

## **Bunbury City Council**

### **Notice of Meeting and Agenda 14 October 2014**



**CITY OF BUNBURY**  
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Bunbury WA 6230  
Western Australia  
*Correspondence to:*  
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## GLOSSARY OF ABBREVIATED TERMS

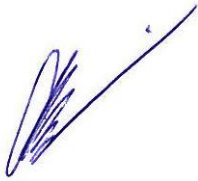
Term	Explanation
1:100	Ratio of 'one in one hundred'
AD	Acceptable Development
ARI	Annual Recurrence Interval
AHD	Australian Height Datum
ANEF	Australian Noise Exposure Forecast
AWARE	All West Australians Reducing Emergencies (grant funding)
BCA	Building Code of Australia
BCCI	Bunbury Chamber of Commerce & 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

## Bunbury City Council Notice of Meeting

The next Ordinary Meeting of the Bunbury City Council will be held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, **14 October 2014** at 5.30pm.



Andrew Brien  
Chief Executive Officer  
(Date of Issue: 9/10/2014)

### Agenda 14 October 2014

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

#### Council Members:

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

## 1. Declaration of Opening / Announcements of Visitors

## 2. Disclaimer

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

## 3. Announcements from the Presiding Member

## 4. Attendance

### 4.1 Apologies

### 4.2 Approved Leave of Absence

Nil

## 5. Declaration of Interest

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

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

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

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

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

Cr Cook declared an impartiality interest in item 10.4.1 titled *“Department of Fire and Emergency Services Self-Supporting Loan for the Construction of a new SES Headquarters and Incident Control Centre”* as he is a member of the Bunbury Unit of the SES. Cr Cook will remain in the chamber for the discussion and vote on the matter.

Mayor Brennan declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as he resides at 50 Dunstan Street Bunbury which is owned by his wife, and he is the beneficial trustee of a property at 7 Little Street Bunbury as well as a vacant residential property at 35 Queensbury Street Bunbury.

Cr Morris declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as he is the owner of a residential property at 7 Portsea Crescent, Bunbury and leases one commercial property at Shop 1/15 Bonnefoi Boulevard Bunbury.

Cr Steck declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as she is the owner of a residential property and her partner has significant property holdings in the district.

Cr McCleary declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as she is the part owner of one industrial property at 3B Mason Street, Bunbury.

Cr Cook declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as he is the owner of a residential property at Unit 3/2 Columba Street Bunbury, and a part owner of a residential property at Unit 7/99 Clarke Street South Bunbury.

Cr McNeill declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as he is a leaseholder for SOS Office Equipment.

Cr Kelly declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as he is the owner of a residential property as 2A Alexander St Bunbury.

Cr Jones declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as she is the owner of a residential property at 27D Gibbs Street, Carey Park.

Cr Steele declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as she is the owner of a residential property at 16 MacQueen Crescent Bunbury.

Cr Miguel declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as he is the beneficiary to a trust which owns commercial land at Pelican Point, Bunbury.

Cr Hayward declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as he is the owner of a residential property, and owns a quarter share in two unit blocks, one of which is has a unit under construction.

Cr Giles declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as she is the owner/occupier of 9/11 Princep Street, Bunbury.

Cr Prosser declared a financial interest in item 12.1 titled *“Motion on Notice – Rating Concession Cap”* as he is a potential beneficiary of a family trust which owns a number of properties which would be affected by the item in question.

**\*\*The Department of Local Government previously advised that in relation to the Motion on Notice submitted by Cr Cook titled *“Motion on Notice – Rating Concession Cap”*, Councillors should disclose any financial interests and provide the relevant details to the Department. Disclosures provided by Councillors have been referred to the Department. At the time of printing, the Department had not yet confirmed which Councillors would be provided with an**



**exemption. The Chief Executive Officer will advise of the outcome prior to the meeting, and confirm who would be able to participate in the debate and vote on the matter. \*\***

## **6. Public Question Time**

In accordance with Reg. 7(4)(a) of the Local Government (Administration) Regulations 1996, members of the public in attendance at the meeting may stand, state aloud their name and address, and ask a question in relation to any matter over which the municipality of Bunbury has jurisdiction or involvement.

In accordance with Standing Order 6.7(3)(a) a person wishing to ask a question, must complete a question form which is provided in the trays at the back of the public gallery and on the City's website. The completed form must include your name and address and contain no more than three (3) questions. If your question requires research or cannot be answered at the meeting, it will be taken on notice and you will receive a written response and a summary of your question (and any responses provided) will be printed in the minutes of the meeting.

### **6.1 Public Question Time**

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

Nil

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

### **7.1 Minutes**

#### **7.1.1 Minutes – Ordinary Council Meeting**

The minutes of the Ordinary meeting of the Bunbury City Council held 30 September 2014 have been circulated.

