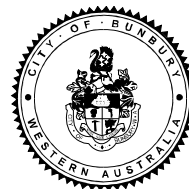




## Bunbury City Council

### Notice of Meeting and Agenda 22 July 2014



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

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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

TO: Council Members

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, **22 July** at 5.30pm.



Andrew Brien  
Chief Executive Officer  
(Date of Issue: 17/7/2014)

### Agenda 22 July 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**

**4.2.1 COUNCILLOR HAYWARD**

Councillor Hayward is on approved leave of absence from all Council-related business from 11 July 2014 to 27 July 2014 inclusive.

**4.2.2 COUNCILLOR MCNEILL**

Councillor McNeill requested leave of absence from all Council-related business from 16 July 2014 to 24 July 2014 inclusive.

Section 2.25 of the *Local Government Act 1995*, allows a council to grant leave of absence to one of its members provided that the period of leave does not exceed six (6) consecutive ordinary meetings of the Council.

**Executive Recommendation**

Pursuant to Section 2.25 of the *Local Government Act 1995*, Councillor McNeill is granted leave of absence from all Council-related business from 16 July 2014 to 24 July 2014 inclusive.

## 5. Declaration of Interest

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

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

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

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

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

Cr Cook declared an impartiality interest for item 10.4.4 titled *“Proposed Deed of Lease – Bunbury-Harvey Regional Council”* as he is on the Bunbury-Harvey Regional Council. Cr Cook will remain in the chamber for the discussion and vote on the matter.

Cr Jones declared an impartiality interest for item 10.5.3 titled *“Request Waiver of Footpath Deposit Fee – Housing Alliance WA”* as she is the Chairman of the Alliance Housing Inc. Cr Jones will remain in the chamber for the discussion and vote on the matter.

Mayor Brennan declared an impartiality interest for item 10.6.1 titled *“Quotation Variation - Koombana Bay Ablution Block Refurbishment”* as Philip Best Plumbing is providing plumbing services to his residential property. Mayor Brennan will remain in the chamber for the discussion 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'

At the Council Meeting held 8 July 2014, the following questions were asked during Public Question Time that could not be answered during the meeting. A copy of the question and the written response forwarded to the questioner following the meeting is provided below for public information:

**Donna Wolter on behalf of Adele Farina, Unit 4, 31 Victoria Street, Bunbury**

Ms Wolter asked the following three (3) questions to Council. The questions were taken on notice by the Mayor and a response will be provided to Ms Wolter.

I refer to tonight's Council Agenda 10.3.1 and the advice in the agenda report that, pursuant to Clause 16.2 of Council's Standing Orders, Council cannot rescind Council Decision 35/14 because action has been taken to implement the decision, and I ask –

Question 1: If this advice is correct, is it not the case that Clause 16.2 of Council's Standing Orders prevent Council from making Council Decision 35/14 as it is in direct conflict with the earlier implemented Council Decision made on 11 July 1994 number 43?

Response: No

Question 2: Given the relevance of the Council Decision made on 11 July 1994 number 43 to the matter of the Bunbury Regional Art Galleries, why is it that officer reports to Council, provided to assist Councillors make informed decisions, do not make any reference to Council Decision made on 11 July 1994 number 43?

Response: The current operations (at the time the decision was made) were known to members and the officer's recommendation was to retain those arrangements. In this instance the resolution moved and carried by Council is one which is legally and practically capable of being understood and implemented without having to be read in conjunction with or as a modification of the earlier resolutions. It is merely a policy decision about the way in which the Council will exercise its jurisdiction and carry out its functions in relation to a particular aspect of its operations at a particular time. The decision can be understood and implemented without any

reference back to the terms of the earlier resolutions, hence a rescission motion was not required.

Question 3: By virtue of Clause 16.2 of Council's Standing Orders, is Council Decision 35/14 void ab initio or invalid and therefore should never have been implemented?

Response: As per the response to question (b), the Council is of the opinion that as a rescission motion was not required the decision is valid.

## **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 8 July 2014, have been circulated.

#### **Recommendation**

The minutes of the Ordinary meeting of the Bunbury City Council held 8 July 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 18 June 2014

#### **Summary**

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

1. Title: Bunbury Setagaya Sister Cities Committee Minutes 18 June 2014  
Author: Jenni Brown, Administration Officer Setagaya  
Appendix: MTBN-1

#### **Council Committee Recommendation**

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

1. Bunbury Setagaya Sister Cities Committee Minutes 18 June 2014

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

### **8.1 *Petitions***

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

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

### **8.2 *Presentations***

### **8.3 *Deputations***

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

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

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

## 10. Reports

### 10.1 Recommendations from Advisory Committees

#### 10.1.1 MOST ACCESSIBLE REGIONAL CITY IN AUSTRALIA CONCEPT

<b>File Ref:</b>	A05850
<b>Applicant/Proponent:</b>	Committee Report
<b>Author:</b>	Isabell Evans, Community Development Officer
<b>Executive:</b>	Stephanie Addison-Brown, Director Community Development
<b>Attachments:</b>	Appendix RAC-1 – Most Accessible Regional City in WA Workshop Report

#### Summary

The Community Access Committee has begun the development of a Most Accessible Regional City in Australia (“MARCIA”) concept including investigation around disability access and inclusion priorities for Bunbury.

The purpose of this report is for Council to consider the recommendation from the Community Access Committee to make a commitment to Bunbury becoming the Most Accessible Regional City by 2020.

#### Community Access Committee Recommendation

That Council sets a goal to become the Most Accessible Regional City in Australia by 2020.

#### Executive Recommendation

1. That Council sets a goal to become the Most Accessible Regional City in Australia by 2020.
2. That Council include this as an objective in the revised Community Strategic Plan.

#### Background

At the Community Access Committee meeting on 6 December 2013 Deputy Mayor Kelly raised the idea of a Most Accessible Regional City concept and urged the Committee to consider what such a City would look like and furthermore what Bunbury needs to do to become one.

An accessible City in this sense refers to a City that is both physically and socially inclusive and accessible for the whole community taking into consideration the needs of people with disability.

Consequently on Friday 28 March 2014 the Committee hosted a Most Accessible Regional City workshop. This was attended by Committee members, City officers and community members and resulted in a preliminary understanding of a number of disability access and inclusion priority areas for the Bunbury community.

At the Community Access Committee meeting on Friday 6 June 2014 a report on the workshop was tabled (**attached** at Appendix RAC-1). This workshop reaffirmed disability access and inclusion priority areas for the community, namely improving physical access to public facilities as well as developing an inclusive culture in Bunbury.

In discussing options to progress the concept further, the Committee resolved to recommend that Council sets a formalised goal to become the Most Accessible Regional City in Australia by 2020.

### **Council Policy Compliance**

There is no Council policy applicable to this report.

### **Legislative Compliance**

The Federal Disability Discrimination Act (1992) and State Equal Opportunity Act (1984) require government organisations to provide equal access to services, facilities, information, customer service, feedback processes, consultation and employment.

### **Officer Comments**

The City of Bunbury has in place a Disability Access and Inclusion Plan 2012 – 2017 which outlines progressive strategies for the improvement of disability access and inclusion across all City departments.

However, whilst the City can make improvements to physical access for people with disability as well as internal organisational structure and processes, the concept of social inclusiveness is one which to be realised necessitates the engagement of a diverse range of stakeholders, including business, government and community.

In recent times disability access and inclusion has held a higher profile in the community in part due to the National Disability Insurance Scheme but also due to local initiatives such as the inaugural Accessible Bunbury: Business Awards as well as Bunbury playing host to the first regional visit of the Disability Services Commission Board.

This current climate presents ideal opportunity for the City to spearhead the development of a broader, community-based plan for access and inclusion across Bunbury in collaboration with all stakeholders.

Discussions with the Chair of the Community Access Committee, Deputy Mayor Kelly, indicate that resources would be required in 2015/16 to undertake the necessary work to develop the strategy. This cost has been estimated to be in the order of \$50,000 which, should the Committee Recommendation be supported, will be submitted as a project for consideration in Council's 2015/16 budget. During the 2014/15 year, the Community Development Team can develop a brief for the proposed work and prepare a draft project outline for Council's consideration when reviewing projects submitted in the draft 2015/16 budget.

Should Council choose not to support the Committee Recommendation financially at this time, there are a number of other access-related projects and initiatives that have already been identified and which could be prioritised more immediately and any additional Council funding for access could be utilised delivering these for immediate community benefit.

Officers note the preference of Council to utilise existing internal expertise and knowledge. Should Council choose to pursue more immediate additional access priorities, this data could potentially be collated in-house and a priority list developed for Council consideration.

Officers note that a cross-directorate access-related project will commence in the 2014/15 financial year with Council's allocation of \$30,000 to develop a Big Swamp Area Masterplan including a second stage of the Accessible Playground. Substantial staff time will be utilised in the delivery of this project.

**Analysis of Financial and Budget Implications**

\$20,000 is allocated each year in the base-line budget for the delivery of disability access and inclusion initiatives, however, the Chair of the Community Access Committee, Deputy Mayor Kelly, feels that additional funds of approximately \$50,000 would need to be provided for the potential engagement of a consultant to develop a "MARCI A" strategy and action plan for Bunbury.

**Community Consultation**

A Most Accessible Regional City workshop was held on Friday 28 March 2014, which was attended by community members, those working in the disability services industry and members of the Community Access Committee.

**Councillor/Officer Consultation**

Deputy Mayor Councillor Brendan Kelly and Councillor Murray Cook are members of the Community Access Committee and are aware of this report.

## **10.2 Chief Executive Officer Reports**

### **10.2.1 ENDORSEMENT OF APPOINTMENTS TO BUNBURY REGIONAL THEATRE INC.**

<b>Applicant/Proponent:</b>	Internal
<b>Author:</b>	Andrew Brien, Chief Executive Officer
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Nil

#### **Summary**

On the 24 June 2014, Council endorsed the appointment of five (5) members to the Bunbury Regional Theatre Inc. Subsequent to this meeting, Ms Rochelle Lennox has withdrawn her application, creating a vacancy on the Board. The Board Recruitment Panel and entire Board have ratified a decision that Mr Brian McLoughlin (currently serving member) be offered a further one (1) year term on the Board.

#### **Executive Recommendation**

Pursuant to the constitution of the Bunbury Regional Theatre Incorporated, the City of Bunbury endorses appointment of Mr Brian McLoughlin to the Theatre's Board for a one (1) year term to expire 30 June 2015.

#### **Background**

The Bunbury Regional Entertainment Centre is a City of Bunbury asset. It opened in 1990 and provides the people of Bunbury and the South West Region with the opportunity to view and participate in performances staged in a top-class facility.

The Bunbury Regional Theatre Inc. is an independent, not-for-profit community organisation charged with management of the Bunbury Regional Entertainment Centre. The Management Board is comprised of ten (10) interested members of the community with a commitment to the performing arts.

The City of Bunbury contributes funding annually to support operation of the Bunbury Regional Entertainment Centre. Accordingly, the Bunbury Regional Theatre Inc. constitution permits at least one (1) sitting Bunbury City Councillor to be a member of its Management Board (this is currently a position occupied by Cr Brendan Kelly). The Constitution also requires all appointments to the Board to be endorsed by the Council.

Due to existing members' term expiring, five (5) positions on the Board became vacant on 1 July 2014. The Bunbury Regional Theatre Inc. called for nominations to fill these vacancies via advertisements in the press and received nominations from four (4) of the retiring members plus one (1) community member.

A selection panel consisting of two (2) existing board members (Ray Frisina and Ron Rumball) and one (1) community member (Don Punch) was formed to assess the applications. The Panel's recommendation was unanimously passed at the last Board meeting held in May 2014, and was endorsed by Council on 24 June 2014. Since this time, Ms Rochelle Lennox has withdrawn her application, leaving one (1) vacancy on the Board.



**Community Consultation**

The Bunbury Regional Theatre Inc. called for nominations for membership of the Board via public notices in the print media on 16 and 17 April 2014.

**Analysis of Financial and Budget Implications**

Appointment of members to the Board will have no effect on the City's existing budget for the Bunbury Regional Entertainment Centre (which is a City of Bunbury asset).

**Council Policy Compliance**

There is no Council Policy in relation to this matter.

**Legislative Compliance**

The constitution of the Bunbury Regional Theatre Inc. requires Council endorsement of appointments to its Management Board.

**Officer Comments**

In endorsing this recommendation, the City has fulfilled its obligation under the terms of the current Deed of Management.

## 10.2.2 WALGA ANNUAL GENERAL MEETING – POSITION ON MOTIONS 2014

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

### Summary

The purpose of this report is for Council to adopt a formal position on each of the five (5) executive and member motions listed for discussion at the 2014 WA Local Government Association (WALGA) Annual General Meeting (AGM), which is scheduled for Wednesday 6 August 2014.

Council has previously endorsed the nominations of two (2) voting delegates being Councillors Kelly and McNeill.

