

## **Council (Standing) Committee**

### **Notice of Meeting and Agenda 5 November 2013**

#### **Committee Terms of Reference** *(reappointed 22/10/2013)*

1. To review reports and recommendations that are to be submitted to a meeting of the Council and (where appropriate) make alternative recommendations to those recommendations listed in the reports.
2. To request additional information necessary to assist the members of Council in making a decisions.
3. To make reference to appropriate legislation, Council's policies, local laws and the Strategic Plan when making Committee Recommendations to Council.

Have a say in shaping your City's future  
Visit [yoursaybunbury.com.au](http://yoursaybunbury.com.au)



**CITY OF BUNBURY**  
4 Stephen Street  
Bunbury WA 6230  
Western Australia  
*Correspondence to:*  
Post Office Box 21  
Bunbury WA 6231

## Table of Contents

Item No	Subject	Page
1.	Declaration of Opening / Announcements of Visitors.....	1
2.	Disclaimer .....	2
3.	Announcements from the Presiding Member.....	2
4.	Attendance .....	2
4.1	Apologies .....	2
4.2	Approved Leave of Absence .....	2
5.	Declaration of Interest.....	2
6.	Public Question Time.....	3
6.1	Public Question Time .....	3
6.2	Responses to Public Questions Taken ‘On Notice’ .....	3
7.	Confirmation of Previous Minutes and other Meetings under Clause 19.1.....	4
7.1	Minutes.....	4
7.1.1	Minutes - Council (Standing) Committee Meeting.....	4
7.1.2	Minutes – Council Advisory Committees and Working/Project Groups .....	5
8.	Petitions, Presentations, Deputations and Delegations.....	7
8.1	Petitions.....	7
8.2	Presentations.....	7
8.3	Deputations .....	7
8.4	Council Delegates’ Reports.....	7
8.5	Conference Delegates’ Reports .....	8
8.5.1	Conference Delegates Report – Cr Murray Cook 2013 International BiodiverCities Conference, Joondalup.....	8
9.	Method of Dealing with Agenda Business.....	8
10.	Reports.....	9
10.1	Chief Executive Officer Reports .....	9
10.1.1	2012/13 Annual Report and Annual Meeting of Electors.....	9
10.1.2	Appointment to External Committees.....	11
10.2	Director Corporate Services Reports .....	13
10.2.1	Schedule of Accounts Paid for the Period 1 August to 31 August 2013.....	13
10.2.2	Schedule of Accounts Paid for the Period 1 September to 30 September 2013 .....	14

## Table of Contents

Item No	Subject	Page
10.2.3	Financial Management Reports for the Periods Ending 31 August 2013 and 30 September 2013.....	15
10.2.4	Local Government Master Lending Agreement .....	19
10.2.5	Proposed Transfer of a Portion of Mervyn Street Road Reserve and Amalgamation with Lot 38 (4) Mervyn Street and Lot 107 (42) Strickland Street, East Bunbury. ....	21
10.2.6	Proposed Crown Sites for Compensation (Under Management) – Compensation Land – College Grove Joint Venture. ....	24
10.2.7	Offer and Attendant Counter-Offer, and Rejection of Counter- Offer by the Western Australian Planning Commission for the Sale of Lot 626 Ocean Drive and Lot 632 Centenary/Parade Roads, Usher.....	30
10.3	Director Planning and Development Services Reports.....	33
10.3.1	Proposed Amendment 71 – Lot 3 Ocean Drive, Bunbury (Fawltly Towers Motel) .....	33
10.3.2	Staff Authorisation.....	38
11.	Applications for Leave of Absence.....	40
12.	Motions on Notice .....	40
13.	Questions on Notice .....	40
13.1	Response to Previous Questions from Members taken on Notice.....	40
13.2	Questions from Members.....	40
14.	New Business of an Urgent Nature Introduced by Decision of the Meeting .....	40
15.	Meeting Closed to Public.....	40
15.1	Matters for which the Meeting may be Closed .....	40
16.	Closure.....	40

## GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
1:100	Ratio of 'one in one hundred'
AD	Acceptable Development
ARI	Annual Recurrence Interval
AHD	Australian Height Datum
ANEF	Australian Noise Exposure Forecast
AWARE	All West Australians Reducing Emergencies (grant funding)
BCA	Building Code of Australia
BCCI	Bunbury Chamber of Commerce & Industries
BCRAB	Bunbury Community Recreation Association Board
BEAC	Built Environment Advisory Committee
BESAC	Bunbury Environment and Sustainability Advisory Committee
BHRC	Bunbury Harvey Regional Council
BPA	Bunbury Port Authority
BRAG	Bunbury Regional Art Galleries
BRAMB	Bunbury Regional Arts Management Board
BREC	Bunbury Regional Entertainment Centre
BSSC	Big Swamp Steering Committee
BWEA	Bunbury Wellington Economic Alliance
CALM	Department of Conservation and Land Management
CBD	Central Business District
CCAFF	Community Cultural and Arts Facilities Fund
CERM	Centre of Environmental and Recreation Management
CPI	Consumer Price Index
CSRFF	Community Sport and Recreation Facilities Fund
DADAAWA	Disability in the Arts Disadvantage in the Arts Australia, Western Australia
DAP	Detailed Area Plan (required by WA Planning Commission)
DCU	Development Coordinating Unit
DEC	Department of Environment and Conservation (formerly CALM)
DEWCP	Department for Environment, Water and Catchment Protection
DLI	Department of Land Information
DoE	Department of Environment
DOLA	Department of Land Administration
DoPI	Department of Primary Industry
DoW	Department of Water
DPI	Department for Planning and Infrastructure
DSR	Department of Sport and Recreation
DUP	Dual-use Path
ECT	Enforcement Computer Technology
EDAC	Economic Development Advisory Committee
EDWA	Education Department of Western Australia
EIA	Environmental Impact Assessment
EPA	Environmental Protection Authority
ERMP	Environmental Review and Management Program
ESL	Emergency Services Levy
FESA	Fire and Emergency Services Authority
FFL	Finished Floor Level
GBPG	Greater Bunbury Progress Group
GBRP	Greater Bunbury Resource Plan report
GBRS	Greater Bunbury Region Scheme
GL	Gigalitres
GRV	Gross Rental Value
GST	Goods and Services Tax
HCWA	Heritage Council of Western Australia
ICLEI	International Council for Local Environmental Initiatives
ICT	Information and Communications Technology
IP	Internet Protocol
IT	Information Technology

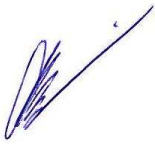
## GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
ITC	In Town Centre
ITLC	Former In-Town Lunch Centre (now the "In Town Centre")
LAP	Local Action Plan
LCC	Leschenault Catchment Council
LEMC	Bunbury Local Emergency Management Committee
LIA	Light Industrial Area
LN (2000)	Liveable Neighbourhoods Policy (2000)
LSNA	Local Significant Natural Area
MHDG	Marlston Hill Design Guidelines
MRWA	Main Roads Western Australia
NDMP	National Disaster Mitigation Program
NEEDAC	Noongar Employment & Enterprise Development Aboriginal Corp.
NRM	Natural Resource Management
NRMO	Natural Resource Management Officer
ODP	Outline Development Plan
PAW	Public Access Way
PHCC	Peel-Harvey Catchment Council
PR	Plot Ratio
R-IC	Residential Inner City (Housing) - special density provisions
RDC	Residential Design Codes
RDG	Residential Design Guidelines
Residential R15	Town Planning Zone – up to 15 residential dwellings per hectare
Residential R20	Town Planning Zone – up to 20 residential dwellings per hectare
Residential R40	Town Planning Zone – up to 40 residential dwellings per hectare
Residential R60	Town Planning Zone – up to 60 residential dwellings per hectare
RFDS	Royal Flying Doctor Service
RMFFL	Recommended Minimum Finished Floor Levels
ROS	Regional Open Space
ROW	Right-of-Way
RSL	Returned Services League
SBCC	South Bunbury Cricket Club Inc.
SCADA	Supervisory Control and Data Acquisition
SGDC	Sportsgrounds Development Committee
SW	South West
SWACC	South Western Area Consultative Committee
SWAMS	South West Aboriginal Medical Service
SWBP	South West Biodiversity Project
SWCC	South West Catchments Council
SWDC	South West Development Commission
SWDRP	South West Dolphin Research Program
SWEL	South West Electronic Library
SWSC	South West Sports Centre
TME	Thompson McRobert Edgeloe
TPS	Town Planning Scheme
USBA	Union Bank of Switzerland Australia
VGO	Valuer General's Office
VOIP	Voice-Over Internet Protocol
WALGA	Western Australian Local Government Association
WAPC	Western Australian Planning Commission
WAPRES	Western Australian Plantation Resources
WAWA	Water Authority of Western Australia
WC	Water Corporation
WML	WML Consultants
WRC	Waters and Rivers Commission

## **Council (Standing) Committee Notice of Meeting**

TO: Council Committee Members

The next Ordinary Meeting of the Council (Standing) Committee will be held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, **5 November 2013** at 6.00pm.