#### **Recommendation**

The minutes of the Ordinary meeting of the Bunbury City Council held 30 September 2014 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 – Bunbury Setagaya Sister Cities Committee Minutes 20.8.14 Appendix MTBN-2 – Youth Advisory Council Minutes 10.9.14

## **Summary**

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

1. Title: Bunbury Setagaya Sister Cities Committee Minutes 20.8.14  
Author: Jaimee Earl, EA to the Mayor  
Appendix: MTBN-1
2. Title: Youth Advisory Council Minutes 10.9.14  
Author: Elizabeth Larkin, Community Development Officer  
Appendix: MTBN-2

## **Council Committee Recommendation**

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

1. Bunbury Setagaya Sister Cities Committee Minutes 20.8.14
2. Youth Advisory Council Minutes 10.9.14

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

### **8.1 *Petitions***

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

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

### **8.2 *Presentations***

### **8.3 *Deputations***

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

### **8.5 *Conference Delegates' Reports***

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

## **10. Reports**

### ***10.1 Recommendations from Advisory Committees***

Nil

### ***10.2 Chief Executive Officer Reports***

Nil

### ***10.3 Director Community Development***

Nil

## **10.4 Director Corporate Services Reports**

### **10.4.1 Department of Fire and Emergency Services Self-Supporting Loan for the Construction of a New SES Headquarters and Incident Control Centre.**

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Chris Widmer – Team Leader Community Safety and Emergency Management, and David Ransom – Acting Director Corporate Services
<b>Executive:</b>	David Ransom – Acting Director Corporate Services
<b>Attachments:</b>	Nil

#### **Summary**

The 2014/15 Budget adopted by Council includes project PR-3612, 'Design and Construct Bunbury SES Head Quarters and Incident Control Centre'. This project has a budget of \$1.1M and is 100% funded by grant funds from the Department of Fire and Emergency Services (DFES).

The City is now aware that DFES Local Government Grants over the value of \$250,000 are now only available as a self-supporting loan from WA Treasury Corporation. As this self-supporting loan is not included in the annual budget, the City is required to seek Council's approval to borrow the required funds and give one month's local public notice.

The proposed loan will be over 10 years and is fully repayable by DFES.

#### **Executive Recommendation**

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

*\*Absolute majority required*

#### **Background**

As part of the DFES Local Government Grant Scheme (LGGs) application for the 2014/15 financial year, the City of Bunbury applied for a grant to construct a new SES Headquarters and Incident Control Centre at Lot 200 Robertson Drive, Bunbury. The application included quotations for construction and schematic drawings, with an estimated cost of \$1,088,783.

The construction of this facility would then enable the SES to vacate their existing site, to the east of the work's depot at Nuytsia Ave, for Council use.

During negotiations, the City was able to obtain agreement from DFES that they would also fund site works and service connections, provided that suitable land would be provided to site the facility. This is not usual practice, as the conditions for the grants usually demand that Local Governments provide these costs.

We have been formally notified by DFES that the City has been successful in being awarded the funds for this new facility by way of a self-supporting loan through the WA Treasury Corporation (WATC). Grant payments of \$140,000 per annum have been allocated by DFES to cover principle and interest costs. According to the DFES Grants Manual, this has been the arrangement for any grant over \$250,000 for the past two years.

This places the burden of drawing and managing the loan onto the City with DFES reimbursing the City to cover all costs associated with the loan repayments. The City will also manage the tender and construction process.

The asset will be owned by the City and ongoing maintenance of the facility borne by the annual Emergency Services Levy (ESL) that is provided by DFES.

**Self-Supporting Loan Details:**

Purpose: Design and Construction of the Bunbury SES Head Quarters and Incident Control Centre.

Amount: \$1,100,000

Term: 10 Years

Estimated Interest Rate: 4.5%

Estimated Annual Repayment: \$137,810

**Council Policy Compliance**

This proposal does not conform to Council's policy for self-supporting loans (CP-DCS-11).

The policy is typically for applications from not-for-profit clubs or organisations for capital improvement works to land or buildings owned or vested in the City of Bunbury. It was not anticipated that a State Government Department such as DFES would apply to the City for a self-supporting loan.

Further, the policy limits the maximum amount of the loan to \$250,000, and up to \$400,000 in exceptional circumstances or purposes. The proposed self-supporting loan is up to \$1,100,000.

**Legislative Compliance**

The Local Government Act 1995 section 6.20(2) requires that borrowings not included in the annual budget be publicly advertised for a period of one month.

An absolute majority vote by Council is required.