A copy of the draft agenda for the WALGA AGM has previously been circulated to elected members.

### Executive Recommendation

That Council endorse the following positions on each of the five (5) tabled motions as presented within the 2014 WALGA Annual General Meeting agenda:

Item 4.1 WALGA State Conference – ESL Administration Fees Paid to Local Governments	Support
Item 4.2 WALGA State Conference – Implications of Structural Reform	Not Support
Item 4.3 Bushfire Management – Support Vehicles	Support
Item 4.4 Contaminated Sites – Auditing Requirements	Support
Item 4.5 Review of Section 6.28 Valuation of land	Support

### Background

The WALGA AGM always coincides with the annual WA Local Government Convention. This year's Convention will be held from Wednesday 6 to Friday 8 August 2014 at the Perth Convention and Exhibition Centre.

The AGM Agenda contains five (5) Executive and Member reports and subsequent motions for consideration, each of which is discussed within the WALGA AGM agenda section entitled "Consideration of Executive and Member Motions", which has been previously circulated to elected members.

Council's representation at the WALGA Annual General Meeting will contribute to the potential development of policy and future planning processes to assist the City's strategic capacity to provide good governance, service and facilities for its greater community.

It is considered vital in assisting the Local Government Association to maintain the renewed focus on local government and to drive improved outcomes for the sector at the state level.

Of the five (5) motions tabled, two (2) of these have been previously adopted by the City of Bunbury via Council Decision 207/14 being "That Council endorse the motions titled "Contaminated

*Sites – Auditing Requirements” and “Review of Section 6.28 Valuation of Land” to be included in the WALGA Annual General Meeting Agenda.”*

**Council Policy Compliance**

Not applicable

**Legislative Compliance**

Not applicable

**Officer Comments**

The 2014 WALGA AGM agenda contains five (5) Executive and Member reports/motions for consideration at the AGM. Council has traditionally supported the WALGA secretariat position on these matters; however they are submitted for consideration by Council, for the guidance of voting delegates.

It is felt that Council’s position should be supportive of items 4.1, 4.3, 4.4 and 4.5.

In relation to Item 4.2, the Shire of Dardanup is requesting that WALGA facilitate a meeting between country Local Government councillors with Professor Dollery making a presentation on the implications of structural reform, by December 2014.

It is felt that this is not necessary at this point in time. Professor Dollery’s views are well documented and in the event of LG Reform in the Rural Local Government Areas occurring, a structured debate and discussion should occur once a formal decision is announced.

For the information of Council, Councillors registered to attend the Convention this year were previously endorsed by Council and the voting delegates nominated were Cr Brendan Kelly and Cr Neville McNeill with Andrew Brien, CEO as a voting proximity.

**Analysis of Financial and Budget Implications**

There are no financial or budgetary implications arising from the recommendations of this report.

**Community Consultation**

Not applicable

**Councillor/Officer Consultation**

This report seeks a Council position for each of the motions contained within the 2014 WALGA AGM agenda.

### 10.2.3 ORGANISATIONAL RESTRUCTURE

<b>Applicant/Proponent:</b>	Internal
<b>Author:</b>	Chief Executive Officer, Andrew Brien
<b>Executive:</b>	Chief Executive Officer, Andrew Brien
<b>Attachments:</b>	Nil

#### Summary

As a result of the Chief Executive Officer annual review a workshop was held with elected members on 19 June 2014 to discuss options in relation to a new organisational structure to be implemented during the 2014/15 financial year.

This report is an outcome of the workshop and is now presented to Council for consideration and direction.

#### Executive Recommendation

That Council:

1. Endorse the organisational structure based on the following three (3) directorates:
  - a. Works and Services;
  - b. Planning and Development Services;
  - c. Corporate and Community Services;
2. Authorise the Chief Executive Officer to progress the changes in accordance with the implementation strategy outlined in the report;
3. Request the Chief Executive Officer to provide a detailed organisational structure to Council for information; and
4. Note that any new structure would become effective after negotiations are completed with the Directors.

#### Background

At the elected member workshop held on 19 June 2014 there was general support provided for a change to the organisational structure to provide an increased focus on productivity, service delivery and internal service coordination. Of the models proposed, it was requested that additional investigation be undertaken in relation to a number of options with the three (3) directorate model being the preferred way forward.

Councillors have all been provided with a copy of the Chief Executive Officer's confidential discussion paper on this matter previously.

#### Council Policy Compliance

Not applicable

## **Legislative Compliance**

The *Local Government Act 1995 (the Act)* requires that the local government ensures that there is an appropriate structure in place for the administration of the local government. In addition there is a requirement for the local government to be informed of the appointment or dismissal of senior local employees. The relevant sections of the *Act* are outlined below.

5.2. *Administration of local governments*

*The council of a local government is to ensure that there is an appropriate structure for administering the local government.*

5.37. *Senior employees*

- (1) *A local government may designate employees or persons belonging to a class of employee to be senior employees.*
- (2) *The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.*
- (3) *Unless subsection (4A) applies, if the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.*
- (4A) *Subsection (3) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.*
- (4) *For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.*

The proposed changes to the structure and the implementation options all meet the requirements of the *Act*.

## **Officer Comments**

The implementation of a new organisational structure needs to be considered in line with the future direction of the Council in terms of service delivery models. At the Councillor workshop held on 19 June 2014 there were a number of matters raised that the Councillors present wanted considered as part of the development of a new organisational structure. In taking these matters into consideration and discussions with relevant staff, the draft structure appropriately addresses these concerns.

As part of the shift in focus from a service delivery model to a facilitative model (particularly in relation to community development) combined with the opportunity to refocus internal service delivery, a new high level structure is proposed as outlined in this report.

It should be noted that the proposed new structure would see the numbers of Directors reduced by one (1), with two (2) additional managers reporting directly to the Chief Executive Officer. The two (2) additional manager positions reporting to the Chief Executive Officer are current positions with the reporting arrangements changed. Whilst this would create additional workloads for the Directors and the Chief Executive Officer, it is considered an appropriate structure to meet the changing needs and aspirations of the Council.

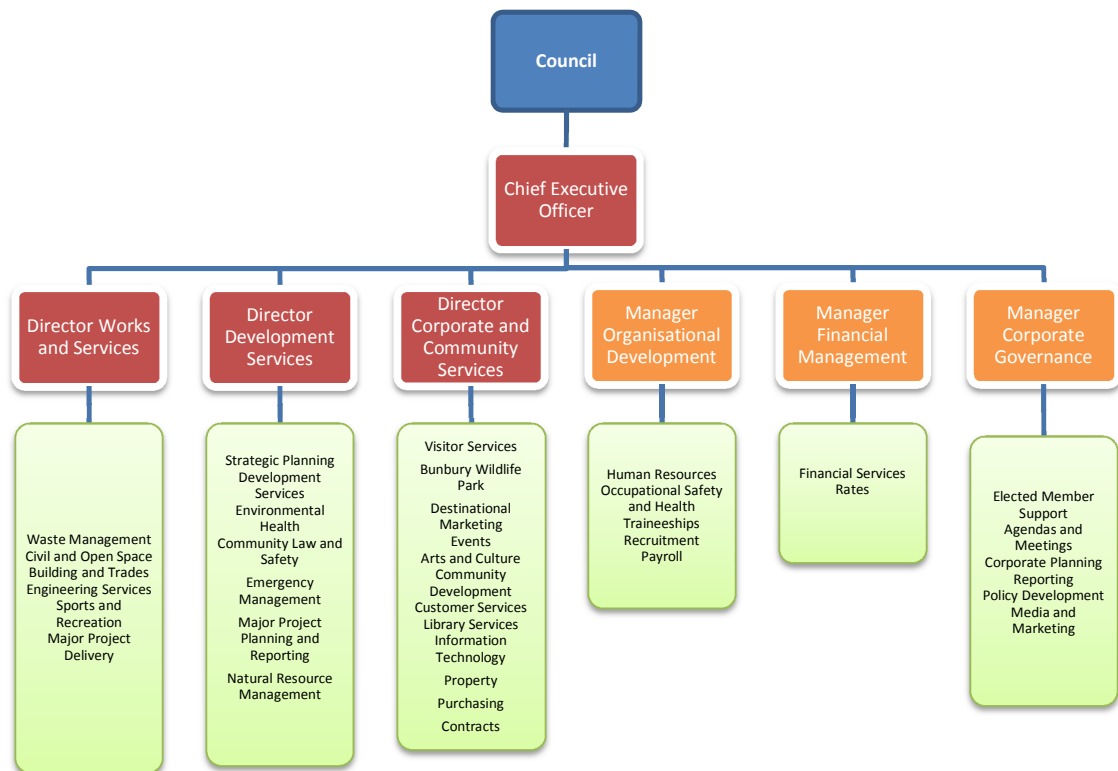
The proposed structure is based on ensuring that the issues of governance and oversight are maintained, delivering a closer alignment between corporate and community services. As Council moves to a more facilitative model of service delivery this would shift the focus of the directors to a higher level of strategic focus and oversight.

There are a number of areas below the directors which would see changes to ensure that the major projects that the Council have endorsed previously will be delivered. This would also free up some time of the Directors to enable a greater community and councillor focus. This is especially the case in the Works and Services Directorate where the majority of customer and councillor requests arise.

In order to progress the changes of areas below the level of Director, there is a need to have the Directors in place and work with them to finalise the structure below them. This would not involve any new positions but may result in changes to current reporting arrangements and titles. There would also not be any increases in pay rates for positions below the level of director outside of the usual Enterprise Agreement and contractual increases.

In addition to the proposed high level changes there would be additional changes made at other levels of the organisation to ensure greater efficiencies across the entire range of Council services and activities.

The model proposed sees the CEO and three (3) Directors form the Executive Leadership Team which is supported by three (3) managers. The following organisational overview shows the key functional areas below the Directors and the three (3) Managers. It should be noted that these are not positions; they are simply the key functional areas, which will be subject to amendments as the detailed structure is further refined.



Whilst there has been several three (3) directorate models investigated (as per the previously distributed confidential report), after further investigation the proposed option would provide the best outcome for the Council at the present time. This is in part due to the work currently being undertaken in relation to the development and implementation of the TPS 8 and the associated work with major projects and Scheme Amendments.

In order to progress the development of a number of major projects including the Not-For-Profits building, the Leschenault Inlet Master Plan, land development opportunities and other major initiatives of Council, it is proposed to move the Major Projects role (planning and design issues) across to Planning and Development and the implementation role will remain, albeit with an increased focus within Works and Services.

There is scope within the structure to further reduce the numbers of staff through natural attrition over time with all positions being reviewed every time a staff member leaves the organisation.

#### Implementation Strategy

As has been outlined previously to Councillors there are several options that the Council may wish to take to implement the proposed changes with these ranging from a pure natural attrition model to structured implementation through the use of incentive payments.

It is felt that to achieve the maximum benefits in the shortest timeframes, there is a need to act quickly on the changes and implement them as soon as possible. To facilitate this it is suggested that the option of incentive payments be used to progress the implementation of the new structure.

This could be achieved through one of two approaches;

- Option 1: Each Director to apply for the positions and then appoint based on merit; or
- Option 2: Make a targeted offer to individuals to seek their views on a negotiated separation arrangement (preferred option).

Whilst both options have merit, the Option 2 would be seen as the preferred option to create the least amount of disruption within the organisation and this would allow for implementation in the shortest timeframe.

Directors have termination clauses in their contracts and should Council wish to explore this option the most appropriate time to do this is early in the 2014/15 financial year. This would see a number of benefits, firstly, there is sufficient funding in the budget to make the offer of incentivised separation with the relevant director/s, it provides scope for directors to make the move out of the organisation earlier meaning significantly less disruption to the delivery of services and finally it provides the greatest opportunity for change in the short term.

At present a review is being undertaken in relation to contracts and the requirements in terms of termination/separation which can be explored to provide both incentives for the staff and longer term cost savings to Council.

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

The reduction in the number of staff on the Executive Leadership Team from five (5) (comprising of the CEO plus four (4) directors) to four (4) (CEO plus three (3) directors) would see a reduction in the salary and wages budget. This would be reflected in the development of the 2015/16 budget and future years.

Additional cost savings would be achieved through the disposal of vehicle from Councils fleet, a reduction in on-costs and the reduction in additional costs of a Director.

The additional workloads of remaining Directors would need to be considered in terms of any additional remuneration options that are considered for the remaining Executive positions. An independent assessment of the amended roles would be undertaken to appropriately size and remunerate the new positions. Based on previous experience this would not result in significant increases and would still ensure that the savings from the reduction in one director position would be achieved.

Once a formal position of the Council has been adopted, a complete financial analysis will be undertaken and based on the implementation option adopted, a formal budget review will address the changes.

### **Community Consultation**

There is no requirement for community consultation in relation to this matter.

### **Councillor/Officer Consultation**

Councillors were provided with a copy of a discussion paper which was further workshopped at a meeting held on 19 June 2014.