Andrew Brien  
Chief Executive Officer  
(Date of Issue: 31/10/2013)

### **Agenda 5 November 2013**

Members of the public to note that recommendations made by this committee are not final and will be subject to adoption (or otherwise) at a future meeting of the Bunbury City Council.

Council Members:

His Worship the Mayor, Mr G Brennan – Presiding Member  
Deputy Mayor Councillor Brendan Kelly  
Councillor Murray Cook  
Councillor Wendy Giles  
Councillor James Hayward  
Councillor Judy Jones  
Councillor Betty McCleary  
Councillor Neville McNeill  
Councillor Jaysen Miguel  
Councillor Sam Morris  
Councillor David Prosser  
Councillor Michelle Steck  
Councillor Karen Steele

#### **1. Declaration of Opening / Announcements of Visitors**

As this is the first meeting of the Council Standing Committee following the 2013 local government elections, the Chief Executive Officer will open proceedings and call for nominations for the position of Presiding Member. If more than one nomination is received, a ballot will be conducted in accordance with Schedule 2.3, Division 1 of the *Local Government Act 1995*.

## 2. Disclaimer

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

## 3. Announcements from the Presiding Member

## 4. Attendance

### 4.1 Apologies

### 4.2 Approved Leave of Absence

## 5. Declaration of Interest

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

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

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

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

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

## **6. Public Question Time**

Members of the Public please note that:

- (1) Questions are to be brief, to the point and MUST relate to an item listed in this agenda;
- (2) A completed Question Form is to be filled out and left in the tray provided in the Council chambers. Forms can be found inside the chambers at the back of the public gallery or on the Council's website;
- (3) Form must include name and address of the person asking the question.
- (4) The person asking the question must be present at the meeting;
- (5) Only three (3) questions are to be asked;
- (6) 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
- (7) Only a 'summary' of your question (and any responses provided) will be printed in the minutes of the meeting.

### **6.1 Public Question Time**

### **6.2 Responses to Public Questions Taken 'On Notice'**



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

### **7.1 *Minutes***

#### **7.1.1 Minutes - Council (Standing) Committee Meeting**

The minutes of the Council (Standing) Committee meeting held 10 September 2013 have been circulated.

#### **Recommendation**

The minutes of the Council (Standing) Committee meeting held 10 September 2013 be confirmed as a true and accurate record.

### 7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

<b>File Ref:</b>	Various
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Various
<b>Executive:</b>	Various
<b>Attachments:</b>	Appendix MTBN-1, MTBN-2, MTBN-3, MTBN-4, MTBN-5, MTBN-6, MTBN-7, MTBN-8, MTBN-9

#### Summary

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

1. Title: Minutes – Policy Review and Development (Standing) Committee meeting 2 July 2013  
Author: Greg Golinski, Manager Corporate Performance  
Appendix: MTBN-1
2. Title: Minutes – Major Projects Committee meeting 13 August 2013  
Author: Andrew Brien, Chief Executive Officer  
Appendix: MTBN-2
3. Title: Minutes – Major Projects Committee meeting 3 September 2013  
Author: Andrew Brien, Chief Executive Officer  
Appendix: MTBN-3
4. Title: Minutes – Bunbury-Setagaya Sister Cities Committee meeting 29 August 2013  
Author: Jenni Brown, Executive Officer Setagaya  
Appendix: MTBN-4
5. Title: Minutes – Bunbury-Setagaya Sister Cities Committee meeting 26 September 2013  
Author: Jenni Brown, Executive Officer Setagaya  
Appendix: MTBN-5
6. Title: Minutes – Bunbury Wildlife Committee meeting 2 September 2013  
Author: Kristina Knight, Manager Wildlife Park  
Appendix: MTBN-6
7. Title: Minutes – Youth Advisory Council Committee meeting 2 October 2013  
Author: April ten Brinke, Community Development Officer  
Appendix: MTBN-7
8. Title: Minutes – Community Access Committee meeting 11 October 2013  
Author: Isabell Evans, Community Development Officer  
Appendix: MTBN-8
9. Title: Minutes – City of Bunbury Art Collection Management Committee meeting 14 October 2013  
Author: Stephanie Addison-Brown, Director Community Development  
Appendix: MTBN-9

**Recommendation**

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

1. Policy Review and Development (Standing) Committee meeting 2 July 2013
2. Major Projects Committee meeting 13 August 2013
3. Major Projects Committee meeting 3 September 2013
4. Bunbury-Setagaya Sister Cities Committee meeting 29 August 2013
5. Bunbury-Setagaya Sister Cities Committee meeting 26 September 2013
6. Bunbury Wildlife Committee meeting 2 September 2013
7. Youth Advisory Council Committee meeting 2 October 2013
8. Community Access Committee meeting 11 October 2013
9. City of Bunbury Art Collection Management Committee meeting 14 October 2013

## **8. Petitions, Presentations, Deputations and Delegations**

### **8.1 *Petitions***

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

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

### **8.2 *Presentations***

### **8.3 *Deputations***

### **8.4 *Council Delegates' Reports***

## **8.5 Conference Delegates' Reports**

### **8.5.1 Conference Delegates Report – Cr Murray Cook 2013 International BiodiverCities Conference, Joondalup**

<b>Applicant/Proponent:</b>	Councillor Murray Cook
<b>Author:</b>	Councillor Murray Cook
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Appendix CFDR-1

#### **Summary**

Councillor Murray Cook attended the 2013 International BiodiverCities Conference held in Joondalup from 9 to 12 September 2013 and has provided a report on the conference.

#### **Executive Recommendation**

The report from the 2013 International BiodiverCities Conference held from 9 to 12 September 2013 provided by Councillor Murray Cook be received and noted.

## **9. Method of Dealing with Agenda Business**

Not applicable to Committees.

## 10. Reports

### 10.1 Chief Executive Officer Reports

#### 10.1.1 2012/13 Annual Report and Annual Meeting of Electors

<b>File Ref:</b>	
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Greg Golinski, Manager Corporate Performance
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Appendix CEO-1

#### Summary

The purpose of this report is for Council to consider accepting the 2012/13 Annual Report for the City of Bunbury, and confirm a date for the 2013 Annual Meeting of Electors.

#### Executive Recommendation

That Council:

1. Accept the 2012/13 Annual Report as presented;
2. Schedule the 2013 Annual Meeting of Electors for Thursday, 5 December 2013, commencing at 6pm in the Function Room of the Council Chambers, 4 Stephen Street Bunbury; and
3. Request the Chief Executive Officer undertake all statutory advertising in this regard.

#### Background

In accordance with the provisions of section 5.27 of the *Local Government Act 1995* (the Act), a general meeting of electors of a district is to be held once every financial year, but not more than 56 days after the local government accepts the annual report for the previous financial year.

In addition, section 5.29(1) of the Act requires a minimum fourteen (14) day notice period of the annual meeting of electors be given via local public notice.

The 2012/13 draft Annual Report includes an abridged version of the Annual Financial Statements and Audit Report.

#### Legislative Compliance

Subdivision 4 of Division 2 of Part 5 of the *Local Government Act 1995* deals with meetings of electors.

Division 5 of Part 5 of the *Local Government Act 1995* deals with Annual Reports and Planning.