**Officer Comments**

The new SES Headquarters will enable the replacement of an aged and not fit for purpose facility with a state-of-the-art/ fit for purpose emergency services facility. The relocation of the SES Head Quarters to Lot 200 Robertson Drive will also release the current site at Nuytsia Ave for use by the City.

The City is required to provide a self-supporting loan with DFES LGGS funding all costs.

**Analysis of Financial and Budget Implications**

The proposed self-supporting loan will not be a cost to Council as loan repayments will be fully repayable by DFES. The granting of a self-supporting loan to DFES is considered a low financial risk to the City.

However the loan of \$1.1M will increase the City's outstanding loan liability from \$16.9M to \$18.0M at 30 June 2015. It will also unfavourably affect the Debt Service Ratio (Annual Operating Surplus before Interest and Depreciation over Principal and Interest repayments) for 2014/15 from 2.7 to 2.6. A debt service ratio of less than 2 indicates a high risk and whilst Council is still above this level, the loan does have an overall impact.

#### **Community Consultation**

The Local Government Act 1995 section 6.20(2) requires that borrowings not included in the annual budget be publicly advertised for a period of one month.

#### **Councillor/Officer Consultation**

The proposal to grant a self-supporting loan to DFES has been made in consultation with the Executive Leadership Team.

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

### **10.5.1 Final adoption proposed Scheme Amendment 70 Rezoning Lot 8 #135 Ocean Drive, Bunbury to “Special Use Zone No. 32 - Tourism Mixed Use”**

File Ref:	A05787
Applicant/Proponent:	Planwest WA Pty Ltd
Author:	Mr Anthony Pick – Planning Officer
Executive:	Bob Karaszewych, Director Planning and Development
Attachments:	Appendix DPDS-1: Proposed Scheme Amendment 70 Report Appendix DPDS-2: Letter of Response – Submissions Appendix DPDS-3: Schedule of Submissions

#### **Summary**

At its meeting of 4 February 2014, the Council resolved (Decision 40/14) to initiate the proposed Scheme Amendment 70 (proposed amendment) for public advertising, with the following modification.

*“Resolution 4 – Advertising to include a maximum height of 18 metres (near the intersection of William [Street] and Ocean Drive with an average height for the development of 15 metres”*

The proposed amendment was advertised for 42 days and closed on 9 May 2014. In total, 18 submissions were received of which 10 were received from the public. The proposed amendment is now returned to the Council for final adoption with modifications, prior to forwarding to the WAPC, for a decision on final approval. The proposed amendment report is attached as Appendix DPDS-1.

Modifications to the abovementioned report and Special Use Conditions are set out below.

#### **Executive Recommendation**

That Council in accordance with the *Planning and Development Act 2005* resolve to:

1. Finally adopt Scheme Amendment 70 to the City of Bunbury Town Planning Scheme text and map, as detailed in the prepared Local Planning Scheme Amendment Report by:
  - (a) Replacing the existing text in the Table under Schedule 2 – Special Use Zone No. 32 as per the revised Schedule 2 of the Scheme Amendment;
  - (b) Revising the Scheme Map to read ‘SU 32 - Tourism Mixed Use’;
2. Modifying proposed Condition 2.2 (c) of the Special Use Conditions from ‘Maximum building height of 18 metres (near the intersection of William Street and Ocean Drive) with an average height for the development of 15 metres’ to read:

“The maximum acceptable height of development shall be 12m above natural ground level (ngl), however, this may be increased under performance criteria to a maximum of 15m above ngl in accordance with the Local Planning Policy: Building Height.”

3. Refer the modified Scheme Amendment 70 documentation to the Western Australian Planning Commission (WAPC) for final approval in accordance with the provisions of the Town Planning Regulations 1967.
4. Inform submitters and the applicant of the Council decision.

### **Background**

Background to this amendment can be found in Council Minutes dated 4 February 2014.

#### **Council Decision 40/14**

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

1. *Initiate Scheme Amendment 70 to the City of Bunbury Town Planning Scheme No. 7 to*
  - (a) *Replace the existing text in the Table under Schedule 2 – Special Use Zone No. 32 as per the revised Schedule 2 of the Scheme Amendment;*
  - (b) *Amend the Scheme Map by rezoning Lot 8 Ocean Drive (Hungry Hollow Restaurant Site) to ‘SU 32 - Tourism Mixed Use’;*
2. *Notify the Western Australian Planning Commission of Council’s decision to initiate proposed Scheme Amendment 70, and provide the Commission with a copy of the Scheme Amendment documentation, prior to proceeding to public advertising.*
3. *Refer Scheme Amendment 70 documentation to the Environmental Protection Authority (EPA) for approval to advertise for public comment.*
4. *Subject to the consent of the Environmental Protection Authority, Council resolves to publicly advertise the proposed Scheme Amendment 70, for a period of at least 42 days.*
5. *Advertising to include a maximum height of 18 meters (near the intersection of William and Ocean Drive) with an average height for the development of 15 meters.*
6. *Following the public advertising of proposed Scheme Amendment 70, 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*

CARRIED

12 votes “for” / nil votes “against”

### **Legislative Compliance**

Proposals to amend a Local Planning Scheme are required to be undertaken in accordance with the *Planning and Development Act 2005* and associated Town Planning Regulations 1967.