The Executive Leadership Team has been made aware of the options being considered in terms of new structures however the final option has not yet been presented.



**10.2.4 DETERMINATION OF THE SALARIES AND ALLOWANCES TRIBUNAL ON LOCAL GOVERNMENT ELECTED COUNCIL MEMBERS**

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

**Summary**

Council previously considered this item at the Ordinary Council Meeting on 8 July 2014, with the following outcome:

***Outcome – Council Meeting 8 July 2014***

*Cr Cook moved the Executive Recommendation with the rate of 100% inserted, and was seconded Cr McNeill.*

*The Mayor put the motion to the vote and the vote was lost 5 votes “for” and 5 votes “against” as an absolute majority was not achieved.*

*The Mayor called for alternate recommendations, and Cr McCleary moved “Option B – Determines not to adjust elected members fees for the next 12 month period. This would result in a rate of 97.08% of the fees as described in the determination”.*

*The Mayor put the motion to the vote and the vote was lost 5 votes “for” and 5 votes “against” as an absolute majority was not achieved.*

*Cr Steck moved a procedural motion that the matter be deferred, however there was no seconder to the motion and Council moved to the next item of business.*

At this meeting, three (3) Councillors were not present, and a request was received to relist the item for 22 July 2014.

**Executive Recommendation**

That Council adopt Elected Members fees in accordance with the Western Australian Salaries and Allowances Tribunal 2014 determination and set the rate at \_\_\_\_\_% for a Band 2 Council.

**Background**

On 19 June 2014 Council received advice from The Western Australian Salaries and Allowances Tribunal (The Tribunal) of their 2014 determination into the fees, expenses and allowances of local government elected council members of Local Government in Western Australia.

The Tribunal has advised that the City of Bunbury has been determined as a **Band 2** local government. The City has traditionally adopted annual allowances and fees in lieu of individual meeting attendance fees.

A copy of the Tribunal’s determination has been circulated to elected members for their information.

Council is now required to consider the findings and determine if they wish to increase Elected Member Fees or if they wish to leave these as they currently stand, and therefore have the following options to consider:

- a) Increase Elected Members fees in accordance with the Western Australian Salaries and Allowances Tribunal 2014 determination;

or

- b) Determines not to adjust Elected Members fees for the next 12 month period. This would result in a rate of 97.08% of the fees as described in the determination.

The Salaries and Allowance Tribunal was requested, as a result of amendments to the Local Government Act 1995 and the Local Government (Administration) Regulations 1996, to undertake a review of the roles of Mayors, Presidents, Deputies and Elected Members of local government in Western Australia.

An advertisement calling for public submissions to the Tribunal's inquiry was placed in The West Australian newspaper on 22 March 2014 with a closing date of 11 April 2014, as well as being placed on their website.

The Tribunal was empowered to determine certain payments that are to be made or reimbursed to elected council members with effect from 1 July 2014.

The legislation confers entitlements to claim fees, expenses and allowances on individual council members and provides the Tribunal with the capacity to determine either particular amounts for these payments, or to determine a range within which the relevant local government sets the amounts.

Council previously resolved (Decision 192/13) as follow:

***That Council adopt the following schedule of Fees, Allowances and Expenses for City of Bunbury elected members, effective from 1 July 2013:***

- 1. ***Annual Allowance for Mayor or Deputy:***
  - a. ***100% of the maximum permissible amount for a Band 2 local government.***
  - b. ***The Deputy Mayoral Allowance remains the same at 25% of the Mayoral allocated allowance.***
  
- 2. ***Annual Attendance Fees in lieu of council meeting and committee meeting attendance fees:***
  - a. ***Mayor to receive 100% of the maximum permissible of \$29,500.00pa.***
  - b. ***Other council members' to receive 100% of the maximum permissible of \$22,000.00pa.***

As the council set the allowance at 100% there is a need to review this matter.

### **Council Policy Compliance**

There is no council policy relevant to this matter.

### **Legislative Compliance**

Local Government Act 1995, Section 5.63 permits elected members to participate in this form of decision without having to declare any interest.

### **Officer Comments**

A full copy of the Tribunal's determination on this matter was previously circulated to Elected Members

The City of Bunbury has been determined as a Band 2 council so only fees set out within that range may be adopted.

For the information of Councillors, the following tables specify the scope from which Council must determine its fees, allowances and expenses.

### **Annual Attendance Fees (fees in lieu of council meeting and committee meeting attendance fees) – local governments**

	<b>Band</b>	<b>Minimum</b>	<b>Current (97.08% of new maximum)</b>	<b>New Maximum</b>
Councillor	2	\$14,500	\$22,000	\$22,660
Mayor	2	\$14,500	\$29,500	\$30,385

### **Annual allowance for a mayor or president of a local government**

	<b>Band</b>	<b>Minimum</b>	<b>Current (97.08% of new maximum)</b>	<b>New Maximum</b>
Mayor	2	\$15,000	\$60,000	\$61,800

NOTE: The Deputy Mayor receives 25% of the Mayors Allowance

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

The adoption of the revised set of allowances and expenses will have a small impact on the forthcoming year's annual budget.

For example, should council decide to adopt the new maximums permissible for the Elected Member Allowance, the annual fee will increase by \$660.00 per member, seeing a total increase of \$7,920.00 per annum.

In the case of the Mayor, if the maximum Mayoral Allowance is adopted, this would see a total increase of \$2,685.00 per annum. This comprises of an increase of \$1,800.00 and a further \$885.00 for the Mayoral attendance fees.

This would also result in an increase of \$450.00 for the Deputy Mayor Allowance which is 25% of the Mayoral allowance.

**Community Consultation**

Community was invited to participate via the Tribunal's submissions processes. It is not a matter that has been facilitated by individual local governments.

**Councillor/Officer Consultation**

Elected members and the Executive Leadership Team have been aware for some time that the tribunals review was being undertaken.

A copy of the final determination has previously been provided to elected members for their information.

### **10.3 Director Community Development**

#### **10.3.1 BUNBURY MARKETING COORDINATION GROUP**

<b>Applicant/Proponent:</b>	David Kerr, Bunbury Chamber of Commerce and Industries, Marketing Committee
<b>Author:</b>	Kristina Knight, Manager Tourism and Wildlife Park
<b>Executive:</b>	Kristina Knight, A/Director Community Development
<b>Attachments:</b>	Nil

#### **Summary**

At the suggestion of the City of Bunbury, the Bunbury Chamber of Commerce and Industries (BCCI) established a cross representative committee to develop strategies to improve city marketing and add vibrancy to the CBD. The resulting marketing plan 'City Heart Marketing 2014' was presented to Council on the 3 June 2014. Official endorsement for the formal establishment of a Bunbury Marketing Coordination Group to implement the plan is now being sought.

#### **Executive Recommendation**

That Council:

- 1) Support the following terms of reference for the Bunbury Chamber of Commerce and Industry Marketing Coordination Group:
  - a) To coordinate a collaborative approach to the marketing of Bunbury
  - b) To provide input into an annual calendar of projects to improve the amenity, attractiveness, image and presentation of the city for visitors and to reengage with residents
  - c) To assess, prioritise and coordinate appropriate elements of the City Heart Marketing Plan
  - d) To facilitate the involvement of other organisations in the marketing of Bunbury
  - e) To provide advice on the prioritisation of projects for inclusion in the budget process
  - f) To source additional funding and resources to support priority implementation from other potential sponsors, grants, community and entrepreneurialism
- 2) Support the establishment of the Bunbury Chamber of Commerce and Industry Marketing Coordination Group with the following membership to coordinate marketing of the city and inject vibrancy into the CBD:
  - a) Two BCCI representatives
  - b) Community members (by application)
  - c) Two tourism industry representatives
  - d) One Councillor
  - e) City of Bunbury staff member (non-voting)

#### **Background**

The BCCI formed its Marketing Committee at the suggestion of the Mayor during the 'CBD Futures' public forum that was held on the 25 November 2013. A series of five meetings were held which resulted in the development of the City Heart Marketing Plan. Contributions to the document were

made by 42 people including City of Bunbury staff, Councillors, business owners and community members.

The resulting plan was presented to Council at a briefing on the 3 June 2014, and both staff and Council identified an opportunity for the City of Bunbury to work closely with the BCCI to implement the plan. Several key deliverables require cross directorate working, and in order to ensure these priorities are implemented effectively, it was recommended that a group similar to the Bunbury Event Coordination Group be established.

#### **Council Policy Compliance**

N/A

#### **Legislative Compliance**

N/A

#### **Officer Comments**

Many of the priorities outlined in the City Heart Marketing plan align with existing identified projects and the establishment of a Marketing Coordination Group will help guide them towards the best community outcome.

The Group would also help guide the use of the base Destination Marketing budget which delivers key collateral, industry development programs and advertising each year. Marketing is always a subjective area to work within and the support of a broad Coordination Group would again assist with delivering the best possible outcome for business and the tourism industry.

The City executive and relevant officers are in support of this proposal.

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

No additional funding is being sought for the establishment of the Marketing Coordination Group. They would however be looking to prioritise items within existing base operating budgets and to guide relevant projects that already have funding.

#### **Community Consultation**

Community input was sought in the development of the City Heart Marketing Plan with 42 individuals providing direct feedback into the document from a much wider distribution amongst BCCI databases.

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

Councillors were briefed on this proposal by the BCCI on the 3 June 2014. Prior to this, meeting discussions were held between the Director Community Development and Manager Tourism and Wildlife Park with David Kerr, Chairperson of the BCCI Marketing Committee. After the briefing a further meeting was held between the Executive Leadership Team and members of the City Heart Working Group on the 27 June 2014 where the establishment of a Coordination Group, its structure and terms of reference was discussed.

### 10.3.2 DRAFT CREATIVE CITY STRATEGY AND CONSULTATION PROCESS

<b>Applicant/Proponent:</b>	Internal
<b>Author:</b>	Chief Executive Officer, Andrew Brien
<b>Executive:</b>	Stephanie Addison-Brown, Director Community Development
<b>Attachments:</b>	Appendix DCD-1 Draft Creative City Strategy

#### Summary

A working group has developed a draft Creative City Strategy which is now ready for further input by the broader community and stakeholder comment prior to formal consideration and adoption by Council. The purpose of this report is for Council to consider the draft and endorse the process for community and stakeholder consultation.

#### Executive Recommendation

That Council:

- 1) Endorse the draft Creative City Strategy for consultation purposes; and
- 2) Endorse the Creative City Strategy Consultation Process as outlined in this report.

#### Background

The Council endorsed the development of a Creative City Strategy at the Ordinary Meeting of 4 February 2014. A working group comprising Council representatives, Bunbury Regional Entertainment Centre and Bunbury Regional Art Galleries representatives has now completed the development of the draft strategy which is ready for the next round of community and stakeholder consultation.

#### Council Policy Compliance

Not applicable

#### Legislative Compliance

Nil

#### Officer Comments

A set of key questions developed from the outcomes of a public forum held at the City Chambers in November 2013 included:

- How do we activate the city?
- How do we attract investment, talented people and creative business? How can we make it easier for things to happen?
- How can Bunbury cement its identity as the state's regional capital?
- How can community, business and Council work towards creating a desirable city to live and work?

These questions provided the catalyst to develop a creative city strategy. Council, business and community representatives shared the same expectations and this provided a platform for open discussion and combined action.

The draft Creative City Strategy addresses these issues and provides a framework for implementation. A copy of the draft Strategy is **attached** at appendix DCD-1.

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

The costs of the community and stakeholder consultation are covered within existing budgets. Once the consultation process is complete a further report will be provided to Council which will incorporate costs associated with implementation and management.

### **Community Consultation**

The purpose of this report is for Council to endorse the following process and timeframes for community and stakeholder consultation:

The approach for consultation is based on the City of Bunbury Community Engagement Strategy 2010. As the Bunbury Cultural Map 2011 involved the community comprehensively at the three levels of engagement as having a high impact and complexity it is planned to continue with the process by engaging community at the medium to low levels of 'Involve', 'Consult' and 'Inform'. A certain level of collaboration has already been undertaken within the working group but would now be extended to the broader creative and arts industry stakeholders.

It is intended that further public consultation will be sought through a number of methods that meet the goals and community outcomes:

- **Involve** – Providing communities with opportunities to communicate their views on the Strategy where it meets their aspirations and to ensure these are reflected in the Strategy
- **Consult** – Seek broad based feedback through two-way communication. Keeping people informed, listen to and acknowledge their aspirations and concerns, and to provide feedback on their input.
- **Inform** – Keep community informed and promote awareness and educate on the strategy.

#### **Stage 1 - Meetings with key stakeholder groups – July/August**

These will include the lead arts organisations; the Stirling Street Arts Centre, the Bunbury Regional Entertainment Centre, the Bunbury Regional Art Galleries team, community performance groups, arts advocates, educational institutions (ECU, SWIT), Rock and Roll High, X2Y, Media, Creative Industries business, BCCI etc.