**Officer Comments**

The City's 2012/13 Annual Report is presented as **attached** at Appendix CEO-1 for the consideration of Council. The report contains an overview of the City's achievements during 2012/13, as well as all requisite statutory aspects.

Last year's Annual Meeting of Electors was held on Thursday, 29 November 2012. Giving consideration to the requisite statutory timeframes (in particular the 14 day notice period) and the lead time required to lodge a notice in any of the local newspaper publications as necessary for a "local public notice", the earliest that Council could hold its 2013 Annual Meeting of Electors is Wednesday, 4 December 2013.

To this extent it is suggested that the meeting be held on Thursday, 5 December 2013.

**Community Consultation**

Not applicable

**Analysis of Financial and Budget Implications**

All advertising costs can be accommodated within the 2013/14 budget.

### 10.1.2 Appointment to External Committees

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Greg Golinski, Manager Corporate Performance
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Nil

#### Summary

The purpose of this report is for Council to consider making appointments to selected external Boards of Management (external committees with Council representation).

A subsequent report will be provided to Council as part of a broader review of Committees and Council representation.

#### Executive Recommendation

That Council:

1. Nominate Councillors \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ as Council representatives on the Bunbury Harvey Regional Council, and Councillors \_\_\_\_\_ and \_\_\_\_\_ as proxy members.
2. Nominate Councillor \_\_\_\_\_ as a Council representative on the Bunbury Local Emergency Management Committee, and Councillor \_\_\_\_\_ as a proxy member.
3. Nominate Councillor \_\_\_\_\_ as a Council representative on the Bunbury Wellington Economic Alliance Inc.
4. Nominate Councillors \_\_\_\_\_ and \_\_\_\_\_ as Council representatives on the South West Regional Road Group.
5. Nominate Councillor \_\_\_\_\_ as a Council representative on the South West Country Zone of WALGA, and Councillor \_\_\_\_\_ as a proxy member.
6. Request the Chief Executive Officer advise the above groups accordingly.

#### Background

The Bunbury Harvey Regional Council (BHRC), Bunbury Local Emergency Management Committee (BLEMC), Bunbury Wellington Economic Alliance (BWEA), South West Regional Road Group (SWRRG) and the South West Country Zone of the WA Local Government Association (SWCZ) have all been identified as requiring urgent consideration of Council representation. Appointment to these groups will enable Council to be represented at upcoming meetings.

A subsequent report will be provided to the next round of Council meetings as part of a broader review of Council Committees, Working Groups, and external Boards of Management.

#### Legislative Compliance

The BHRC is constituted under the provisions of the *Local Government Act 1995*, and the BLEMC is a requirement under the provisions of the *Emergency Management Act 2005*.



## **Officer Comments**

### Bunbury Harvey Regional Council

The BHRC is a Regional Council formed between the City of Bunbury and Shire of Harvey under the provisions of the *Local Government Act 1995*.

The BHRC comprises three (3) Councillor representatives and two (2) proxies from the City of Bunbury. Prior to the 2013 local government elections, Councillor's Jones, Cook and McNeill were Council's representatives and His Worship the Mayor and Councillor Kelly proxies.

### Bunbury Local Emergency Management Committee

The BLEMC is a requirement under the provisions of the *Emergency Services Act 2005*.

The BLEMC comprises one (1) Councillor representative and one (1) proxy from the City of Bunbury. Prior to the 2013 local government elections, Councillor Cook was Council's representative on the BLEMC and Councillor McNeill the proxy.

### Bunbury Wellington Economic Alliance Inc.

The BWEA comprises one (1) Councillor representative from the City of Bunbury. Prior to the 2013 local government elections, the Deputy Mayor was Council's representative on BWEA.

### South West Regional Road Group

The SWRRG comprises two (2) Councillor representatives from the City of Bunbury. Prior to the 2013 local government elections, Councillors' Slater and Jones were Council's representatives on the SWRRG.

### South West Country Zone of WALGA

Country Zones are part of the governance frameworks of the WA Local Government Association.

The SWCZ comprises one (1) Councillor representative and one (1) proxy from the City of Bunbury. Prior to the 2013 local government elections, His Worship the Mayor was Council's representative on the SWCZ and Councillor Kelly the proxy.

## **10.2 Director Corporate Services Reports**

### **10.2.1 Schedule of Accounts Paid for the Period 1 August to 31 August 2013**

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Ransom, Manager Finance
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Under Separate Cover – Appendix DCS-1

The City of Bunbury "*Schedule of Accounts Paid*" covering the period 1 August to 31 August 2013 has been issued to elected members **under separate cover**. The schedule contains details of the following transactions:

1. Municipal Account – payments totalling \$6,370,514.90
2. Advance Account – payments totalling \$4,859,825.45
3. Visitor Information Centre Trust Account – payments totalling \$8,088.20
4. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$266,757.75
5. Bunbury-Harvey Regional Council Advance Account – payments totalling \$235,594.54

#### **Executive Recommendation**

The Schedule of Accounts Paid for the period 1 August to 31 August 2013 be received.

### 10.2.2 Schedule of Accounts Paid for the Period 1 September to 30 September 2013

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Ransom, Manager Finance
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Under Separate Cover – Appendix DCS-2

The City of Bunbury "*Schedule of Accounts Paid*" covering the period 1 September to 30 September 2013 has been issued to elected members **under separate cover**. The schedule contains details of the following transactions:

1. Municipal Account – payments totalling \$24,087,439.15
2. Advance Account – payments totalling \$22,353,410.51
3. Trust Account – payments totalling \$34,896.79
4. Visitor Information Centre Trust Account – payments totalling \$16,656.24
5. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$337,006.77
6. Bunbury-Harvey Regional Council Advance Account – payments totalling \$308,202.07

#### **Executive Recommendation**

The Schedule of Accounts Paid for the period 1 September to 30 September 2013 be received.

### 10.2.3 Financial Management Reports for the Periods Ending 31 August 2013 and 30 September 2013

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Ransom, Manager Finance
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-3, DCS-4, DCS-5, DCS-6, DCS-7

#### Summary

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

1. Statement of Comprehensive Income (**attached** at Appendix DCS-3)  
Actual Financial Performance to 30 September 2013
  - Actual income of \$38.41M is \$183K more than the year-to-date budgeted income of \$38.23M (refer explanation on next page).
  - Actual expenditure of \$9.3M is \$1.9M less than the year-to-date budgeted expenditure of \$11.2M (refer explanation on next page).
  - Actual operating surplus of \$29.12M is \$2.09M more than the year-to-date budgeted operating surplus of \$27.03M (refer explanation on next page).
2. Balance Sheet year-to-date and forecast balances are currently not available. A balance sheet report will be provided with the October 2013 Financial Statements following receipt of the end of year audit report for 2012/13 and the roll-over of the financial system to 2013/14.
3. Capital Works (**attached** at Appendix DCS-6)
  - Actual capital works of \$4.57M is \$6.25M less than the year-to-date budgeted capital works of \$10.82M, (refer explanation on next page).

The Financial Statements for the period ending 31 August 2013 are included for Councillor information (**attached** at Appendix DCS-7).

#### **Executive Recommendation**

The Financial Management Reports for the periods ending 31 August 2013 and 30 September 2013 be received.

#### **Background**

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

- Statement of Comprehensive Income (**attached** at Appendix DCS-3)
- Statement of Financial Activity (**attached** at Appendix DCS-4)
- Statement of Net Current Assets (**attached** at Appendix DCS-5)
- Capital Works Expenditure Summary (**attached** at Appendix DCS-6)

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

**Council Policy Compliance**

Not applicable.

**Legislative Compliance**

In accordance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996, a Local Government is to prepare each month a Statement of Financial Activity (**attached** at Appendix DCS-4) reporting on the revenue and expenditure as set out in the annual budget under Regulations 22 (1) (d) for this month.