Should the Council resolve to adopt proposed amendment, the documentation together with the schedule of submissions and Council’s resolution, is to be referred to the WAPC for its endorsement then referral to the Minister for Planning for final approval and gazettal.



### **Strategic Relevance**

The proposed special use zoning is consistent with the strategic tourism and mixed use outcomes for the Ocean Drive area.

### **Council Policy Compliance**

Conditions included within the proposed amendment draw upon elements of the adopted Local Planning Strategies and Local Planning Policies that will continue to guide planning design and decision making through the subsequent stages of the planning process.

### **Officer Comments**

The proposed amendment was initiated on 4 February 2014. The proposed amendment will modify the land use classes permitted on Special Use No. 32, Lot 8, 135 Ocean Drive known as Hungry Hollow. The current zoning permits the sole land use of “Restaurant”. The proponent seeks an amendment to enable the comprehensive redevelopment of the site for tourism mixed use. The following land uses are identified.

#### **‘D’ uses**

- (a) Restaurant;
- (b) Short-stay Grouped Unit;
- (c) Short-stay Multiple Unit;
- (d) Multiple Dwelling/Unrestricted Residential Accommodation (URA)

#### **‘A’ uses**

- (a) Hotel;
- (b) Motel;
- (c) Private Recreation;
- (d) Reception Centre;
- (e) Shop (maximum 100m<sup>2</sup> gross floor area on the lot)

#### **‘X’ uses**

All other uses not listed above.

The proposed amendment has been advertised all public submissions collated. The following address the main issues raised.

### **Land Use**

The proposed land uses are considered appropriate for the potential role as a “Minor Mixed Use Tourism Activity Node”, as identified within the City’s Local Planning Strategy for Tourism that recognises the site as an important amenity that activates its frontage to Ocean Drive.

### **Development Standards**

There has been concern raised in the submissions received following the advertising process on issues, such as car parking, set back requirements, and impact on amenity. Those matters will be

addressed in detail through the Local Development Plan, which would have regard to Local Planning Policies and the Statutory Provisions of the Scheme. The Local Development Plan would be subject to public advertising.

### Height

The Scheme Amendment report presented to the Council for initiation contained the requirement that the height of future development should be in line with the City's adopted Local Planning Policy (LPP): Building Height. At that time, the applicant's planning consultant submitted a Development Impact Assessment and presented the rationale for seeking an increase in height to a maximum of 18m.

Council resolved (Decision 40/14) to initiate the Scheme Amendment and advertise the Amendment to include a maximum height of 18 metres (near the intersection of William [Street] and Ocean Drive) with an average height for the development of 15 metres.

Public advertising identified the matter of height as one of the objections to the proposed amendment with three of the submissions specifically objecting to the increased height.

It remains the advice of officers that the height of any future development should remain consistent with the LPP: Building Height. This Policy identifies an 'acceptable' height limit of 12m for the Hungry Hollow site, with the ability to consider up to 15m above natural ground (ngl) level where the stipulated performance criteria are met.

The intent is that 15m provides the opportunity to explore and provide increased architectural expression at the corner of the lot addressing the intersection of Ocean Drive and William St.

The main concerns to facilitating an increase in height to 18m can be summarised as follows:

1. The Development Impact Statement submitted by the proponent does not satisfactorily demonstrate that the proposed height of up to 18m would not adversely impact on the established level of amenity in the surrounding residential area.
2. The building form and design (incorporating setbacks) is not yet known and as a result the development impact associated with the height increase is unable to be assessed with any certainty.
3. The height of 18m (or up to 5 storeys) is considered out of scale with the surrounding development, representing a 50% increase in height on the adjoining maximum 12m height restrictions.
4. The height of 18m would be a further 20% increase on the performance based height restriction of 15m applicable to the Hungry Hollow site.
5. Due to the topography of the land it is more difficult to assimilate any increase in height, as opposed to Back Beach Precinct.

The applicant, following the public advertising period, requested not to progress this matter to the Council until such time as the applicant had the opportunity to respond to comments received. A copy is **attached** at Appendix DPDS-2

It is therefore recommended that the Scheme Amendment be modified as per the Executive Recommendation. Height will need to be addressed as part of the Local Development Plan (and development application as appropriate). If building development above 12m ngl is proposed, this

would require justification through the submission of a Development Impact Statement in accordance with LPP: Building Height.