#### **Stage 2 - Online survey to consult with the wider community – July/August**

To be run in a similar way to the events survey from January 2014. The key targets and goals are articulated within the survey where respondents can tag and comment on them. We will then allow respondents to make comment on the goals and tasks through an importance rating and comments section for each. These will be broad-based comments on the objectives of the document.

#### **Stage 3 - An invitation for review of the draft framework – August/September**



It is proposed that the final draft of the Creative City Strategy be put out for community consultation prior to Council adopting it.

This creates two opportunities for public feedback and three for stakeholders and industry to comment, providing Council with confidence in the final endorsement of the strategy.

It is envisaged that public consultation will take place throughout July/August and it is anticipated that it will be complete by end of September.

**Councillor/Officer Consultation**

Internal consultation has occurred with relevant staff.

## **10.4 Director Corporate Services Reports**

### **10.4.1 QUARTERLY REPORT – COUNCILLOR DISCRETIONARY FUNDS REPORT**

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Narissa Hribar, Administration Officer Corporate
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Nil

#### **Summary**

In accordance with Council Policy '*Councillor Discretionary Funds*', Council is to be provided with a quarterly report outlining details of all Councillor Discretionary Fund payments. This agenda item satisfies the requirements of the policy.

#### **Executive Recommendation**

That Council receives the quarterly report for the period 1 April to 30 June 2014 relating to Councillor and Mayoral Discretionary Funds expenditure.

#### **Background**

At its Council meeting held 18 March 2014 Council adopted a Policy relating to Councillor Discretionary Funds. The policy requires officers to provide quarterly reports to Council outlining details of the expenditure of CDFs detailing:

- i) The name of the community group;
- ii) The purpose for which the funds were delivered; and
- iii) The amount of funds provided.

#### **Council Policy Compliance**

This matter is in line with the Councillor Discretionary Fund Policy requirements.

#### **Legislative Compliance**

There is no legislative compliance applicable to this matter.

#### **Officer Comments**

The following table outlines the Councillor Discretionary Fund made for the period 1 April to 30 June 2014:

Councillor	Recipient	Purpose	Value
B Kelly	Enable South West (Art Partners)	Assisting with the purchase of Art supplies	\$1,000
B McCleary	Bunbury Multicultural Services Centre of WA	Assist with WA Heritage Festival	\$200
B McCleary	Girl Guides Bunbury	Assisting with their 100 year Celebrations in Guiding	\$600
W Giles	Milligan House	Donation to assist them to provide programs for women and general public	\$1,468
J Jones	Stirling Street Arts Centre	Help with the purchase of a sea container	\$1,500
K Steele	Bunbury Bowling and Social Club Inc	Lighting for carpark	\$500
K Steele	Cooina Primary School	Help the school finish off their nature playground	\$750
J Hayward	Withers Action Group	General donation	\$500
M Cook	Foodbank South West	To assist with ancillary food supplies	\$250
M Cook	SW VETLink Inc	To assist with running costs Future Possibilities Conference	\$250

*Discretionary Funding for the Mayor for the 2013/14 Financial Year:*

Mayor	Recipient	Purpose	Value
Mayor Brennan	Chef's Long Table Lunch	Public Liability Insurance	\$2,000
	Bunbury Cathedral Grammar School	Year 12 Presentation Donation	\$100
	Bunbury Senior High School	Year 12 Presentation Donation	\$100
	Newton Moors Senior High School	Year 12 Presentation Donation	\$100
	Bunbury Catholic College	Year 12 Presentation Donation	\$100
	Cooina Primary School	Year 7 Presentation Donation	\$40
	Djidi Djidi Aboriginal School	Year 7 Presentation Donation	\$40
	St Joseph's Primary School	Year 7 Presentation Donation	\$40
	Carey Park Primary School	Year 7 Presentation Donation	\$40
	Bunbury Primary School	Year 7 Presentation Donation	\$40
	South Bunbury Primary School	Year 7 Presentation Donation	\$40
	Maiden Park Primary School	Year 7 Presentation Donation	\$40
	Adam Road Primary School	Year 7 Presentation Donation	\$40
	Manea Senior College	Year 12 Presentation Donation	\$100
	Grace Christian School	Year 7 Presentation Donation	\$40
	St Mary's Primary School	Year 7 Presentation Donation	\$40
	Picton Primary School	Year 7 Presentation Donation	\$40
	College Row School	Year 7 Presentation Donation	\$40
	Newton Moore SHS ESC	Year 12 Presentation Donation	\$100
	PCYC – Circus Quirkus	Sponsorship Circus Quirkus	\$275
Poolegrave	Re.Discover Project Plaques	\$704	

**Analysis of Financial and Budget Implications**

There are no financial or budget implications as the money allocated has been included into the Council's 2013/14 Budget.

**Community Consultation**

There is no community consultation required for this matter.

**Councillor/Officer Consultation**

There is no councillor/officer consultation required for this matter.

**10.4.2 PROPOSED DISPOSAL OF LAND – PORTION OF LOTS 0, 21, 40 AND 41 STIRLING STREET, BUNBURY TO ADJOINING OWNER, SONIA BURNS.**

<b>File Ref:</b>	Lot 7, 103 Stirling Street
<b>Applicant/Proponent:</b>	Sonia Burns, Owner Lot 7, 103 Stirling Street, Bunbury
<b>Author:</b>	Kristen Anderson, Administration Officer Property and Procurement
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-1 - 103 Stirling St Proposed Boundary

**Summary**

An application has been received from Sonia Burns (hereinafter the “Applicant”) who resides at Lot 7, 103 Stirling Street, Bunbury, to purchase a portion of Lot 0, 21, 40 and 41 Stirling Street, Bunbury from the City for amalgamation to the applicant’s adjoining property. The applicant requires a larger property footprint in order to progress further with development plans for an outbuilding. A location plan is **attached** at Appendix DCS-1

**Executive Recommendation**

Council agrees to dispose of portions of Lot 0, 21, 40 and 41 Stirling Street, Bunbury to the adjoining owner Sonia Burns, for \$46,000.00 inc GST, subject to advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995 and Council’s endorsement thereof.

**Background**

The Applicant approached the City some time ago whilst considering developing her property at 103 Stirling Street, Bunbury, by way of converting the rear shed, to a liveable separate annex or ‘granny flat’, for her brother to live in.

The initial application highlighted the need for legal access to the rear of the property, by utilising the City’s adjoining land. In order to facilitate the development, the Applicant lodged an application with the City to purchase the adjoining land.

The adjoining land is comprised of 4 individual and irregular shaped, freehold lots, with a total area of 171.3sqm. The attached plan indicates what portion of the lots will be subdivided and amalgamated in to the Applicant’s property and are indicated on the attached plan as follows:

- Lot 0 – A = 13.186m<sup>2</sup>
- Lot 40 - B = 25.888m<sup>2</sup>
- Lot 21 - C = 68.330m<sup>2</sup>
- Lot 41 - D = 63.934m<sup>2</sup>

Initial concerns were raised over any potential drainage infrastructure that may be located within the subject land, and in particular, servicing the drainage basin and pump station to the rear of the properties. Consultation and an onsite inspection by the City’s officers found that the proposed area of disposal would not impact access to the City’s drainage infrastructure and basin, and that there was no infrastructure located within the proposed disposal land.

The application to purchase the adjoining land has been processed, with internal comment sought from relevant departments, submissions invited by all service and utility providers, and a valuation procured.

### **Legislative Compliance**

In accordance with Section 3.58 of the Local Government Act 1995, 'Disposing of Property', local public notice will be given of intention to dispose of the property, inviting submissions to be made to the City of Bunbury.

### **Officer Comments**

The City's officers have spent a considerable amount of time considering all options for the Applicant and their plans for the annex development of the rear shed. The land proposed for disposal is unused by the City with no infrastructure or assets contained within the parcels of land.

The land in question is made up of 4 small, irregular shaped lots, which will require a costly subdivision and amalgamation to the adjoining lot, with all costs being borne by the Applicant. It is therefore recommended that the portion of land be sold to the adjoining owner as this would utilise the unused land in the most desirable manner.

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

A valuation of the property was conducted by Landgate which took into consideration the area of 171sqm and the impact that additional land would have on the adjoining property, whereby the property would increase in size.

The Landgate valuation recommended a sale price of \$50,000.00 Inc GST.

The Applicant was advised of the valuation, which was slightly higher than the Applicant had expected and a counter offer of \$42,000.00 inc GST was made by the Applicant. The Applicants financial capacity to offer more than this amount is limited.

The City could take into consideration the Landgate valuation and the Applicant's offer, and dispose of the land at a median sale price of \$46,000.00 inc GST. This potential consideration has been discussed between the City and the Applicant, and the Applicant has agreed, subject to Council endorsement, to offer to purchase the land for the sum of \$46,000.00 inc GST.

Based on the above information, the Officer's believe this is a fair and reasonable outcome for both parties.

### **Community Consultation**

All service providers were contacted directly for the opportunity to forward any submissions, conditions or concerns they may have with the disposal of the land. All service providers provided positive feedback and there were no objections to the proposal.

The intention to dispose of the land will be advertised in the Bunbury Mail newspaper, the City of Bunbury's website and public noticeboards, inviting submissions in accordance with Section 3.58 *Disposing of Property*, of the Local Government Act 1995, for a period not less than two (2) weeks.

### **Councillor/Officer Consultation**

The proposed sale has been discussed with the Director of Planning and Development Services, the Manager of Civil and Open Space, Infrastructure and Assets officer and officers from Development Assessment and Building Certification.

The final plan outlining the required portions of land was created in conjunction with all of the abovementioned departments and was the result of a combined effort of all officers concerned. The officers worked together to determine the most suitable outcome for both the City and Applicant, and a final enquiry with all relevant staff concluded in no objections to the disposal.

**10.4.3 PROPOSED DEED OF LICENSE OVER A PORTION OF RESERVE 670, LOT 1050 SOUTH WESTERN HWY, DAVENPORT TO V & V WALSH ABATTOIRS**

<b>File Ref:</b>	Lot 1050 South Western Hwy
<b>Applicant/Proponent:</b>	The Trustee for RR Unit Trust t/as V&V Walsh Abattoirs
<b>Author:</b>	Kristen Anderson – Administration Officer Property and Procurement
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-2 – V&V Walsh map

**Summary**

The City of Bunbury was approached by V&V Walsh Abattoirs (hereinafter “the Applicant”) to License an 800sqm portion of land, being a portion of Reserve 670, Lot 1050 South Western Hwy, Davenport, which adjoins their meat processing plant. This is in order to facilitate a more efficient traffic circulation system as part of the operational requirements of the Applicant. A location plan is **attached** at Appendix DCS-2

**Executive Recommendation**

Council agrees to a Deed of License over a portion of Reserve 670, Lot 1050 South Western Hwy, Davenport to The Trustee RR Unit Trust t/as V&V Walsh Abattoirs for a period of TEN (10) years with a further option of ELEVEN (11) years, subject to the terms and conditions as specified in the report, and the following:

1. The consent of the Minister for Lands in accordance with the provisions of Section 18 of the Land Administration Act
2. Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995.
3. Council Endorses the Development Application submitted by the Applicant to develop the Licensed Premises and subsequent granting of a Development Permit and all conditions therein.

**Background**

The Applicant approached the City in January 2014 in the form of a presentation, with a proposal to utilise an 800sqm (20m x 40m) portion of the adjoining land, being Lot 1050 South Western Hwy, to facilitate a more efficient traffic circulation system as part of the Applicant’s operational requirements.

During the presentation, several items were discussed, notably that there had been an Environmental Protection Bulletin (#1282) issued on the land, which identified the land as having high conservation value.

The Applicant further discussed items that they would voluntarily propose as part of the License and Development of the area which included revegetation of the surrounding area, constructing a hardstand with levels that would ensure any drainage would run in the direction of their property and not into the adjoining reserve, erecting a fence 1.8m in height and including a guardrail around the license area.

Following the Applicants presentation, a formal request for a License was submitted and consultation with the City’s Development Coordination Unit (DCU) was undertaken. Concerns at DCU were raised



including the need for consultation with several Government Agencies including the Department of Parks and Wildlife (DPAW), the Department of Environmental Regulation (DER), the Environmental Protection Authority (EPA), the Department of Water (DOW), and the Department of Planning (DOP).

The Applicant also subsequently, submitted a Development Application to construct the hardstand on the Licensed Premises and as such the License and Development Application have been structured in conjunction, to obtain all relevant approvals.

#### **Legislative Compliance**

- Section 18 of the Land Administration Act 1997
- Section 3.58 of the Local Government Act 1995

#### **Officer Comments**

The Applicant has already taken steps and committed a significant amount of resources to ensure any conditions of the development approval can be met and the subsequent License can be issued.

The Applicant has furthermore volunteered to undertake additional items such as revegetating areas where some incursion of activities associated with the abattoir have arisen, continuation of the proposed fencing so as to ensure no future incursion in to Lot 1050 will occur whilst also educating staff about the need to operate strictly within their property boundary and the Licensed Premises.