**Officer Comments**

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

<b>Statement of Comprehensive Income</b>	<b>YTD Actual to YTD Budget Variance</b>
<b>Operating Expenditure</b>	
<b>Material and Contracts (Fuel Expense)</b> – Fuel costs are currently higher than year-to-date budget estimates. This budget will be closely monitored and adjusted in the February budget review if required.	(\$17,905) (13%)
<b>Material and Contracts (Contract Employment Expense)</b> – Contract employment expenses are higher than year-to-date budget estimates. Any increase in contract employment expenses has been offset by savings in salaries and wages.	(\$11,445) (67%)
<b>Non-Operating Income and Expenditure</b>	
<b>Grants and Contributions for the Development of Assets</b> – The following budgeted grant income has been carried forward from the 2012/13 financial year and not yet received:  \$335,001 PR-1444 Implement the Hands Oval Master Plan – Stage 1 \$60,000 PR-1089 Modify traffic control signals at intersection of Blair, Stuart and Mervyn St Bunbury \$78,000 PR-2478 Modify traffic control signals at the intersection of Blair St and Stirling St, Bunbury \$48,000 PR-1193 Modify traffic control signals phasing at intersection of Blair St and Strickland St, Bunbury  Work on these projects is continuing and the grant income will be received when completed. It is expected that these projects will be completed during this financial year and budgeted income will be received in 2013/14.	(\$553,526) (27%)
<b>Proceeds Plant and Vehicle Disposals</b> – An amount of \$20,000 has been carried forward from the 2012/13 financial year for disposal of a heavy plant item. It is anticipated that this disposal will occur in March 2014.	(\$21,932) (24%)

Statement of Financial Activity	YTD Actual to YTD Budget Variance
<b>Operating Revenues</b>	
<p><b>Grants and Subsidies – Operating</b> – The following new grants have been received that were not previously included in the 2013/14 budget:</p> <p>\$55,670 PR-2488 Deliver Sport 4 All Kidsport \$25,000 PR-3432 Implement early years initiatives</p> <p>These grant revenue items and associated expenditure will be included in the October Budget Review.</p>	<p>\$61,224 (16%)</p>
<p><b>Contributions Reimbursements and Donations</b> – Reimbursement income for both Parking Legal Fees and Workers Compensation Claims are higher than expected. Additional revenue for these items will be included in the October Budget review.</p>	<p>\$29,728 (14%)</p>
<b>Operating Expenses</b>	
<p><b>Material and Contracts</b> – Actual expenditure is down on budgeted expenditure as of 30 September 2013 over both base operating and projects for ‘Material and Contracts’. It is anticipated that the current budget for the year will be achieved, and this will be subject to ongoing monitoring. The variance of \$1.6M includes approximately \$700K for projects uncompleted and carried forward from 2012/13 which have been budgeted to be spent during July 2013 to identify and ensure completion of these projects. Budgets for all carry forward items have been allocated to July 2013 to clearly identify these projects.</p>	<p>\$1,610,460 (37%)</p>
<b>Capital Revenues</b>	
<p><b>Grants and Contributions for the Development of Assets</b> – See explanation above included in the Statement of Comprehensive Income variances.</p>	<p>(\$553,526) (27%)</p>
<p><b>Proceeds on Disposal of Assets</b> - See explanation above included in the Statement of Comprehensive Income variances.</p>	<p>(\$21,932) (24%)</p>
<b>Capital Expenses</b>	
<p><b>Acquisition of Assets</b> – Variance due to delay in commencement or progress of various projects. \$2.6M of this variance relates to projects carried forward from 2012/13 that are yet to be completed.</p> <p>The Capital Expenditure Report included at Appendix DCS-6 provides details of all projects and the expenditure progress versus year-to-date estimates for the project. All projects will be reviewed during October and any estimated changes to expenditure requirements will be included in the October Budget review.</p>	<p>\$6,251,075 (58%)</p>

### Analysis of Financial and Budget Implications

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

### **Community Consultation**

There is no requirement for community consultation on this report.

### **Councillor/Officer Consultation**

Council's Executive Leadership Team, Department Managers and Corporate Services staff monitors the City's monthly revenue and expenditure and (as required) refer any variances requiring remedial action to Council.

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

#### 10.2.4 Local Government Master Lending Agreement

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Ransom, Manager Finance
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-8

##### Summary

The Western Australian Treasury Corporation (WATC) is implementing a Master Lending Agreement (LGMLA) for local governments. The new LGMLA has been developed to incorporate the recently introduced Commonwealth Government's Personal Property Security Act 2009 (PPSA) and to improve the efficiency of the lending processes to local governments. The LGMLA has been reviewed by the State Solicitor's Office and the Department of Local Government.

For the LGMLA to be effective, WATC requires that the City execute the LGMLA under its Common Seal as authorised by a resolution of Council.

##### Executive Recommendation

1. The City of Bunbury enters into a Master Lending Agreement with the Western Australian Treasury Corporation as **attached** at Appendix DCS-8.
2. Council approve the affixation of the Common Seal of the City of Bunbury to the Master Lending Agreement in the presence of the Mayor and Chief Executive Officer, each of whom shall sign the document to attest the affixation of the Common Seal; and
3. The Chief Executive Officer or any one of the Directors of the City of Bunbury authorised by the Chief Executive Officer from time to time, is authorised to sign scheduled documents under the Master Lending Agreement on behalf of the City of Bunbury.

*Note: An absolute majority is required.*

##### Background

The LGMLA combines all existing loans under the LGMLA, facilitates future borrowings under this one agreement and removes the need for individual loan agreements to be executed under seal each time the City borrows from WATC. Any borrowings under the LGMLA will be subject to WATC's credit approval policy at the time of the application and will still require approval by Council in its annual budget.

##### Council Policy Compliance

Not applicable.

##### Legislative Compliance

Council is still required to comply with all requirements under the Local Government Act and Regulations in respect to this agreement, and that all loans have been approved by Council in its annual budget or have satisfied the provisions of Section 6.20(2) of the Local Government Act.



**Officer Comments**

The LGMLA has been reviewed by the State Solicitor’s Office and the Department of Local Government and will improve the efficiency of the lending process. Council’s approval to borrow money is still required prior to making an application for loan funds from WATC.

**Analysis of Financial and Budget Implications**

There are no financial or budget implications for Council to have past or future loans provided by WATC under a LGMLA.

**Community Consultation**

Not applicable

**Councillor/Officer Consultation**

The Executive Leadership Team recommends that the City enters into a Master Lending Agreement with the Western Australian Treasury Corporation.

### 10.2.5 Proposed Transfer of a Portion of Mervyn Street Road Reserve and Amalgamation with Lot 38 (4) Mervyn Street and Lot 107 (42) Strickland Street, East Bunbury.

<b>Applicant/Proponent:</b>	Citygate Properties Pty Ltd
<b>Author:</b>	Jane Porter, Senior Property Officer
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-9

#### Summary

Further to Council Decision 242/13 on 6 August 2013 the application received from Citygate Properties Pty Ltd (“the applicant”) requesting the transfer of a portion of Mervyn Street road reserve and amalgamation with Lot 38 (4) Mervyn Street and Lot 107 (42) Strickland Street, East Bunbury, an area of approximately 1,622m<sup>2</sup> was advertised in the South West Times, the City of Bunbury Public noticeboards and Library noticeboards.

No public submissions were received.

#### Executive Recommendation

Council agrees to the transfer of portion of Mervyn Street road reserve and amalgamation with Lot 38 (4) Mervyn Street and Lot 107 (42) Strickland Street, East Bunbury to enable the applicant to plan for the roofing of the Bunning’s outside yard area, subject to the terms and conditions as specified in the report, and the following:

1. A partial or full road closure is initiated through Section 58 of the Land Administration Act 1997 (“Act”).
2. The applicant to pay all costs associated with the advertising in accordance with the provisions of Section 58 of the Local Government Act 1995.
3. It will be the applicant’s responsibility to transfer and amalgamate a portion of Mervyn Street into Lot 38 Mervyn Street and Lot 107 Strickland Street creating one Lot.
4. The applicant is to agree to an easement over the stormwater drainage system.
5. Access to the road is to remain open at all times to the public (as an open carriageway).
6. The applicant will be solely responsible for maintaining the existing road, paths and landscaping.
7. The applicant is to pay all fees and charges in relation to the transfer and purchase of the road reserve.
8. The applicant is to provide the City with a Deposited Plan from a licensed surveyor approved by State Land Services.
9. The applicant to comply with all Western Powers requirements.