This, would have the benefit of reference to proposed built form, setbacks and massing to allow a more thorough and proper assessment of impact to be conducted. It would also remain open to Council to consider variations to the LLP: Building Height under clause 5.5 of the Scheme.

### **Community Consultation**

The proposed amendment was advertised in the local press; a sign was placed on site; and, direct notification to landowners in the locality.

A total of 18 submissions were received, two of which were received after the advertising period close on 9 May 2014.

The schedule of submissions and officer comments for the Scheme Amendment is **attached** at Appendix DPDS-3

### **Councillor/Officer Consultation**

The proposed amendment has been progressed in consultation with the City's other directorates and reviewed by the Executive Leadership Team.

### 10.5.2 Proposal to Establish a Planning Committee

<b>Applicant/Proponent:</b>	Internal
<b>Author:</b>	Bob Karaszekewych, Director Planning and Development Services
<b>Executive:</b>	Bob Karaszekewych, Director Planning and Development Services
<b>Attachments:</b>	Nil

#### Summary

This report is provided to enable the Council to consider the possible establishment of a Planning Committee. Whilst the motion of Council was to progress the development of a Committee, it is the officers' view that a committee would not achieve any improvements on the current arrangements. As such, the recommendation is not to proceed with the Committee option.

#### Executive Recommendation

That Council not support the establishment of a Planning Committee and maintains the status quo in terms of its committee structures.

#### Background

At the Ordinary Council meeting held on 16 September 2014, Cr Steck moved a Motion on Notice to establish a Planning Committee in accordance with Subdivision 2 of Division 2 of Part 5 of the *Local Government Act 1995* (the Act).

Although the motion was defeated, Council made the following resolution in relation to this matter (refer Council Decision 366/14):

#### *That:*

- 1. Council request the Chief Executive Officer to prepare a report to progress the establishment of a Planning Committee including, but not limited to:**
  - a) Terms of Reference**
  - b) Proposed membership**
  - c) Proposed delegations**
  - d) Implications in terms of delegations and policy issues**
  
- 2. The report be provided to Council no later than 14 October 2014.**

This report is provided pursuant to the above resolution.

#### Council Policy Compliance

There are no Council policies that are applicable to this report.

#### Legislative Compliance

Subdivision 2 of Division 2 of Part 5 of the Act deals with Committees and their meetings.

## **Officer Comments**

Section 5.8 of the Act enables a local government to “*establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees*”.

Some factors to consider in establishing a committee under section 5.8 of the Act include:

### Membership

Cr Steck’s original motion on notice proposed a membership of six (6) Councillors. Other options for membership could include a combination of Councillors; Officers; Community Members; and Industry Specialist Representatives.

### Frequency of Meetings

Currently, all Planning and Development matters (not determined by delegated authority) are decided by Council. Since September 2013, a total of 74 items (of an estimated 500 matters) have been presented to the Council; an average of 3.1 items per fortnightly Ordinary Council meeting. Delegated authority currently enables the timely and efficient assessment and processing of the balance of matters.

Legislated processes are required to be followed in relation to minor through to complex Development Applications.

Minor applications are usually dealt with within 7-10 working days from receipt of application including administrative processes and then an assessment is undertaken.

Complex applications that require advertising take an average net 15 days. Where those applications require referral to external agencies (requested 30 day turnaround) this can then take an additional 14 days for assessment and determination under delegation to the administration or decision of the Council.

Note: Where the GBRS requires referral to an external agency (i.e. Main Roads, Department of Planning, Department of Water), the external agency is to provide advice/recommendation within 30 days. If not received within 30 days, the application maybe determined based on the available information.

Referral of applications (depending on what type) to a Planning Committee for review is not likely to speed up the assessment process and is more likely to delay it further.

To hold meetings fortnightly would double the level of administration resources necessary to provide this service. In either case however, the timeliness of decision-making in relation to development applications considered by Council would not be improved, as Ordinary Council meetings are already currently held fortnightly.

To hold meetings monthly would mean turnaround times currently adhered to would not be guaranteed.

### Terms of Reference

A Planning Committee may choose to consider all reports that relate to statutory, strategic and policy planning, or may choose to be selective, such as only Development Applications over a certain monetary value or complexity.

Options for Terms of Reference include:

1. The City of Bunbury Planning Committee is established for the purpose of providing recommendations to the Council on Development Applications where Officers do not have delegation to make a decision. The Committee also make recommendations to the Council on strategic land use planning matters such as planning scheme amendments, planning policies, structure plans and local development plans.
2. The City of Bunbury Planning Committee is established for the purposes to provide recommendations to the Council in relation to Development Applications of \$1M to \$1.999M referred to the City for determination.