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

A valuation was procured through LMW Hegney and a valuation of the land 'as is' was advised at \$1,400.00 excluding GST chargeable per annum, the cost of which the Applicant has agreed to pay in full.

Taken into consideration was the considerable amount of expenditure the Applicant would incur to construct the hardstand at the commencement of the License.

As part of the License conditions, the rent will increase annually by CPI and a rent review will be conducted on every third anniversary.

#### **Community Consultation**

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

Consultation with relevant Government agencies as described above.

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

Comment was sought from Executive staff and discussed with the City's DCU, no objections were received for the License proposal, and all conditions required for the development thereof have been included in the Development Approval.

**10.4.4 PROPOSED DEED OF LEASE – BUNBURY-HARVEY REGIONAL COUNCIL – LEASE OVER LANDFILL SITE, LOT 45 STANLEY ROAD, WELLESLEY.**

<b>File Ref:</b>	F00075
<b>Applicant/Proponent:</b>	Bunbury-Harvey Regional Council
<b>Author:</b>	Jane Porter, Senior Property Officer
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-4 Lot 45 Stanley Road Plan

**Summary**

The Bunbury-Harvey Regional Council (“BHRC”) seeks approval from the City of Bunbury and Shire of Harvey, for a New Lease (“the New Lease”) over the whole of the Stanley Road Landfill Facility located at Lot 45 Stanley Road in Wellesley. The Lease (“the Original Lease”) commenced on 11 February 1992, and was for a period of ten years, with the option of two further terms of five years each, and expired on 30 November 2012. Discussions have been held between the Parties since the expiry of the Original Lease, pertaining to the New Lease. A location plan is **attached** at Appendix DCS-4.

**Executive Recommendation**

Council agrees to accept a new Deed of Lease over the whole of Lot 45 Stanley Road, Wellesley (“the Site”) for use as a Landfill site for a period of five (5) years commencing on the 1<sup>st</sup> July 2014, with a first further term of two (2) years commencing on the date immediately following the Expiry Date, and a second further term of two (2) years commencing on the day immediately following the first term. Rental shall consist of a minimum of \$11.00 per tonne rebate of the gate fees payable to Member Councils for waste delivered by each Member Council to the Site, subject to the terms and conditions as specified in the report.

**Background**

The Site at Lot 45 Stanley Road is jointly owned by the City of Bunbury (90%) and the Shire of Harvey (10%), and consists of Lot 45 on Plan 17161 as contained in Certificate of Title Volume 1850 Folio 63. All domestic and commercial waste collected within the City of Bunbury and Shire of Harvey is delivered to the landfill facility on the Site for processing and disposal. The Site is leased by the Bunbury-Harvey Regional Council (“BHRC”) which was formed in 1990 and receives funding from the City of Bunbury and Shire of Harvey.

The objectives of the BHRC are:-

- The orderly and efficient treatment, storage and disposal of waste.
- The provision and maintenance of machinery and equipment for the above purpose.
- Charge fees in regard to the above.
- Provide representation to the WA Waste Disposal Advisory Council.

The BHRC comprises of representatives from both Member Councils and a Chief Executive Officer. The City of Bunbury holds the right to chair the BHRC.

The Department of Environmental Regulation has granted a Landfill Licence for Prescribed Premises, Environmental Protection Act 1986 until 8 December 2014.

### **Council Policy Compliance**

There are no Council Policies applicable to the proposal.

### **Legislative Compliance**

In accordance with Regulation 30(1)(c)(iii) of the Local Government (Functions and General) Regulations 1996, the Council is exempt from the requirements of Section 3.58 of the Local Government Act 1995 as the land is disposed to the BHRC.

### **Officer Comments**

Pursuant to Council Decision 36/13 referred to below a Deed of Lease for the Site (“the Prepared Lease”) was prepared by the City of Bunbury, dated 3 April 2013, with provision for this Lease to commence on 1 February 2013 and to terminate on 31 January 2016, with the options of two further terms of two years each.

The Prepared Lease was not adopted by the Parties, and a draft Deed of Extension and Variation of the Original Lease was proposed and drafted purporting to extend the Original Lease for a further term of five years, with two options to renew for two years; and two further years thereafter, respectively. The proposed variations were essentially to increase the insurance requirements from 5 million dollars to 10 million dollars, and to include all variations of and extensions to the Original Lease in the meaning of the term “Lease” in the draft document. As a result of various extensions and variations to the Original Lease in 2004, 2005 and 2008, it was subsequently determined that the Original Lease had in fact terminated, and could not be further extended. The Parties have ‘in Principal’ agreed to the New Lease, in accordance with Council Decision 36/13, commencing on 1 July 2014 and terminating on 30 June 2019, however; with the option of two further terms of two years each respectively. This was endorsed by the Bunbury Harvey Regional Council at its Ordinary Council Meeting on 26 June 2014.

Furthermore, the Prepared Lease was subject to the granting of an extension of License for Landfill on 12 December 2013. As outlined above, a license has now been granted in this regard for the Site.

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

The Valuation Services Section of the Department for Planning and Infrastructure, advises that a fair market rental value for the site would be \$56,000 per annum (excluding GST).

Council has not previously levied a lease fee for the lease of the Site to the BHRC; and the Parties are agreeable to the proposed rental, under the New Lease.

### **Economic, Social, Environmental and Heritage Issues**

There are no economic, social or heritage issues to consider.

### **Environmental Issues**

The waste disposal site is managed in accordance with a DEC Licence and associated statutory requirements that protect the local environment. The feasibility of establishing a new regional

council that will provide waste management services for the entire region is still being explored in conjunction with Local Governments abutting the City of Bunbury.

### **Community Consultation**

Regulation 30(1)(c)(iii) of the Local Government (Functions and General) Regulations 1996 exempts the City of Bunbury from the advertising requirements of Section 3.58 of the Local Government Act 1995, as the land is disposed to the BHRC.

### **Councillor/Officer Consultation**

The BHRC supports a new lease to 30 June 2019 and has agreed to the rental value proposed.

### **Delegation of Authority**

The Chief Executive Officer has the delegated authority of the Council to negotiate the terms and conditions of leases and licences over Council property subject to the terms and conditions thereof being presented to Council for endorsement before the documentation is finalised.

It is proposed that the Chief Executive Officer proceed with preparation and execution of the New Lease.

### **Relevant Precedents**

Council has previously agreed to grant a Deed of Lease to the Bunbury Harvey Regional Council over the Site for use as a landfill site on 12 February 2013 for a period of five (5) years. Council Decision 36/13 refers, as follows:-

“Council agrees to grant a new Deed of Lease to Bunbury Harvey Regional Council over Lot 45 Stanley Road, Leschenault, for use as a Landfill site for a period of five (5) years, subject to the terms and conditions as specified in the report, and the following:

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

### **Strategic Community Plan Objectives**

- Build organisational capacity.
- Continue to improve the quality of service delivery.
- Improve local political relationships.
- Minimise the environmental and health impacts of pollution.

**10.4.5 Schedule of Accounts Paid for the Period 1 June 2014 to 30 June 2014**

<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 – Schedule of Accounts June 2014

The City of Bunbury "*Schedule of Accounts Paid*" covering the period 1 June 2014 to 30 June 2014 has been issued to elected members and is **attached** at Appendix DCS-3. The schedule contains details of the following transactions:

1. Municipal Account – payments totalling \$7,885,446.37
2. Advance Account – payments totalling \$6,029,979.80
3. Trust Account – payments totalling \$57,714.76
4. Visitor Information Centre Trust Account – payments totalling \$19,076.95
5. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$237,902.96
6. Bunbury-Harvey Regional Council Advance Account – payments totalling \$215,041.76

**Executive Recommendation**

The Schedule of Accounts Paid for the period 1 June 2014 to 30 June 2014 be received.

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

### **10.5.1 PROPOSED HARDSTAND – LOT: 1050 DP: P33291 RN: 670 SOUTH WESTERN HIGHWAY DAVENPORT**

File Ref:	P06927-05
Applicant/Proponent:	The RR Unit Trust
Author:	Mr Anthony Pick – Planning Officer
Executive:	Bob Karaszekewych, Director Planning and Development Services
Attachments:	Appendix DPDS-1 Approved development plan Appendix DPDS-2 Existing boundary and proposed fence plan Appendix DPDS-3 Proposed Offset Plan Appendix DPDS-4 Proposal by V&V Walsh for operational encroachment onto crown land

#### **Summary**

**Please note that this proposal is dependent on Council approving the Proposed Deed of License which is the subject of Item 10.4.3 titled “Proposed Deed of License Over a Portion of Reserve 670, Lot 1050 South Western Hwy, Davenport to V&V Walsh Abattoirs”**

Approval is sought for the construction of an area of hardstand (20m x 40m) and associated environmental offset (revegetation/fencing), on Lot 1050 South Western Highway. The subject land is zoned “Industry” and is Crown land which is managed by the City of Bunbury.

The development would facilitate a more efficient traffic circulation system as part of the operational requirements of V&V Walsh Meat Processors and Exporters (V&V). V&V operate from the adjoining lot, which is zoned ‘Special Use – Abattoir’ No. 17 and No. 18.

The applicant proposes to revegetate land commensurate to the proposed development. In addition further revegetation is proposed to address areas where encroachment from abattoir activity on Lot 1050 has occurred in the past. The application also includes fencing around the hardstand area and along the boundary in order to prevent any further encroachment on to Lot 1050.

It is considered that the proposed development would have no significant adverse environmental impact having regard to the type of development, its siting, and the environmental offset proposed, subject to appropriate conditions set out below.

#### **Executive Recommendation**

That Council, pursuant to the provisions of the *Planning and Development Act 2005* (as amended), hereby resolves to grant a conditional Development Permit for the construction of a hardstand area on Lot 1050 South Western Highway, subject to the conditions and advice notes, set out below.

#### Use and Development

- (1) Pursuant to Clause 10.6 of the City of Bunbury Town Planning Scheme No. 7, this Development Permit expires on 22 July 2024 consistent with the Deed of Licence issued by the City.

- (2) All development shall be in accordance with the approved development plans (attached) which form part of this planning approval.
- (3) This planning approval will expire if the approved development has not substantially commenced within two (2) years from the date of issue of the approval, or, within any extended period of time for which the City of Bunbury has granted prior written consent.
- (4) All works required to satisfy a condition of this approval are required to be installed/constructed and maintained in accordance with the approved plans and conditions of approval for the life of the development.
- (5) The area of hard standing shall only be used for access and turning purposes, and shall not be used for storage purposes.
- (6) The fencing as proposed around the hard stand shall be erected to the satisfaction of the City, prior to the hard standing being used for its intended purpose..

#### Landscaping Requirements

- (7) Prior to the commencement of development, the applicant shall submit a revegetation plan to the satisfaction of the City of Bunbury for those areas identified on the plan marked “Near Map Nov 2013”. The revegetation plan shall be effective for a minimum period of five (5) years and shall include:
  - A schedule for revegetation and weed control.
  - A planting (local native) species list.
  - A map illustrating planting arrangements that has regard to the Western Australian Planning Commission Planning for Bushfire Guidelines Edition 2.
  - Revegetation standards (eg. plant survival criteria, planting densities) monitoring and contingency measures to the support the implementation of the plan.

The revegetation shall be implemented in accordance with the approved revegetation plan.

#### Drainage and Road Requirements

- (8) Before development commences, a Stormwater Management Plan prepared in accordance with the Department for Water Stormwater Management Manual and the City’s Local Planning Policy: Stormwater Disposal from Private Properties, must be submitted for the approval of the City of Bunbury. The Stormwater Management Plan shall identify how storm water run off will be managed separately from waste water.

The Stormwater Management Plan will determine the drainage infrastructure required to support the development and ensure there is no adverse environmental impact.

As a minimum the Stormwater Management Plan must address:

- (a) proposed development;
- (b) storm events to be managed;
- (c) onsite-retention for 1:1 year events;

- (d) onsite-retention for 1:5 year events;
- (e) overland flow path for larger events;
- (f) effect of groundwater;
- (g) use of water sensitive urban design principles;
- (h) water quality;
- (i) protection of adjacent/ nearby waterways and wetlands; and
- (j) conclusions/ recommendations.

Advice Notes:

- i. The site is identified as moderate to low risk of acid sulfate soils. The owner is advised to contact the Department of Environment Regulation (DER) before commencing any site works to determine the implications of this, and whether there is an obligation to prepare an acid sulfate soils assessment report and implement an acid sulfate soils management plan. Further information can be obtained from the DER (08) 6467 5000 or at [www.der.wa.gov.au](http://www.der.wa.gov.au)

The clearing of native vegetation in Western Australia requires a Clearing Permit under the *Environmental Protection Act 1986* unless the clearing is for an exempt purpose. Proponents are advised to contact the Department of Environment Regulation on (08) 9725 4300 for further advice in this regard.