#### Background

The applicant wishes to transfer a portion of Mervyn Street road reserve and amalgamate the Reserve with Lot 38 (4) Mervyn Street and Lot 107 (42) Strickland Street, East Bunbury forming one (1) Lot, to enable the applicant to plan for the roofing of the Bunning’s outside yard area. The applicant is not proposing to build on the proposed section of road reserve to be transferred. It is a

condition that the road reserve will remain open for public use and stormwater easements, if applicable, need to be created and noted on the survey plans.

The Applicant has completed and returned the relevant application documents.

A location plan is **attached** at Appendix DCS-9.

### **Council Policy Compliance**

Not Applicable.

### **Legislative Compliance**

In accordance with section 58 of the Land Administration Act 1997 and Section 87 of the Land Administration Act 1997.

### **Officer Comments**

The proposed transfer was advertised in the South Western Times on 29 August 2013 for a period of 35 days, Council has received no objections or comments from the public.

All Service Providers have been contacted and their responses are as follows:

Aqwest	Citygate will relocate the existing services to now be situated on the outside of the new boundary and the remaining Aqwest assets, being internal pipework only will be gifted to Citygate to be fully serviced and maintained.
Water Corporation	The Water Corporation has no objection to the proposed transfer of part of Mervyn Street.
Dept. of Planning	The Department of Planning has no objection to the above proposal in accordance with the plan supplied.
Western Power	<p>Will only object if alignments, easements or clearances are encroached or breached. If any existing infrastructure needs to be relocated due to any requirement of any proposed transfer, Citygate are to contact Western Power.</p> <p>In the event Western Power has to install an asset on this property to supply the lot Western Power staff will require 24 hours unencumbered access. The position and type of locks used on any fencing are to be accessible to Western Power employees and a standard key be provided along with a separate padlock. Otherwise Western Power has no objection to the proposal.</p> <p>Reference is made to the above in the Executive Recommendation, point 9.</p>
Alintagas	Have no gas infrastructure within the area of road to be amalgamated, and have no objections to the application.

### **Analysis of Financial and Budget Implications**

The Applicant is responsible for all costs including document preparation, advertising and surveying.

### **Community Consultation**

Advertising in accordance with Section 58 of the Land Administration Act 1997 for a period of 35 days will be affected in the South Western Times, the City's public notice boards and the City's website.

### **Councillor/Officer Consultation**

Director Works and Services, Manager Engineering, Director Planning and Development Services, Team Leader Planning and Assets, and Manager Infrastructure and Assets Works and Services.

Director Works and Services have recommended that the City agree to the transfer of road reserve based on:

- The road services are within a private development,
- Access to the existing driveway that services the property at the corner of Lot 17 (34) Mervyn and Albert remain a public road,
- That stormwater easements, if applicable, need to be created and noted on survey plans.

## 10.2.6 Proposed Crown Sites for Compensation (Under Management) – Compensation Land – College Grove Joint Venture.

<b>Applicant/Proponent:</b>	City of Bunbury
<b>Author:</b>	Massimo Andreone, Manager Contracts and Property
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-10, DCS-11

### Summary

The City of Bunbury have prepared a preliminary evaluation of various proposed sites, with a view towards determining suitable Crown Sites which could be identified as options to consider as part of the proposed College Grove “land swap”. Location plans are **attached** at Appendix DCS-10

### Executive Recommendation

1. That Council endorses the Major Projects Committee Decision of 13 August 2013 “that Council requests that the Chief Executive Officer undertakes an investigation to identify suitable alternate parcels of land which could be viable for procurement under compensation to the City”.
2. That Council authorise the conduct of detailed investigations as outlined in the report, into the possible acquisition of the following properties as part of the proposed “land swap”:-
  - 2.1 Lot 616 Dalhousie Street, Carey Park
  - 2.2 Lot 891 Clifton Street, Bunbury
  - 2.3 Lot 497 Ocean Drive, Bunbury
  - 2.4 Lot 886 Ocean Drive, Bunbury
  - 2.5 Lot 4968 Cornell Crescent, South Bunbury
  - 2.6 Lot 5157 Hamersley Drive, Carey Park
  - 2.7 Lot 1059 Beddingfield Street, Davenport

### Background

Lot 881 Koombana Drive had been previously considered for possible compensation, however, advice received from the Western Australian Museum has confirmed that the coordinates for the proposed ‘Maritime Archaeological Development Exclusive Zone’, extend over Lot 881 (as well as over Lots 882 and 883). A location plan is **attached** at Appendix DCS-11.

The Museum has further advised that there are also areas outside the gridded area that were not subject to geophysical survey, excavated or water probed, which may result in further sites being included in the “Exclusive Zone”. Potential sites include a whaler’s grave and a shipwreck site that both lay east of the gridded study area and the Museum recommends that any future development planned for these areas would require the undertaking of further geophysical and archaeological surveys. The museum also recommends that the location identified on the site of the Western Australian Company Store on the northern edge of the estuary be placed on the City’s heritage overlay as on historical archaeological heritage site.

Planning and Development have also confirmed that the “intruding” portion on Lot 881 is constrained and excluded from any development other than a car park and landscaping.

Accordingly, and upon preliminary consideration of the matter, it is concluded that Lot 881 is unviable for compensation purposes as a result hereof.

The total land area for Lot 881 is 14,895m<sup>2</sup>. A valuation has been procured from Landgate dated 5 August 2013, in terms of which the unconstrained portion of Lot 881 (measuring 10,438m<sup>2</sup>) and with the land zoned Tourism/Accommodation has been valued at \$175.00/m<sup>2</sup>, resulting in a valuation of **\$1,826,650** (10,438m<sup>2</sup> @ \$175/m<sup>2</sup>) **inclusive of GST**.

On this basis of calculation, the unconstrained value of Lot 881, in its entirety, and on the assumption that the Lot was not constrained at all by the “Exclusive Zone”, would result in a valuation of **\$2,606,625** (14,895m<sup>2</sup> @ \$175.00/m<sup>2</sup>) **inclusive of GST**.

Accordingly, alternate compensation to the City should be looked at with these valuations in mind.

A preliminary evaluation of various proposed sites has been conducted, with a view towards determining alternate Crown Sites which could be identified as options to consider as part of this proposed “land swap”, in light of the non-suitability of these three (3) Lots. This was attended to in conjunction with personnel from Corporate Services, Planning and Development, Contracts and Property, Development and Building Certification, and Sustainability and Land Use Planning.

This evaluation serves to briefly address matters raised, and to indicate as to the basis on which the proposed sites have been determined, on a preliminarily basis, as suitable, possibly suitable, or not suitable at all.

***Suitable (items 1 to 6):***

***1. Lot 4669 Forrest Avenue (Jaycee Park)***

This site (together with the Stirling Street Arts Centre being Lot 534 Stirling Street), has already been identified as a site required for compensation towards the “Preston River to Ocean Regional Park” proposal, and as such, forms the basis of counter-offers which have been submitted to the Western Australian Planning Commission together with cash offers for Lot 626 Ocean Drive and Lot 632 Centenary/Parade Roads, Usher, and will in turn be proffered as the City’s contribution to the two projects to accommodate ‘not-for-profit’ organisations in these locations, with Lotterywest contributing the balance of the funds themselves. This property, however, may require remediation (it could contain a Municipal Refuse Site), and urgent research and site investigations are being conducted, to determine the likely costs, if any.

No issues arise from an Engineering desktop audit but further on-site investigation is required. An easement may be required as stormwater assets are present.

***2. Lot 616 Dalhousie Street***

This Lot is proposed.

The site may contain unconfirmed drainage assets. This aspect needs follow up investigation from an engineering perspective, and may become a constraint making this property unsuitable for compensation.

3. Lot 891 Clifton Street

The site has limited recreational demand or value and is suitable for redevelopment, ideally for mixed tourism purposes. The Lot is proposed.

No issues present from an engineering perspective.

4. Lot 534 Stirling Street

Refer to item 1 above. Historical maps show that the area adjacent to this Lot, being Queens Gardens, was formerly part of a lagoon linked to the Leschenault Estuary, and this lagoon was used as a rubbish dump and site for fill, and may be a contaminated site. Urgent investigations are being undertaken in this regard. The Concept Plans have removed the previously proposed access onto Blair Street, which should ensure that the Plans obtain approval from the Department of Planning. The Lot does contain a heritage listed building (the former infants school), and has a high level of community use as a creative arts and crafts precinct.