*Note: Development Applications over \$2M can at the discretion of the applicant be referred to the SWJDAP for determination. Above \$10M it is mandatory that the South West Joint Development Assessment Panel (SWJDAP) consider Development Applications.*

### Delegated Authority or Advisory Role

Section 5.16 of the Act allows Council to delegate to a Committee any of its powers and duties, other than the power of delegation. Unless it is proposed to have all Councillors as members of any future Planning Committee (which effectively then become a duplication of Council), it is strongly recommended that no delegations be provided, and that the Committee only make recommendations/ provide advice to the Council. This is because planning determinations are often contentious and Council determinations thereto are not always unanimous. For a committee with six (6) members as originally proposed by Cr Steck, a quorum as defined in the Act would require only three (3) of those members to be present for a determination to be made. It could be argued that this is less than ideal for matters that are likely to be contentious and attract robust debate.

Note also that the Act would not permit a delegation to a Committee to consider planning and development related matters, unless that committee comprises Councillors only.

### The Case for Establishing a Committee

- Committee meetings are often less formal than Council meetings resulting in greater scope for questions, debate, community and applicant participation.
- The formality of a Council meeting can sometimes lead to planning and development reports being the subject of a procedural motion to defer debate, pending the preparation of further information.

### The Case Against Establishing a Committee

- There is the potential for duplication between the Committee and Council should any Councillor(s) wish to debate a matter at a Council meeting.
- In the case of a Committee having delegated powers and duties, a scenario arises where not all Councillors are involved in the decision-making process assuming not all Councillors are members of the Committee.
- In response to the argument that Committee meetings are often less formal than Council meetings resulting in greater scope for questions, debate, and applicant participation, Council currently holds fortnightly agenda briefings to facilitate this very discussion and this provides an opportunity for more detail to be sought from the Executive a week prior to any decision being made.
- Additional human resources would be required to administer meetings of a new Council Committee. This would require reallocation of existing resources away from their current duties and tasks and would impact of other areas of work.
- As Ordinary Council meetings are currently held fortnightly, the timeliness of decision-making in relation to development applications considered by Council would not be expedited and would in all likelihood delay the time in which decisions could be made.

**Option 1 (Executive Recommendation)**

That Council not support the establishment of a Planning Committee and maintains the status quo in terms of its meeting structures.

Whilst the Executive is not supportive of a Committee, should Council still wish to proceed, the following alternative options are provided in accordance with the original Council motion.

**Alternative Option 1**

That Council:

1. In accordance with section 5.8 of the *Local Government Act 1995* formally establishes a Planning Committee of Council.
2. Appoints Councillors \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ as members of the Planning Committee.
3. Appoints Councillors \_\_\_\_\_ and \_\_\_\_\_ as deputy members of the Planning Committee.
4. Adopts the following terms of reference for the Planning Committee:

*<insert ToR as applicable>*

5. Requests that the Committee sets a monthly/fortnightly meeting schedule at its inaugural meeting and that the Chief Executive Officer gives local public notice of these meeting dates accordingly.

**Alternative Option 2**

That Council:

1. In accordance with section 5.8 of the *Local Government Act 1995* formally establishes a Planning Committee of Council comprising five (5) members.

2. Notes that the Planning Committee shall commence operation pending the appointment of all five (5) members.
3. Appoints the Chief Executive Officer, Director Planning and Development Services, Councillor \_\_\_\_\_, an Industry Specialist Representative and a Community Representative as members of the Planning Committee.
4. Requests the Chief Executive Officer commence advertising for the positions of Industry Specialist and Community Representatives for the Planning Committee.
5. Requests that nominations for the Industry Specialist and Community Representatives be presented to Council, as soon as practicable.
6. Adopts the following terms of reference for the Planning Committee:

*<insert ToR as applicable>*

7. Requests that the Committee sets a monthly/ fortnightly meeting schedule at its inaugural meeting and that the Chief Executive Officer gives local public notice of these meeting dates accordingly.

### Alternative Option 3

That Council:

1. In accordance with section 5.8 of the *Local Government Act 1995* formally establishes a Planning Committee of Council comprising five (5) members.
2. Notes that the Planning Committee shall commence operation pending the appointment of all five (5) members.
3. Appoints the Chief Executive Officer, Director Planning and Development Services, two Industry Specialist Representatives and a Community Representative, as members of the Planning Committee.
4. Requests the Chief Executive Officer commence advertising for the positions of Industry Specialist and Community Representatives for the Planning Committee.
5. Requests that nominations for the Industry Specialist and Community Representatives be presented to Council as soon as practicable.
6. Adopts the following terms of reference for the Planning Committee:

*<insert ToR as applicable>*

7. Requests that the Committee sets a monthly/ fortnightly meeting schedule at its inaugural meeting and that the Chief Executive Officer gives local public notice of these meeting dates accordingly.