It should also be noted that the clearing of native vegetation within the City of Bunbury may result in impacts upon threatened species that are protected under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*. Proponents are advised to contact the Department of the Environment (02) 6274 1111 for further advice regarding their obligations under the Act.

- ii. This development approval does not remove any responsibility the applicant may have in obtaining Vegetation Clearing Permit from the Department of Environment Regulation in accordance with the *Environment Protection Act 1986*. Further information can be obtained from the Department of Environment Regulation on 9725 4300 (Bunbury Office) or at the following website [www.der.wa.gov.au](http://www.der.wa.gov.au).
- iii. This development approval does not remove any responsibility the applicant may have in notifying the Department of the Environment about the proposal for consideration of impacts in accordance with the *Environmental Protection and Biodiversity Conservation Act 1999*. Further information can be obtained from Federal Department of the Environment on (02) 6274 1111 or by visiting <http://www.environment.gov.au/topics/about-us/legislation/environment-protection-and-biodiversity-conservation-act-1999/do-you>.
- iv. The site is located within the buffer of a registered Aboriginal Heritage site ID5815. The proponent is advised to consider Aboriginal heritage issues and their obligations under the *Aboriginal Heritage Act 1972* at an early stage of planning. Further information can be obtained from the Department of Aboriginal Affairs on 9235 8000 or at the following web site <http://www.daa.wa.gov.au/en/Heritage-and-Culture/>.
- v. This development approval is tied to the period of Deed of Licence issued by the City of Bunbury. The applicant has the opportunity to seek a further Development Permit that



reflects any further lease period for the use of the Crown land that may be granted by the Council.

### **Background**

In January 2014, V&V entered into negotiations with the City to take on a lease for the subject land, in order to provide a more efficient internal circulation capability. As part of the proposal, environmental offsets, in the form of revegetation commensurate to the development, were proposed. Lot 1050 is Crown land managed by the City.

The City undertook investigations and found that Lot 1050 has been identified, in an Environmental Protection Authority Bulletin, Bulletin 1282, as having a high conservation value. It contains a designated Conservation Category Wetland, provides habitat for federally protected threatened Western Ringtail Possums and threatened Black Cockatoo species and forms part of an identified ecological linkage. Accordingly the matter was referred to the Office of the Environmental Protection Authority, Department of Water, Department of Environment and Regulation and Department of Parks and Wildlife for their advice on the proposal.

Through City investigations it was also observed that there had been some minor encroachment onto Lot 1050 from abattoir activities in the past and that portions of the current lot 1050 boundary fence are incorrectly aligned on to City managed land.

Representatives from the City and V&V negotiated the use of the land subject to the preparation of an offset package to mitigate environmental impacts, consistent with advice of state environmental agencies and addressed boundary fence and encroachment issues.

### **Council Policy Compliance**

N/A

### **Legislative Compliance**

The application has been assessed against Town Planning Scheme No. 7. Where a variation is necessary it is set out in this report e.g. a requirement to invoke Clause 6.2.3.1 to waive the requirement for a Structure Plan.

V&V Walsh is classified as a 'prescribed premises' under the Environmental Protection Act 1986, Licence No. L6001/1989/14.

### **Officer Comments**

#### Proposal

The development consists of an area of hard standing measuring 20m x 40m, construction of a guard rail, and, erection of an 1800mm wire mesh fence around the area of hardstand. In addition, revegetation is proposed commensurate with the development area and compliant with the WAPC Bushfire Regulation, Edition 2. Notwithstanding the above, the applicant also proposes to revegetate areas of land where there has been some historical incursion of activities associated with the Abattoir onto Lot 1050. The additional works also include continuing the existing fence line along the boundary of the subject property as indicated on plan No. DA-315, and **attached** at Appendix DPDS-2.

### Environmental Impact

The proposal entails clearing of several small native trees (approximately 5) on a degraded, weed infested portion of land directly adjacent to an existing hardstand area.

The state environmental agencies are of the view that the proposed offset plan (attached at Appendix DPDS-3) and planning conditions should be sufficient to mitigate the minor environmental impacts of the development.

Should planning approval issue, the truck turnaround will be subject to conditions of V&V's prescribed premise licence that are regulated by the Department of Environment and Regulation. The conditions include the ongoing management of stormwater and nutrients issues that may be associated with the proposal.

Advice received to date from State agencies on environmental impacts and proposed offsets does not remove any requirements for formal environmental assessment, as reflected by the proposed advice notes.

### Zoning and requirement for a Structure Plan

The Scheme Map identifies that part of Lot 1050, (including the land which forms part of this application), is zoned 'Industry'. The zone is identified as a 'Development Investigation Policy Area' in TPS7. Clause 6.2.3.1 of the Scheme states that the Local Government requires a 'Structure Plan' for a Development Investigation Policy Area, or for any particular part or parts of a Development Investigation Policy Area, before approving development.

However, it is considered that due to the minor scale, siting and the type of development, the development should not necessitate the requirement for a Structure Plan, in that it would not serve any meaningful purpose in this particular instance. Access from the subject land would be solely via the adjoining lot that forms part of the abattoir.

Hence, it is recommended, should Council be supportive of the proposal, that Council invoke Clause 5.5.1 of the Scheme in order to allow Council to vary the requirement for a Structure Plan.

The proposal has been considered against the broad planning considerations set out in Section 10.2 of the Scheme. The applicant has provided justification for the proposed development in the form of a written statement and associated plans (attached at Appendix DPDS-4). In essence, the additional hardstand is required to allow trucks to turn whilst another truck is in an unloading bay. The current turning circle does not allow for three trucks to position, unload or pass by each other in the current arrangement.

The proposed development is considered acceptable having regard to the low impact and environmental offset proposed.

The proposal will require Council to grant a Deed of Licence to V&V to use the site

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

The proposal will necessitate a Deed of License between the City and the applicant for a term of 10 years with an option of an extension.

### **Community Consultation**

Community consultation in the form of advertising is not considered necessary because of the relative insignificance of the proposed development.

### **Councillor/Officer Consultation**

The application has been presented to the DCU meeting and negotiation has been undertaken with a number of service providers: Environmental Protection Authority; Department of Water; Department of Environment Regulation; Department of Parks and Wildlife; and the Department of Planning.

### **Conclusion**

It is considered that, on balance, the proposed development would not result in any significance adverse impact from a planning and environmental perspective, having regard to the type of development, its siting, and the environmental offsets proposed. Approval is therefore recommended subject to appropriate conditions.

**10.5.2 PROPOSED HOME BUSINESS (COUNSELLING) – LOT 79, NO. 3 STURT STREET SOUTH BUNBURY  
DA/2013/257 – RECONSIDERATION**

<b>Applicant/Proponent:</b>	Patricia Sherwood
<b>Author:</b>	Gary Fitzgerald, Manager Development Assessment and Building Certification
<b>Executive:</b>	Bob Karaszekwych, Director Planning and Development Services
<b>Attachments:</b>	Appendix DPDS-5 – Extract of Minutes 21 January 2014 Appendix DPDS-6 – Location Plan Appendix DPDS-7 – Site plan of outhouse Appendix DPDS-8 – Outbuilding Plan Appendix DPDS-9 – Schedule of Public Submissions

**Summary**

Council previously considered this matter at its meeting held on 21 January 2014 (**attached** at appendix DPDS-5).

The applicant, Dr Patricia Sherwood had been granted a conditional Development Permit for a period of six (6) months that represented a trial period to gauge any adverse impacts on the amenity of the locality. The conditional approval requires the applicant to reapply for a Development Permit prior to the expiration of the time-limited approval. Dr Sherwood had implemented the permit for some of that period. The condition was that approval would cease on 21 July 2014.

Dr Sherwood has made a further Development Application (DA) seeking reconsideration. The DA was re-advertised to allow for community input.

The proposal (identical to the previous DA) satisfies the requirements of Town Planning Scheme No.7 (TSP7) and criteria outlined in the Local Planning Policy – Home Based Businesses and Family Day Care sufficient to issue a time-limited Development Permit, subject to conditions.

Notwithstanding that there were no significant issues identified during the trial period, the applicant has not complied with two conditions of Council’s prior approval, viz. to notify the City of the date of “commencement”, and the construction of a “new proprietary fence” along the eastern boundary of the subject property.

**Executive Recommendation**

That Council, pursuant to the Planning and Development Act 2005 (as amended), hereby resolves to grant of Development Permit for Home Business (Counselling) at 3 Sturt Street, Bunbury, subject to the following conditions:

1. This Development Permit shall have no force or effect, until such time as:
  - a) The operator of this permit has constructed new proprietary fencing along the eastern boundary (within the subject property) to a minimum height of 1.8 metres from existing ground level to satisfy the concern of overlooking to the satisfaction of the City of Bunbury.

- b) The operator of this permit must notify the City of Bunbury of the commencement date, prior to its commencement.
2. The permitted use will be reconsidered on an annual basis.
3. At all times the permitted use must comply with the definition of Home Business as contained in Schedule 1 of the City of Bunbury Town Planning Scheme No.7.
4. Development shall be in accordance with the approved development plans that form part of this Development Permit.
5. No signage is permitted on the site or in the proximity of the site.
6. This Development Permit will expire if the approved development has not substantially commenced within six (6) months from the date of issue or within any extended period granted by the City of Bunbury.
7. The permitted use is to operate in compliance with the Local Planning Policy entitled “Home Based Businesses and Family Day Care”.
8. The permissible times of operation are Monday to Friday (10am - 5pm); and Saturdays, Sundays and public holidays (no trading permitted).
9. The permitted use is to be conducted on a ‘prior appointment basis’ only, with a maximum of one (1) client on the premises at any one time. The permitted use must comply with the *Environmental Protection Act 1986* and the Environmental Protection (Noise) Regulations 1997.
10. The development, must comply with the requirements of the *Health Act 1911*.
11. The development must comply with the City of Bunbury Health Local Laws 2001.
12. Adequate provision must be made for on-site toilet facilities for clients, to the satisfaction of the City.
13. All car-parking for the development shall be contained within the subject property, and one additional car park bay is to be provided and marked on the approved development plan and maintained to the satisfaction of the City.

### **Background**

The subject property is zoned Residential R20. A location plan is **attached** at Appendix DPDS-6. The relevant use-class (“Home Business”) is an “A” use in the Residential Zone under TPS 7, accordingly, the proposal was advertised (re-advertisement) for fourteen (14) days. A site plan is **attached** at Appendix DPDS-7. It is proposed that the Home Business is operated from an outbuilding in the rear yard of the subject property (a plan of the outbuilding is **attached** at Appendix DPDS-8).

### **Council Policy Compliance**

The relevant Local Planning Policy (LPP) is “Home Based Businesses and Family Day Care”. The proposed development is compliant.

### **Legislative Compliance**

It is considered that all necessary action has been taken in respect of legislative compliance and particularly in respect of the *Planning and Development Act 2005* and the Town Planning Regulations 1967.

### Officer Comments

The Applicant has advised that the facility is for Dr Patricia Sherwood who will work as a Psychotherapist. Dr Sherwood will see clients referred by GPs.

The applicant proposes to continue to operate the business from an outbuilding in the rear yard of the subject property. The outbuilding measures approximately 37m<sup>2</sup> in area.

The following criteria are considered relevant in respect to fairly re-considering the matter, and in terms of Council considering whether it will or will not grant approval.

- a) Amenity – It is considered that there should be no substantial adverse impact on the established level of amenity of the neighbourhood if the service provided is by appointment only and if the hours of operation are limited to Council’s satisfaction, and on the basis that the activities are contained within the property boundaries. It is noted however, in terms of impact on the adjoining owner, that the applicant has not constructed a “new proprietary fence” as required by Council in its previous determination.
- b) Employment – the only person proposed to be employed is Dr Sherwood, the definition of Home Business allows a maximum of two (2) people not members of the occupier’s household.
- c) Size – the area of the proposed activity does not exceed 50sqm (maximum limit as listed in the definition of Home Business),.
- d) Retail Selling/Hiring – This is controlled by requiring compliance with the definition of Home Business).
- e) Vehicles – all vehicle parking is contained within the property, and should not result in traffic difficulties.
- f) Services – it is considered that there will be no requirement for an essential service of greater capacity than normally required in the zone, therefore the development is compliant.

The relevant Local Planning Policy (LPP) – Home Based Businesses and Family Day Care, states:

*“If an application is received for a ‘Home Business’ or ‘Cottage Industry’ external to a ‘Frame Area’, the application will be considered on its merits in accordance with the objectives of this policy. The subject lot is external to a ‘frame area’”.*

The Policy further states:

*“...a Development Impact Statement (with terms of reference determined by the Local Govt.) shall be submitted as part of an application for planning approval (external to ‘Frame Areas’.)”*

Each objective of the LPP is dealt with in order as follows:

1. Amenity, noise and odour emissions: because of the professional nature of the business there would be minimal or nil impact from and noise and odour perspective.
2. Streetscape character: It is considered that on balance there would be no adverse impact on the character of the streetscape, and the amenity in the area in that the proposed activity is contained within the curtilage of the subject property.