No issues present from an engineering perspective.

5. Lot 497 Ocean Drive

This Lot is proposed. It is the subject of Council's adopted Back Beach Tourism Precinct Plan and will be included in a scheme amendment to facilitate future mixed use/tourism development.

No issues present from an engineering perspective, although the site contains a City of Bunbury filtration plant on one side.

6. Lot 4968 Cornell Crescent

The Lot is suitable for residential development and is proposed, although as the site is located within the Bunbury Water Reserve, there may be limitations on certain types of development, and the advice of the Department of Water will be sought, prior to confirming the suitability of this site.

No issues present from an engineering perspective.

***Possibly Suitable (items 7 to 9):***

7. Lot 1059 Beddingfield Street

The site is deemed as possibly suitable.

However, issues do present from an engineering perspective. There is a drainage basin on site, and drainage pipes feed into the lot. The land is very steep, and may result in potential high development costs for a building platform. The Preston River flood high mark needs to be determined and engineering requires doing a detailed follow-up with investigations as there would certainly be costs associated with the construction of a new basin and remediation of the existing basin.

8. Lot 886 Ocean Drive

Aboriginal heritage site issues present and it contains European cultural heritage value as a burial ground. There are also long term obligations of it being utilised by the Bunbury High School and general community for recreational purposes i.e. tennis courts. Subject to further consultation and planning, the site may be considered possibly suitable.

Drainage assets are present in the car park and tennis courts, otherwise no issues present from an engineering perspective.

9. Lot 5157 Hamersley Drive

This Lot is deemed as possible suitable, but would require further investigation; particularly from a Planning perspective.

From an engineering perspective the site would require an easement as a stormwater pipe runs along the southern boundary thereof.

***Not Suitable (items 10 to 22):***

10. Lot 701 Forum Way

This Lot could present a good opportunity for development (but would require further investigations, particularly from a Planning perspective).

However, from an engineering perspective the site provides major overflow for stormwater and contains multiple critical stormwater assets, and issues may present with developing this land, which would render the site as unsuitable.

11. Lot 5711 Ingram Court

The Lot holds “Public Open Space” status. Wetland issues are a real possibility as the Lot covers an environmentally sensitive and public drinking water supply area, and is located within Bunbury Water Reserve. The City would require investigating further with the Department of Water. The Lot is not proposed.

No issues present from an engineering perspective

12. Lot 5020 College Row

The Lot is not proposed for similar reasons as for Lot 5711 Ingram Court, above.

The site contains stormwater assets (including a major compensation basin) and is deemed as unsuitable from an engineering perspective.

13. Lot 649 Adam Road

This Lot may contain a potential Aboriginal Heritage site. Furthermore there is a certain community affinity to the site, and development thereof may be contrary to the terms of the SWCC grant. The Lot is not proposed.



No issues present from an engineering perspective, although the site contains a footpath.

14. Lot 782 Ashrose Drive

This Lot is not proposed. The park is valued by the community and should be retained as a Public Open Space already under the management of the City.

The site would require an easement as a drainage pipe runs through the reserve, otherwise no issues present from an engineering perspective.

15. Lot 4979 Richmond Street

This site is not proposed.

The site contains a footpath and other park assets and would require an easement as there is a pipe outlet to the inlet, otherwise no issues present from an engineering perspective.

16. Lot 4995 Forster Street

This Lot is not proposed.

From an engineering perspective, the site may contain unconfirmed drainage assets, and this aspect requires follow up investigation.

17. Lot 1066 Wisbey Street

This Lot is an important piece of Public Open Space and is accordingly not proposed.

The site is deemed as unsuitable from an engineering perspective.

18. Lot 487 Flynn Street

This Lot is not proposed as special clearing permits would be required.

The site contains multiple critical stormwater assets (including a compensation basis) and is deemed as unsuitable from an engineering perspective.

19. Lot 4983 Wallrodt Crescent

This Lot is Landlocked and as there is a shortage of Public Open Space in Glen Iris it is not proposed.

No issues present from an engineering perspective.

20. Lot 1054 Wallrodt Crescent

The same considerations as under item 19 above apply and the Lot is not proposed.

No issues present from an engineering perspective.

21. Lot 548 Birch Street

The Lot is a proposed Conservation Reserve and supports good condition native vegetation. It is recommended to retain the site as Crown Reserve for conservation purposes, and is not proposed.

No issues present from an engineering perspective.

22. Lot 832 Ocean Drive

The Lot is not proposed.

The site contains a stormwater compensation basin, and is deemed as unsuitable from an engineering perspective.

**Council Policy Compliance**

Not applicable.

**Legislative Compliance**

Not applicable.

**Officer Comments**

There are eight properties identified in this report for possible acquisition by the City; however, subject to detailed investigations being conducted with specific reference from an Engineering perspective, to drainage and stormwater issues, as well as to related issues from a Planning perspective.

**Analysis of Financial and Budget Implications**

The acquisition of suitable Lots would be beneficial to the City in the long term, and no financial implications would present, as acquisition of the lots would form part of compensation payable to the City under the proposed College Grove 'land swap'.

Investigation and research into the suitability or otherwise of the proposed sites will be conducted by the City internally.

**Community Consultation**

Not Applicable.

**Councillor/Officer Consultation**

The proposed sites have been submitted pursuant to advice sought from the following departments:

- Planning and Development
- Development and Building Certification
- Sustainability and Land Use Planning
- Engineering
- Contracts and Property

### **10.2.7 Offer and Attendant Counter-Offer, and Rejection of Counter- Offer by the Western Australian Planning Commission for the Sale of Lot 626 Ocean Drive and Lot 632 Centenary/Parade Roads, Usher**

<b>Applicant/Proponent:</b>	City of Bunbury
<b>Author:</b>	Massimo Andreone, Manager Contracts and Property
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-12, DCS-13, DCS-14, DCS-15, DCS-16, DCS-17, DCS-18

#### **Summary**

The City of Bunbury has recently received rejections from the Western Australian Planning Commission (the “Commission”), dated 1 and 7 October 2013, in relation to the City’s counter-proposals to the Commissions offers for the acquisition of Lots 626 Ocean Drive, and 632 Centenary/Parade Roads, Usher.

The City now seeks to liaise directly with the Department of Lands in order to facilitate the acquisition of Lots 534 Stirling Street, and 4669 Forrest Avenue (being Crown Reserves 31563 and 25317) as counter-proposed, in relation to the acquisition by the State Government of the said Lots 626 Ocean Drive and 632 Centenary/Parade Roads, Usher.

#### **Executive Recommendation**

1. That Council authorises the Chief Executive Officer to renegotiate with the Western Australian Planning Commission for the transfer of Lots 626 Ocean Drive, and 632 Centenary/Parade Roads, Usher, under the Commissions original proposals, dated 25th July 2013; subject to, and conditional upon, the fulfilment of item 2 hereunder; and further subject to a minimum payment to be received for Lot 626 Ocean Drive, in sum of \$1,080,000 exclusive of GST, and a minimum payment to be received for Lot 632 Centenary/Parade Roads, in sum of \$650,000 exclusive of GST, respectively.
2. That Council authorises the Chief Executive Officer to enter into negotiations with the Department of Lands, for the transfer of Crown Reserve 31563 (‘Stirling Street Arts Centre’) and Crown Reserve 25317 (‘Jaycee Park’), as freehold land to the City, subject to, and conditional upon, the fulfilment of item 1 above.

#### **Background**

The City of Bunbury was initially approached by the Commission with proposals for the acquisition from the City of two lots which are required by the Commission for amalgamation in the Preston River to Ocean Regional Park Proposal, being:-

- Lot 626 on Deposited Plan 183497, and being the whole of the land comprised in Certificate of Title 2132/265 Ocean Drive, Usher, measuring 54.0 hectares; and
- Lot 632 on Deposited Plan 183835, and being the whole of the land comprised in Certificate of Title 1605/789 Centenary/Parade Roads, Usher, measuring 32.5 hectares.

