mal Osborne, Chief Executive Officer</td>
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<td>Attachments:</td>
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This report is confidential in accordance with section 5.23(2)(a) of the Local Government Act 1995, which permits the meeting to be closed to the public for business relating to the following:

(a) a matter affecting an employee or employees

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

Outcome – Council Meeting 25 June 2019

Whilst behind closed doors, the meeting was adjourned at 6:00pm to enable the holding of the Special Council Meeting that had been scheduled for this time.

The meeting resumed at 6:15pm.

The recommendation was moved Cr McCleary seconded Cr Hayward.

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

Council Decision 180/19

That Council endorses the confidential report from the CEO Review Panel and note that the recommendation/s of the Panel have been implemented by the Mayor

CARRIED
7 votes “for” / 2 votes “against”
For: Mayor Brennan, Cr Smith, Cr Cook, Cr Hayward, Cr McCleary, Cr Steele, Cr Morris
Against: Cr Kelly, Cr Warnock
A motion that the meeting be reopened to the public and press was moved Cr Cook, seconded Cr Steele.

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

Council Decision 181/19

That Council reopen the meeting to the public and press

CARRIED UNANIMOUSLY

9 votes “for” / nil votes “against”

15.2 Public Reading of Resolutions that may be made Public

The Mayor read aloud Council’s decision in relation to item 15.1.1 as follows:

That Council endorses the confidential report from the CEO Review Panel and note that the recommendation/s of the Panel have been implemented by the Mayor.

16. Closure

The Mayor declared the meeting closed at 6:43pm