3. Traffic impact, safety of road users and pedestrians: because of the professional nature of the business there should be no adverse impact.
4. Incidental to residential character: The business is “incidental” to the “residential” use of the land.
5. Economic importance of home based businesses: By its very nature, would “acknowledge evolving work practices and technology” by being a specialised home-based business.

The applicant has previously submitted a Development Impact Statement and this is considered as having adequately addressed the relevant LPP “Home Based Businesses and Family Day Care”, hence the development satisfactorily meets the requirements and objectives of the policy.

Public advertising (re-advertising): the City has received three (3) written submissions (refer Schedule of Submissions **attached** at Appendix DPDS-9.

Issues specifically raised are similar to previous submissions and are as follows:

1. Traffic.
2. Safety.
3. Noise.
4. Privacy.
5. Parking concerns.
6. Risk of “unknown” clientele attending.
7. Signage.
8. Safety of children.
9. Impact on amenity of neighbourhood.
10. Applicant’s perceived disregard for conditions of prior approval.

The proposed business is of a professional nature, and there does not appear to be conflict having regard to the established level of amenity in the immediate neighbourhood, except that, and as noted above, the applicant has not complied with a condition of the prior approval by Council to require the construction of a new proprietary fence on the eastern boundary of the subject lot to protect the privacy of the adjoining owner nor advised the City on the commencement date.

There should be no noise emitted from the premises on the basis that the nature of the business would involve “counselling” and the giving of professional advice. Appointments are a requirement (maximum of one client at any one time).

Vehicles would be required to be parked within the boundaries of the premises and not on the verge, from a traffic management perspective no different from visitors or friends arriving at a typical residential premise.

The hours of operation are limited to less than allowable (in relation to Acceptable Development Criteria), in the Local Planning Policy (LPP). The Executive Recommendation reflects Council’s previous determination in regard to this.

It is accepted Council practice to grant approval to Home Occupations and Home Businesses, on an annual basis. The first year of the operation of the business can be used to test the efficacy of the proposal and the actual impact of the home business on the established level of amenity in the residential area. Council has the right to not support any subsequent request for renewal; in effect any approval is time-limited.

The re-advertisement attracted similar submissions which essentially oppose the application.

The applicant has not complied with Council's previous decision in that: no notice of commencement was provided; and has not constructed "a new proprietary fence" as required by Council in the original grant of approval. The applicant advised the reason for not constructing the fence is that clients do not use the side entry of the house, but go through the main house in order to get to the premises where the business is conducted at the rear. The adjoining property owner remains concerned that there is a direct line of vision from his children's bedrooms to the business premises at the rear.

The City's Compliance Officer has written to the owner of 3 Sturt Street with a view to constructing the fence. Otherwise, the proposal complies with the provisions of TPS7 and local planning policy. On that basis it is considered that an approval should be appropriately conditioned to adhere to all conditions.

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

A commercial use of property will likely attract an increase in rates payable to the City.

#### **Community Consultation**

The proposal was advertised for (fourteen) 14 days in accordance with Clause 9.4 of TPS7.

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

The application has been referred to the City's Development Control Unit for assessment and referred on to the Executive Leadership Team for comment.



### 10.5.3 REQUEST WAIVER OF FOOTPATH DEPOSIT FEE – ALLIANCE HOUSING WA

<b>Applicant/Proponent:</b>	Alliance Housing WA
<b>Author:</b>	Bob Karaszewych, Director Planning and Development Services
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Appendix DPDS-10 Request received from Alliance Housing WA

#### Summary

A request has been received from Alliance Housing WA for Council consideration of a waiver of a footpath fee associated with the construction of a housing unit site on Flynn Street Bunbury.

A copy of the request is attached at Appendix DPDS-10.

#### Executive Recommendation

Council approves the waiving of a Footpath Deposit Fee of \$5,030 payable by Alliance Housing WA associated with the Unit development on Flynn Street, Bunbury.

#### Background

Alliance Housing WA is entering into a contract to construct a unit development on Flynn Street, Bunbury. The development will consist of five (5) units for housing persons with disabilities.

As part of the overall costs, Alliance Housing WA's contractor has included a \$5030 footpath fee to be paid to the City.

As Alliance Housing WA are a charitable organisation recognised by the ATO and a "not for profit" organisation, they have requested the City consider waiving this fee.

#### Council Policy Compliance

Standard Fees and Charges as adopted by Council.

#### Legislative Compliance

Not applicable.

#### Officer Comments

As detailed in the adopted City of Bunbury schedule of fees and Charges, officers imposed a condition on the Development Approval (2014.58.1) for the proposed multi-unit development at 20A Flynn Street to pay a path network contribution of \$5,030.

Path network contributions are requested where infill development is proposed, and the income is used to create or upgrade path networks. The contributions received are not specific to constructing pathways in the front of associated proposed developments.

The Chief Executive Officer does not have delegated authority to waive this fee, hence the requirement to submit to Council for consideration.

**Analysis of Financial and Budget Implications**

It is felt that the waiving of the footpath fee for this “not for profit” organisation would have little impact on the City’s budgeted income, and would show the City’s support for the not-for-profit sector.

It is also noted, that all statutory fees associated with the planning and building applications have not be subsidised.

**Community Consultation**

Not Applicable

**Councillor/Officer Consultation**

Relevant Council officers are aware of the request from Alliance Housing WA and support waiving the footpath fee associated with the development.

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

### **10.6.1 QUOTATION VARIATION – KOOMBANA BAY ABLUTION BLOCK REFURBISHMENT**

<b>Applicant/Proponent:</b>	Internal
<b>Author:</b>	Mark Robson, Senior Building and Structures Officer
<b>Executive:</b>	Phil Harris, Director Works & Services
<b>Attachments:</b>	Nil

#### **Summary**

In May 2014 a tender was awarded to Philip Best Plumbing for the Koombana Bay Ablution Block Refurbishment. A contract variation in excess of Chief Executive Officers delegated authority is required to cover the extra costs associated with additional works that can now be completed due to change in funding arrangement. Variations to a maximum amount of \$50,000 or 10% of the contract value require Council approval.

#### **Executive Recommendation**

In accordance with Section 5.42 of the Local Government Act 1995 and Part 4 of the Local Government (Functions and General) Regulations 1996 Council authorises the Chief Executive Officer to retrospectively approve:

1. Variation Order # 1 – 19 for the Koombana Bay Ablution Block Refurbishment to the value of \$68,545.87 inclusive of GST

#### **Background**

Council's 2012-2013 Country Local Government Fund (GLGF) allocation of \$659,040.00 was identified for three projects: Koombana Bay Ablution Block, Upgrade Payne Park Toilets Block and Ablution Block at Hay Park North. As a result of savings in the delivery of the Payne Park and Hay Park North projects (\$54,759 and \$50,582 respectively) the Department of Regional Development and Lands has approved the transfer of the savings, totalling \$105,341 to the Koombana Bay Ablution Block Refurbishment.

The original scope for the refurbishment was reduced following the discontinuation of the CLGF program in 2013/14. The Koombana Bay Ablution Block had initially been identified for funding over consecutive years of 2013/14 and 2014/15.

The revised project budget of \$280,000 included an allocation of \$103,180 for the connection to sewer with the remaining \$176,820 available for the building refurbishment. Philip Best Plumbing were awarded the tender to the value of \$136,631 on 20 May 2014.

Following advice of the additional funding Philip Best Plumbing was requested to provide a variation quotation for the additional works that can now be achieved with the increased funding.

The additional works include handrails, floor coverings and skirting tiles, skylights, corrosion treatment on existing roof trusses and roof drainage upgrades.

#### **Council Policy Compliance**

Delegation Register Instrument of Delegation – DAG4 Contract Price Variations

**Legislative Compliance**

Section 5.42 of the Local Government Act 1995  
Part 4 of the Local Government (Functions and General) Regulations 1996

**Officer Comments**

The project was originally scheduled with CLGF over the 2013/14 and 2014/15 financial years. Unfortunately the demise of the GLGF individual program resulted in only the first years funding being provided. A revised scope of works was developed to match the available funding including the requirement to connect the facilities to the Water Corporation sewer system.

Due to the savings achieved in the delivery of the Upgrade Payne Park Toilets and Ablution Block at Hay Park North, Council will now be able to achieve a greater outcome for the Koombana Bay Ablution Block Refurbishment.

**Analysis of Financial and Budget Implications**

The project has sufficient funds to cover the \$68,545.87 incl. GST

Year	Income Estimate	GLGF Allocation	Revised Allocation	Committed Funding	Expenditure	C/Forward from 2013/14
2013/14	\$280,000	\$280,000	\$385,341	\$239,811	\$37,708	
2014/15	\$150,000	Nil	\$385,341	\$308,356	Nil	\$347,633

**Community Consultation**

Not Applicable

**Councillor/Officer Consultation**

The Executive Leadership Team are aware of the variation.

### 10.6.2 DECISIONS FROM WITHERS ADVISORY COMMITTEE MEETING 11.07.14

<b>File Ref:</b>	A06016
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Phil Harris, Director Works and Services
<b>Executive:</b>	Phil Harris, Director Works and Services
<b>Attachments:</b>	Nil

#### Summary

At the Withers Advisory Committee Meeting held on 11 July 2014 the committee endorsed the transfer into the Withers Reserve of \$30,804 which represented savings in the 2013/14 completed Withers Action Plan Projects and transfer of \$42,000 from the Withers Reserve to fund the shortfall in the CCTV Installation Project

#### Executive Recommendation

1. That Council note the following decisions made under delegation at the Withers Advisory Committee Meeting 11 July 2014.

*WAC Decision 35/14*

1. *That the monthly financial report be received.*
2. *That \$30,804 transferred into Withers Reserve, which represents the savings in 2013/14 completed projects.*

*WAC Decision 38/14*

*That the committee endorse the transfer of a further \$42,000 from the Withers Reserve to the CCTV project.*

2. That Council approve the transfer of \$30,804 into the Withers Reserve which represents savings from the 2013/2014 completed Withers Action Plan Projects.
3. That Council approve that transfer of \$42,000 from the Withers Reserve to fund the shortfall in the CCTV Installation Project.

(Absolute majority required)

#### Background

The Financial Report presented to the Withers Advisory Committee Meeting held 11 July 2014 advised that there were savings of \$30,804 for the 2013/2014 completed Withers Action Plan Projects and that these savings are to be transferred into the Withers Reserve.

Details of the completed projects are:-

<b>Project</b>	<b>Description</b>	<b>2013/14 Approved</b>	<b>Actual Expenditure</b>	<b>Difference</b>
PR-3258	New Path Littlefair Drive	\$105,000	\$65,426	\$39,574
PR-3258	New Path Hudson Road Reserve	\$9,000	\$12,845	-\$3,845
PR-3254	Install PAW lighting	\$25,000	\$25,646	-\$646
PR-3619	Upgrade Moriarty Park and DC Foster Park	\$75,000	\$76,073	-\$1,073
PR-3257	Install Bus Shelters	\$25,000	\$28,206	-\$3,206
<b>TOTALS</b>		<b>\$239,000</b>	<b>\$208,196</b>	<b>\$30,804</b>

At the Withers Advisory Committee held on 11 April 2014 the committee endorsed funding of \$115,000 for the CCTV Installation and a grant was secured from SWDC for \$100,000, therefore \$215,000 was available for the project.

The City undertook a tender process with WALGA pre-qualified contractors in May – June receiving prices well above the pre tender estimates. A contract was awarded to a company for other CCTV works in the City with approval to review the scope of the works for the Withers CCTV in line with available funding. Following a site visit and re-scoping the revised price still exceeded the available funding by \$42,000.

The SWDC grant is conditional on the CCTV coverage to Des Ugle, DC Foster, Moriarty Parks as well as key public access ways. The executive recommendation in the report to the Withers Advisory Committee Meeting had two options:-

That the committee not proceed with the CCTV project in Withers and the \$100,000 Grant from the SWDC is returned.

Or

That the committee endorse the transfer of a further \$42,000 from the Withers Reserve to the CCTV project.

The Committee endorsed the funds of \$42,000 from the Withers Reserve to enable the project to proceed.

#### **Council Policy Compliance**

Not Applicable

#### **Legislative Compliance**

Section 5.16 of the *Local Government Act 1995* allows delegation to committees and section 5.17 (1) (c) (i) allows delegation to committees comprising of elected members and other persons (Community Members) for the proper management of Local Government property.

**Officer Comments**

If the transfer of \$42,000 is not endorsed by Council the \$100,000 grant from SWDC will be required to be returned and the CCTV project will not be able to proceed.