The whole of the above described lots are reserved as “Regional Open Space” under the Greater Bunbury Region Scheme, and “Parks and Recreation” under the City of Bunbury Town Planning Scheme No. 7.

The Commission, under cover of letters dated the 25 July 2013, affected the following offers to Council regarding the acquisition of these lots:-

- Payment of the sum of \$1,080,000 exclusive of GST for the whole of Lot 626 Ocean Drive, free of encumbrances, and subject to conditions; and
- Payment of the sum of \$650,000 exclusive of GST for the whole of Lot 632 Centenary/Parade Road, free of encumbrances, and subject to conditions.

Copies of the Commissions offers of purchase are **attached** at Appendix DCS-12 and DCS-13, which clearly set out the Commissions conditions.

Council, on 6 August 2013, under Resolution 256/13, resolved not to accept the Commissions offers, and to authorise the Chief Executive Officer to make a counter-offer for the transfer of Lots 626 Ocean Drive and 632 Centenary/Parade Roads, accepting the sums offered by the Commission as detailed above; however, coupled with the transfer of the following land as freehold land to the City, free of all easements and encumbrances, and subject to conditions:-

- Lot 534 on Deposited Plan 188249 (Reserve 31563 currently for the purpose of “Parking and Recreation”), being 534 Stirling Street, Bunbury; and
- Lot 4669 on Deposited Plan 165469 (Reserve 25317 currently for the purpose of “Municipal Purposes”), being 4669 Forrest Avenue, Carey Park, Bunbury (‘Jaycee Park’).

Copies of the counter-proposals, together with all annexures thereto, are **attached** at Appendix DCS-14 and DCS-15.

The Commission was asked to respond by the 29 September 2013.

Under cover of letters dated 1 and 7 October 2013 respectively, the Commission rejected the City’s counter-proposals, citing the fact that Crown Reserves are owned by the State of Western Australia, and are administered by the Department of Lands, and not the Department of Planning, and that the City would need to submit a request directly to the Department of Lands, seeking the freehold title of the Crown Reserves, which in any event have the City as the Primary Interest Holder.

Any acceptance by the City of the Commissions offer to acquire Lots 626 Ocean Drive and 632 Centenary/Parade Roads would need to address the subject lots only, and cannot be dependent upon the freehold transfer of the Crown Reserves.

Copies of the Commission’s letters are **attached** at Appendix DCS-16 and DCS-17.

### **Council Policy Compliance**

There is no Council Policy applicable to this item.

### **Legislative Compliance**

Section 52(3)(a) of the *Land Administration Act 1997* and Section 3.58 of the *Local Government Act 1995*.

### **Officer Comments**

Acceptance of the City's counter-proposals is necessary, in order to achieve proper remuneration by the City for transfer of the land as required by the Commission for amalgamation in the proposed Preston River to Ocean Regional Park.

### **Analysis of Financial and Budget Implications**

Taking into consideration the future potential in increased value of the subject land, Council is to ensure that fair and reasonable compensation is achieved for transfer of the subject land to the Commission, this by simultaneously procuring transfer to the City of these Crown Reserves.

### **Community Consultation**

This matter has not been subject to community consultation.

### **Councillor/Officer Consultation**

Council has been advised via memorandum dated 10 September 2013 of the counter-proposals, as well as of the various issues addressed therein.

A copy of the memorandum is **attached** at Appendix DCS-18.

### **10.3 Director Planning and Development Services Reports**

#### **10.3.1 Proposed Amendment 71 – Lot 3 Ocean Drive, Bunbury (Fawlty Towers Motel)**

<b>Applicant/Proponent:</b>	TME Town Planning Management Engineering Pty Ltd
<b>Author:</b>	Neville Dowling, Planning Officer
<b>Executive:</b>	Bob Karaszewych, Director Planning and Development Services
<b>Attachments:</b>	Appendix DPDS-1

#### **Summary**

Lot 3, (No 205) Ocean Drive (formerly “Fawlty Towers” Motel) has approval for the development of a 43 unit complex comprising 25% Multiple Dwelling/Unrestricted Residential Accommodation (URA) (i.e. can be used for either short stay/tourist accommodation or permanent residential accommodation) and 75% short stay accommodation only, which is consistent with the current requirements of Special Use Zone 43 in Town Planning Scheme No.7.

The proposed amendment seeks to significantly increase the proportion of Multiple Dwellings units that may be provided. The proposal would allow 29 of the 43 units (approximately 70%) to become Multiple Dwellings/URA, with the remaining fourteen (14) units (approximately 30%) to be short-stay accommodation.

The former Fawlty Towers Motel maintained fourteen (14) short stay units, and the retention of this number (as a minimum) ensures that the tourism product is not diminished post development, noting additional benefits accruing from the up-grade of facilities and services generally. It is also proposed to include “Shop” (limited floor space) as an additional permissible use in the context of a small scale local convenience shop.

A copy of the Amendment 71 document can be found **attached** at Appendix DPDS-1.

#### **Executive Recommendation**

That Council, in accordance with the Planning and Development Act 2005, resolves to:

1. Initiate Scheme Amendment 71 to the City of Bunbury Town Planning Scheme No. 7 to amend the Table under “Schedule 2 – Special Use Zone No. 43” by:
  - a) Deleting the requirement that the primary/predominant land use be “Motel” or “Short Stay Multiple Unit” and that any “Multiple Dwelling/Unrestricted Residential Accommodation” element be incidental in nature;
  - b) removing the maximum 25% land use cap associated with the provision of Multiple Dwelling/Unrestricted Residential Accommodation, subject to the site retaining a minimum of 14 units of any development for the exclusive use of Short-Stay Accommodation;
  - c) subject to introducing a limitation on the maximum lettable floor area of “Shop” to 100m<sup>2</sup>; adding “Shop” to the list of discretionary (D) land uses that may be permitted, as detailed in the Scheme Amendment Report (refer to Appendix DPDS-1);

- d) Subject to deletion of “Convenience Store” from the Scheme Amendment Report.
  - e) Subject to the Scheme Amendment Report being modified to identify an appropriate R-Coding over the site.
2. Refer the proposed Scheme Amendment 71 documentation to the Environmental Protection Authority (EPA) for approval to advertise for public comment.
  3. Notify the Western Australian Planning Commission of Council’s decision to initiate proposed Scheme Amendment 71, and furnish the Commission with a copy of the scheme amending documentation, prior to proceeding to public advertising.
  4. Subject to the consent of the Environmental Protection Authority, Council resolves to publicly advertise the proposed Scheme Amendment 71, for a period of at least 42 days.
  5. Following the public advertising of proposed Scheme Amendment 71, return the scheme amending documentation, including any proposed modifications, along with any public submissions lodged with the City of Bunbury during the advertising period to Council for further consideration.

### **Background**

The Fawly Towers Motel provided fourteen (14) Short-Stay units until its closure and demolition, prior to redevelopment in 2009.

Planning approval was originally granted in 2007, for redevelopment of the motel, and although subsequent amendments to the planning approval varied the total number/configuration of Short-Stay (approximately 45) units were approved, comprising a mix of one bed, two and three bed units.

In 2010, a request for a scheme amendment was lodged by Harley Global on behalf of the owners seeking an amendment that would permit 25% of those units to be used for permanent accommodation. This was approved by Council on 22 March 2011 (Decision 51/11) and subsequently granted final approval by the Minister for Planning in June 2011, which in turn created Special Use Zone 43 allowing:

- Motel
- Short-Stay Multiple Unit
- Multiple Dwelling – Unrestricted Residential Accommodation (i.e. allows for either Short-Stay or permanent residential)
- Restaurant

The amendment was considered consistent with the Local Planning Strategy for Tourism (2009).

### **Current Proposal**

The proposal seeks to remove the 25% cap and facilitate the option of Short-Stay or URA being available to 29 out of the 43 units on site. A minimum fourteen (14) short stay accommodation units only would be retained to ensure that the site continues to contribute to the pool of dedicated tourism accommodation available in Bunbury at a level that remains consistent with that provided by the former motel.

## **Council Policy Compliance**

### Local Planning Strategy for Tourism

Local Planning Strategy for Tourism (2009, LPS-T) identifies the Fawltly Towers Motel as a “Non-Strategic Tourism Site”, situated within the “Punchbowl – Big Swamp Strategic Tourism Location”.