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

In the event that the Executive Recommendation is adopted there are no financial implications.

Should Council wish to proceed with the formation of a Committee, depending on the terms of reference, appropriate human resources will need to be provided to undertake the administration. This will require existing staff to be reallocated from their current duties and will have significant impact on the operations of other work areas.

### **Councillor/Officer Consultation**



This matter was originally raised as a Motion on Notice by Cr Steck at the Ordinary Council meeting held on 16 September 2014 which was lost and a subsequent motion was moved to further consider the matter before a final decision being made.

## **10.6 Director Works and Services Reports**

### **10.6.1 Tender for Road Reseal and Maintenance Program RFT 1415-00004.**

<b>File Ref:</b>	RFT1415 – 00004
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Russell, Senior Contracts and Procurement Officer
<b>Executive:</b>	Phil Harris – Director Works and Services
<b>Attachments:</b>	Appendix CRUSC-1: Confidential Evaluation Report RFT 141-00004

#### **Summary**

The City of Bunbury issued a Request for Tender seeking a suitably experienced Contractor to supply, deliver and lay hot mix and bitumen products for road resealing as part of the annual reseal program as required. In addition there may also be some minor maintenance requirements on other roads to be carried out as and when required.

The tender is a lump sum for the 2014/15 and 2015/16 financial years. In addition, the City requested a Schedule of Rates for minor works and maintenance as identified in the tender document.

The contract is for a two (2) year period, with the option to extend the contract for a further one (1) year, exercisable at the absolute discretion of the Principal.

#### **Executive Recommendation**

That:

1. Council authorises the Chief Executive Officer to enter into a contract with Malatesta Road Paving and Hot Mix for an initial two (2) year period for confirmed funding approved roads.
2. Council authorise the Chief Executive Officer to renew the contract upon satisfactory performance after the initial term for a further twelve (12) month period for confirmed funding approved roads.

#### **Background**

The City of Bunbury has a number of road projects over the next three year period that will require renewal, upgrade and expansion. These works are supported through the Roads to Recovery Funding and Regional Road Group Funding. All of these projects will utilise some, if not all, of the resources procured through the Reseal Tender.

This tender was advertised in the West Australian and the South Western Times newspapers on the 3 and 4 September 2014. The documentation was made available via [www.tenderlink.com/bunbury/](http://www.tenderlink.com/bunbury/) A total of 32 suppliers viewed the documents on line, 12 companies downloaded the documentation and at closing two (2) responses were received from;

1. Malatesta Road Paving and Hot Mix – PO Box 5002, Bunbury WA 6231
2. Fulton Hogan Industries – c/o Post Office Picton, Picton WA 6229.

An evaluation panel comprising of the following internal staff assessed the responses;

- Engineering Transport and Traffic Management Officer
- Team Leader Program and Planning
- Group Leader Works, Civil and Open Space
- Senior Contracts and Procurement Officer (non-voting)

The tenders were evaluated using the following criteria:

- Compliance Criteria – Yes / No answers

- Qualitative Criteria weighting

1. Relevant Experience - 20%
2. Key Personnel – 20%
3. Demonstrated Understanding – 20%
4. Tenderers Resources – 20%
5. Price – 20%

Evaluation of the tenderers, tender prices (and ranking) has been assessed but because the results are "commercial in confidence" details are listed in a Confidential Report that has been circulated to members under separate cover CRUSC-1.

#### **Council Policy Compliance**

The tender process complies with the requirements of the City's Policy DCS-9 "Purchasing – Local Preferences"

#### **Legislative Compliance**

Advertising and processing of tenders was conducted in accordance with the Local Government (Function and General) Regulations 1996, Part 4 "Tenders for Providing Goods or Services".

#### **Officer Comments**

All members of the evaluation panel have signed a confidentiality and impartiality agreement.

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

Funding for reseal projects have been identified in the 2014/15 approved budget and comprise but are not limited to;

PR-3640	Stirton Court
PR-3685	Cross Street / Tuart Street
PR-3642	Rose Street / Goldwyre Street
PR-3643	West Road
PR-3680	Joseph Buswell Road
PR-3681	Forrest Av / Wilkes Crossing
PR-1113	Spencer Street
PR-3644	Estuary Drive

#### **Delegation of Authority**

This tender has been dealt with in accordance with Local Government (Functions and General) Regulations 1996 (Part 4 - Tenders for Providing Goods or Services).

#### **Relevant Precedents**

Council has dealt with all tenders previously called which exceed delegated authority limits.

## 11. Applications for Leave of Absence

Nil

## 12. Motions on Notice

### 12.1 Motion on Notice – Rating Concession Cap

<b>Applicant/Proponent:</b>	Councillor Murray Cook
<b>Author:</b>	Councillor Murray Cook
<b>Executive:</b>	<i>If adopted by Council refer to: David Ransom, Acting Director Corporate Services</i>
<b>Attachments:</b>	Nil

Cr Murray Cook previously submitted the following motion for the Council Meeting on 19 August 2014 but as there was no quorum, the matter could not be dealt with by Council.

The below Motion from Cr Cook is now submitted for consideration at the Council Meeting on 14 October 2014:

*That:*

- 1. In accordance with the provisions of Section 6.47 of the Local Government Act 1995 and the Council Guidelines detailed in the report, Council apply a rates concession where the rate increase is greater than 15% to mixed business and industrial properties and where the concession is greater than \$100.00 for the 2014/15 financial year.*
- 2. The Chief Executive Officer be delegated authority to assess each application for concession in accordance with the guidelines and where appropriate grant the concession; and*
- 3. That a report be provided to Council on all concession granted in accordance with this delegation.*

#### **Comments - Cr Cook**

This motion seeks to have Council apply a concession rate to mixed business and industrial properties where the total is greater than 15% and the concession is greater than \$100.00.

Council has determined and it is reflected in the 2014/15 budget, to apply a single rate in the dollar for all properties within the Bunbury district – regardless of their particular class. Whether they be Residential, Industrial, Vacant Land – all will attract the same rate in the dollar.

This method of rating passes the common sense and fairness test because any variations in value are captured by the Valuer General in his assessment of Gross Rental Value (GRV). The owner of a \$300K house will pay less in rates than the owner of a \$3M house.

Unfortunately for the 2014/15 rating period, the Valuer General has revalued GRV and that, together with the introduction of a single rate in the dollar rating method, has meant a substantial increase in some rate notices to individual ratepayers.

It is proposed that the concession should only be applied in instances where there has not been any significant development or redevelopment of the site since the last valuation (i.e.: in the last three years). By applying this principle it is considered that a concession cap would help address the levels of increase which have arisen from changes in GRV and the change to a single rate in the dollar for all properties in the district.

Furthermore, the Concession will only be applied following an application to Council for a review. On receipt of an application, Council Officers will review all relevant matters, including changes to the GRV due to improvements made to the property during the preceding 3 year period. Changes in GRV due to property improvements will not be a basis for applying the Concession.

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

Change to the previously advertised position in relation to rating options will have an impact on the 2014/15 budget.

The following table provides an overview of anticipated impact of the concession cap:

<b>Category</b>	<b>Number Properties</b>	<b>Concession</b>
Industrial	400	\$467,747
Mixed Business	226	\$347,646
		<b>\$815,393</b>

### **Executive Comments**

It is noted that a similar motion to Cr Cook's was put to the Special Meeting of Electors on 12 August 2014 and was lost:

*That council apply a rates cap of 15% to mixed business and industrial properties for the 2014/15 financial year. This should automatically apply to all mixed business and industrial properties unless significant development or redevelopment of the site since the last GRV valuation.*

In the event that the motion by Councillor Cook or some other variation in relation to concessions is passed, the guidelines that each application would be assessed against are listed below:

#### **Guidelines**

Concessions will only be considered for properties which meet all the following criteria:

1. Industrial or Mixed Business
2. Increase in rates is greater than 15% and the amount of concession is greater than \$100.00
3. There has been no development approval on the property in the last three years.

It is noted that in accordance with section 6.47 of the Local Government Act, the City is able to grant a concession in relation to a rate or service charge at any time during a financial year.

Section 6.47 regarding Concessions states:

*Subject to the Rates and Charges (Rebates and Deferrals) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive\* a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.*

This section of the Act allows the above proposal to proceed, however all elected members are required to seek exemption from the Minister/Department to participate in the debate. This exemption has been submitted to the Department and Elected Members will be advised of the outcome once received. It should also be noted, that an absolute majority vote is not required when granting a concession, only when a Council is seeking to waive a rate or service charge.

#### **Cr Cook's Motion**

*That:*

1. *In accordance with the provisions of Section 6.47 of the Local Government Act 1995 and the Council Guidelines detailed in the report, Council apply a rates concession where the rate increase is greater than 15% to mixed business and industrial properties and where the concession is greater than \$100.00 for the 2014/15 financial year.*
2. *The Chief Executive Officer be delegated authority to assess each application for concession in accordance with the guidelines and where appropriate grant the concession; and*
3. *That a report be provided to Council on all concession granted in accordance with this delegation.*

### **13. Questions on Notice**

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

Nil.

#### **13.2 Questions from Members**

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

### **15. Meeting Closed to Public**

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

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

### **16. Closure**