The designation of and subsequent strategic planning approach taken towards dealing with non-strategic tourism sites are addressed in part 3.4.3 of the LPS-T. The LPS-T states, in respect of facilitating an element of permanent accommodation:

*“In keeping with the recommendations of the Tourism Planning Taskforce Report, it is considered that 25% (permanent residential component) become the upper limit in most circumstances.”*

Notably, anticipating a move towards the introduction of a more flexible case by case approach by the State (as realised in Planning Bulletin 83/2013), the LPS goes on to say:

*“However for those proposals that can demonstrate exceptional merit/quality in design, and where the overall benefit to tourism would be particularly significant, a higher percentage of permanent residential may be judged appropriate in order for the development to be realised.”*

The adopted strategy recommends that the predominant use of Non-Strategic Tourism Sites should remain for the purposes of Short-Stay accommodation.

### Local Planning Policy: Unrestricted Residential Accommodation (URA)

This policy is intended for the proposed dual use of specifically designed new build single residential houses, grouped dwellings and multiple dwellings or the change of use and modification of existing multiple dwellings, for the optional purpose of providing short term accommodation on a commercial basis. Whilst the policy does not have a direct bearing on the issues raised by this amendment proposal, further regard would be required during any resubmission of a revised development application.

### Back Beach Tourism Precinct Plan (BBTPP)-(2012)

The BBTPP represents the Council’s adopted policy position in respect of progressing development along Ocean. Although the Fawltly Towers Motel site is situated to the south of the precinct, land use and design principles applied within the precinct have relevance to the scheme amendment proposal.

For example, Non-Strategic Tourism Site’s (i.e. Special Use Zone No.1 – Lot 76 Ocean Drive and Special Use Zone No.31) within the precinct have been provided with an opportunity to explore the introduction of residential/URA uses at a level well in excess of 25%, together with an element of supporting commercial development, such as restaurants and shops (with limited floor space) which could stimulate the creation of an active frontage along Ocean Drive. The sites will be required to retain a demonstrable amount of dedicated short stay accommodation located in a prime position that not only seeks to ensure that the strategic tourism function of the sites are maintained, but delivers overall tourism and amenity benefits to the precinct as a whole.



## **Legislative Compliance**

### Town Planning Scheme No. 7

The definitions of Motel, Multiple Dwelling, Restaurant, Shop and Unrestricted Residential Accommodation are found in Schedule 1.

The planning controls relating to Special Use Zone No.43 can be found in Schedule 2 of the Scheme.

## **Officer Comments**

Existing conditions associated with Special Use Zone 43 limit the proportion of units that may be occupied as Multiple Dwelling/URA to a maximum of 25%, and this reflects the general position adopted by the LPS Tourism. The tourism strategy advises that higher percentages may be considered where proposals can *“demonstrate exceptional merit/quality in design, and where the overall benefit to tourism would be particularly significant”*.

The proponents have indicated that the development will provide benefits to the surrounding residential area, whilst adaptable to meet market demand for both short term and long stay accommodation as market demands.

### Issue of Additional Proposed Land Use of Shop

The introduction of a “Shop” use, with limited retail floor space, would be consistent with LPS Tourism, in this location (Table 3.20) and reflects the approach already adopted for the Punchbowl (Special Use Zone No. 7) and the Back Beach Tourism Precinct Plan (Special Use No. 66). An overall site maximum of 200 m<sup>2</sup> net lettable area (nla) for “Shop” use is intended to ensure that the scale does not compete with shops or shopping occurring at a neighbourhood level, or grow to a level that is inconsistent with the intended tourism/residential function and character of the site and existing setting.

## **Analysis of Financial and Budget Implications**

The development is anticipated to generate considerable rate revenue for the City.

## **Community Consultation**

Subject to initiation by the Council, it is intended that Scheme Amendment 71 be advertised in accordance with the Planning and Development Act 2005 and associated Town Planning Regulations 1967 for a minimum period of 42 days this includes a sign(s) placed on site, letters to adjoining/adjacent owners, servicing authorities, and advertisements in a local newspaper.

## **Councillor/Officer Consultation**

A number of discussions have been undertaken at officer level and two meetings have been held with the applicant/owners. The owner of Faulty Towers, Mr Terry Baker provided a briefing to Council on 2 April 2013.

### **Delegation of Authority**

In accordance with Section 25 of the Town Planning Regulations 1967, Council determination is required to initiate the amendment.

### **Relevant Precedents**

The former Punchbowl Caravan Park site (Lot 210 Holywell Street and Lot 211 Pandal Street, Bunbury) lies 500 metres to the north of the subject site. Under Special Use Zone No.7, it has a maximum of 25% allowance for residential dwelling and a minimum of 75% allowance for a mix of non-residential uses, hotel and short stay accommodation uses. The site is not yet developed.

A similar situation to the Punchbowl site applies to Lot 66 Ocean Drive Bunbury under Special Use Zone 52 which is 1.8 km to the north of the subject site.

### 10.3.2 Staff Authorisation

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	John Kowal, Manager Community Law, Safety and Emergency Management
<b>Executive:</b>	Bob Karaszkewych, Director Planning and Development Services,
<b>Attachments:</b>	Nil

#### Summary

Council Officers whether they be Rangers, Fire Control Officers and Parking Officers are required to be authorised by the Council to enable them to perform their duties in accordance with relevant legislation.

Specifically, the Team Leader Ranger Operations and Team Leader Community Safety and Emergency Management are required to be authorised by the Council.

#### Executive Recommendation

That Council:

1. Appoints Officers Frank Yates, Rhys Paul and Chris Martin as Authorised Officers and Authorised Persons on commencement of employment with the City of Bunbury, in accordance with the following legislation -
  - 1.1 Dog Act 1976, Dog Act Regulations, Dog (Restricted Breeds) Regulations (No. 2) and Dog Local Laws (as amended);
  - 1.2 Local Government Act 1995;
  - 1.3 Local Government (Miscellaneous Provisions) Act 1995 as amended;
  - 1.4 Litter Act 1979 and Litter Regulations (as amended);
  - 1.5 Control of Vehicles (Off-Road Areas) Act 1978 and Control of Vehicles (Off Road Areas) Regulations (as amended);
  - 1.6 The purpose of control and supervision of any of the Local Laws of the City of Bunbury Council;
  - 1.7 Bush Fires Act 1954 and Bush Fires Act Regulations (as amended); and
  - 1.8 Cat Act 2011 and Cat Act 2012 Regulations.
2. Appoints Frank Yates, Rhys Paul and Chris Martin as a:
  - 2.1 Registration Officer in accordance with the Dog Act 1976;
  - 2.2 Fire Control Officer in accordance with Section 38 and 59 of the Bush Fires Act 1954 (as amended); and
  - 2.3 Pound Keeper/Ranger pursuant to the provision of Part XX of the Local Government (Miscellaneous Provisions) Act 1995.
3. Appoints Chris Widmer as the Deputy Chief Bush Fire Control Officer in accordance with Section 38 and 59 of the Bush Fires Act 1954 (as amended).
4. Advertise all authorisations as required by the relevant legislation.

## **Background**

Officers require Council authorisation in accordance with relevant legislation to enable Officers to administer and enforce the provisions of various legislation.

Recent Officer appointments that require Council authorisation are:

<b>Name</b>	<b>Position</b>	<b>Commencement Date</b>
Frank Yates	Team Leader, Ranger Operations	2 September 2013
Chris Widmer	Team Leader Community Safety and Emergency Management	16 September 2013
Chris Martin	Ranger/Fire Control Officer	28 October 2013
Rhys Paul	Parking Officer	16 October 2013

## **Council Policy Compliance**

The authorisation of law enforcement Officers is a requirement to perform their duties.

## **Legislative Compliance**

The aforementioned legislations require the Council to authorise Officers employed for the purposes of exercising the powers as conferred under the above legislations.

**11. Applications for Leave of Absence**

**12. Motions on Notice**

**13. Questions on Notice**

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

***13.2 Questions from Members***

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

**15. Meeting Closed to Public**

***15.1 Matters for which the Meeting may be Closed***

**16. Closure**