**Analysis of Financial and Budget Implications**

The balance of the Withers Reserve is as follows:-

Withers Reserve (C/F 12/13)	\$385,813
Withdrawal – Council Decision 99/14	\$129,000
Withdrawal – Council Decision 144/14	\$135,000
Balance of Withers Reserve as at 30/06/2014	\$121,813
Proposed Transfer to Reserve	\$ 30,804
Proposed Transfer from Reserve	\$ 42,000
Proposed Balance of Withers Reserve	\$110,617

There are sufficient funds held in the Withers Reserve to fund this request.

**Community Consultation**

The Withers Advisory Committee plays an active role in the community consultation.

**Councillor/Officer Consultation**

Not Applicable

## **11. Applications for Leave of Absence**

No requests for Leave of Absence had been received at the time of printing.

## **12. Motions on Notice**

No Motions on Notice had been received at the time of printing.

## **13. Questions on Notice**

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

Nil.

### **13.2 Questions from Members**

#### **13.2.1 QUESTIONS FROM COUNCILLOR STECK**

The following questions were received from Councillor Steck on the 16 July 2014. The Executive provide the following answers regarding the Council Meeting Minutes 8 July 2014 and Town Planning Scheme 7.

1. *Was the CEO instructed not to include the responses to my questions on notice in the agenda for the 8<sup>th</sup> of July meeting of council? If so, by whom?*

No

2. *Was any staff member instructed not to include the responses to my questions on notice in the agenda of the 8<sup>th</sup> of July meeting of council? If so, by whom?*

No

3. *Why were the responses to my questions on notice not printed in the public gallery copies of the agenda for the 8<sup>th</sup> of July council meeting?*

The responses were included in both the public hard-copy agenda and the electronic version on the Council website.

4. *Why has this council advertised in the Bunbury Mail on the 9<sup>th</sup> of July, page 17, in the City Focus, a planning and development notice for a “temporary car park on lots: 33 # 49 Vittoria Road Glen Iris, when parking is not a permitted use on the lots as defined within the council town planning scheme 7, table 1, page 20, clearly states car park not permitted in the residential zone, discretionary in city centre and shopping centre zones, not permitted in any other zone ?*



There is a complex relationship between the City of Bunbury Town Planning Scheme 7 (TPS7) and the Glen Iris Structure Plan that has complicated the provision of legal advice as there appears to be a discontinuity in the reasoning, connecting the TPS7 provisions and the Glen Iris Structure Plans provisions that necessitated a fresh analysis of the relevant issues.

On the question of “is the application for the temporary planning approval of a ‘car park’ capable of approval considering TPS7 and the Glen Iris Structure Plan?” - It is apparent from Clause 5.7.2.1 of TPS7 that the provisions of Clause 5.7 apply to all development and all uses of premises in the scheme area for the purpose of vehicle parking, where that use is indicated as permitted or discretionary under the Zoning Table. Cl.5.2.7.2.2 provides that the development and/or commencement of use of premises for the purpose of vehicle access and parking is development requiring the prior planning approval of the local government in accordance with the provisions of TPS7.

Cl. 5.10.11 contains provisions relevant to development on land within the Development (Residential) Zone. Significantly:

- CL5.10.11.1 stipulates that the City’s specific objective in controlling development within the Development (Residential) Zone is to facilitate the comprehensive planning and development of future urban areas in accordance with the adopted Structure Plans.

Cl. 5.10.11.3 provides:

- No Development within the Development Zone is to be permitted unless the local government considers that it complies with a structure plan that has been adopted by the local government and endorsed by the Commission in accordance with Cl. 5.10.12.

Cl.6.2.3.2 provides:

- Where a Structure Plan exists, the subdivision and development of land is to generally be in accordance with the Structure Plan and any associated provisions contained in Schedule 7. As it happens, there does not appear to be any provision associated with a Structure Plan at present in Schedule 7.

Cl.6.2.8.2 provides:

- Subject to the scheme, if a Structure Plan imposes a classification on the land included in it by reference to reserves, zones, Residential Design Codes, then:
  - (a) the provisions of the Structure Plan apply to the land as if its provisions were incorporated into the scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the scheme; and
  - (b) provisions in the scheme applicable to land in those classifications under the scheme apply to the Structure Plan area.

Cl.6.2.8.4 of TPS7 in its relevant part provides:

- A structure Plan, adopted and endorsed in accordance with the scheme, will be used by the local government...as a guide for the assessment of Applications for Planning Approval under the scheme.
- Cl. 1.3.1 of the Glen Iris Structure Plan supplements the provisions of the scheme. Where a provision of this Structure Plan is inconsistent with the scheme, the scheme prevails.

As a Neighbourhood Shopping Centre is simply one type of shopping centre, it is reasonable to see a Shopping Centre Zone under the Structure Plan as comprehended under the Shopping Centre Zone in TPS7.

It is open to Council to accept the Neighbourhood Shopping Centre Zone under the Structure Plan as falling within and to that extent corresponding with the Shopping Centre Zone under TPS7, and it would be acceptable for the Council to recognise the uses which are permissible in the Shopping Centre Zone under TPS7 Zoning Table, as uses which are permissible in the Neighbourhood Centre Zone of the Structure Plan.

On this basis, as “Car Park” is given a “D” permissibility designation in the Shopping Centre Zone in the zoning Table of TPS7, it would be reasonable for the Council to accept the use class “Car Park” as being permissible (D) in the Neighbourhood Centre Zone under the Structure Plan.

If the Council decides to exercise its discretion to be prepared to give temporary approval to the car park use on Lot 33, the Council would need to give consideration to the provisions of Cl.2.2.1 Structure Plan that provides for:

- The local government shall require the preparation and submission of a Detailed Area Plan for the ...Neighbourhood Centre (lots in Jeffrey Road and Vittoria Road) to be adopted by Council and endorsed by the WAPC prior to any ...planning approval being granted.

This clause makes it clear that the Council could only give a temporary planning approval if it first required and received a Detailed Area Plan for the Neighbourhood Centre area at Jeffrey Road and Vittoria Road, which includes lot 33. As the Lot is not owned by the Applicant it is unlikely the applicant would be prepared to have prepared to present to Council a Detailed Area Plan for the Neighbourhood Centre.

The Structure Plan does however give some relief from the above requirement, as follows:

- Subject to section 5.5 of the scheme, the Council may approve a variation to a development requirement prescribed under the Structure Plan with or without conditions, based on the merits of the development proposal and site specific conditions and must have regards to, including but not limited to:
  1. Amenity and surrounding local area;
  2. Proximity of activity centres, public transport local services and facilities;
  3. Level of exposure to noise;
  4. Efficiency and functionality of vehicular and pedestrian traffic movements on the road network; and
  5. Safety of road users and pedestrians.

Council may recognise that to require a Detailed Area Plan as a prerequisite for granting of a one or two year temporary approval for a car park on Lot 33 is excessively onerous requirement. However council may reasonably consider that if the Bunbury Farmer Market owner/operator wished to continue the car park use beyond the initial temporary approval period, then it would be reasonable to require a Detailed Area Plan, so that the Council could be satisfied that the longer term use of Lot 33 for a car park would be consistent with the overall planning intentions for the Neighbourhood Centre site. Much of the above information will be restated in the DA assessment report to the Council with a recommendation based on other considerations.

5. *Given, the City of Bunbury town planning scheme 7, page 66, “Permitted use 8.2(d)” states any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; How can this council advertise and allow a “temporary use” which is not a permitted use without notifying the time frame of the intended “temporary use”?*

This clause refers to works of an immediate and necessary nature.

6. *When can a temporary use as defined within the town planning scheme 7 become a “definite use” or “granted approval” when there is no capacity in the town planning scheme 7 to do so?*

There is no Land Use Definition for “temporary use” in Schedule 1, 1.1 of the scheme. Refer to above comments.

7. *Does the council believe that it is the cities responsibility to uphold the town planning scheme in a consistent manner?*

It is the City’s responsibility to uphold the town planning scheme in a consistent manner, however the Councillors individually would need to answer this question.

8. *Does the practice of allowing non permitted use for some and not for others send a message of two sets of rules when council governs its own town planning scheme?*

To enable an officer’s informed response, an example(s) is/ are requested.

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

In order for staff to finalise the draft budget for the Special Council Meeting of 30 July 2014, a decision is required in relation to the basis of rating to be imposed hence the requirement to deal with the matter as urgent business.

### **Recommendation**

That Council pursuant to section 5.4 of Councils Standing Orders, agree to receive the item entitled “Preferred Rating Model for Budget Preparation” as a matter of urgent business.

### **14.1 PREFERRED RATING MODEL FOR BUDGET PREPARATION**

<b>Applicant/Proponent:</b>	Internal
<b>Author:</b>	Andrew Brien, Chief Executive Officer
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Nil

### **Summary**

In order to finalise the preparation of the draft budget for the Special Meeting scheduled on 30 July 2014, there is a need for a direction from Council in relation to the issue of rating.

This report provides the Council with a number of options that need to be considered as part of the process for the finalisation of the draft budget and will allow staff to complete the draft budget. It should be noted that the purpose of this report is to provide an indication to staff and is not a final decision in relation to rates or the 2014/15 budget.

At the time of preparation of this report the public submission period has not closed, however there have been a significant number of submissions received. In order to ensure public awareness this matter has been listed on the agenda and supplementary information will be provided to Elected Members prior to the Ordinary Council Meeting of 22 July 2014.

### **Executive Recommendation**

Council request that the Chief Executive Officer finalise the preparation of the draft 2014/15 budget based on the following criteria:

1. A single rate in the dollar to be applied to all properties in the district as the preferred rating model for 2014/15;
2. The total amount of rates raised (excluding Interim and Specified Area Rates) be \$32.4m;
3. A minimum rate of \$1000.00

### **Background**

At the Council Meeting held 10 June 2014, Council has previously approved the advertising of rates as follows:

#### Council Decision 201/14

1. *The three (3) public submissions on the discussion paper: 'Review of our Basis of Rating' are noted and feedback on Councils decision is provided to each respondent.*
2. *That Option 1 (No Differential) be endorsed as the preferred rating model to be used in 2014/15 budget.*
3. *That the total amount of rates raised (excluding Specified Area Rates) of \$32.4M be used as the amount of rates required for the Draft 2014/15 Budget.*
4. *Council approve the advertising of the Rates for 2014/15.*
5. *Council invite public comment in respect to the proposed rates for 2014/15 for a period of 21 days.*
6. *That a minimum rate be established of \$1,000.*

### **Council Policy Compliance**

Not applicable

### **Legislative Compliance**

Whilst there is a general exemption in relation to Councillors having to disclose a financial interest in relation to the setting of rates and charges, when the matter of concessions is considered there is a requirement to disclose a financial interest. As elected members are property owners within the City, there is a requirement to declare in this instance. Advice has been sought from the Department in relation to this matter and appropriate actions taken to allow Councillors to declare a financial interest and continue to participate in the discussions on the matter of concessions. Once the formal advice is received it will be provided to elected members.

### **Officer Comments**

As an outcome of community consultation, a significant number of submissions were received in relation to application of a single rate and the proposed levels of increase, in particular with reference to the mixed business and industrial sectors. As detailed in the summary, at the time of printing of the Council Agenda, the submission period was still open and therefore, Elected Members will be provided with this supplementary information prior to the Ordinary Council Meeting of 22 July 2014.

During this community consultation process a meeting was requested by a number of mixed business and industrial ratepayers. A meeting was held in the Council Function Room on 16 July 2014 wherein approximately 105 property and business owners attended and voiced their concerns in relation to the following:

1. The proposed level of increases;
2. The lack of consultation in relation to the changes;
3. The perceived lack of equity in relation to the move away from differential rates;
4. The lack of information in relation to where and how rates are spent.

As an outcome of the meeting and based on the submissions reviewed to date, there is a need for Council to further consider the matter and provide clear direction to the staff to enable the finalisation of the draft budget.

In the event that Council wishes to consider any changes to the position that has previously been advertised it will have an impact on the preparation of the draft budget and this work will need to be undertaken prior to adoption of the budget on 30 July 2014.

Following the public meeting, a further request was made to look at the issue again and three options were proposed. Overall it is considered that there are two (2) options available for Council to consider further and the Executive Recommendation is based on the current advertised position (status quo option). The other alternate option which Council may wish to consider are based on the public consultation process is as follows:

### **Alternative Option – Application of Concession Cap**

That Council adopt the following as the basis for the preparation of the 2014/15 budget:

1. A single rate in the dollar to be applied to all properties in the district as the preferred rating model for 2014/15;
2. The total amount of rates raised (excluding Interim and Specified Area Rates) be \$32.4m;
3. A minimum rate of \$1000.00
4. A concession policy be developed and applied to mixed business and industrial properties where the total is greater than XX% and the concession is greater than \$100.00.

There is a need to carefully consider the issue of applying a concession cap in a blanket manner. Whilst there have been varying degrees of increases in Gross Rental Values (GRV) across the City, some of these increases have been due to commercial assessments and others have been due to changes in the intensification or redevelopment of the properties.

To address this issue it is proposed that should a concession be applied, it should only be applied in instances where there has not been any significant development or redevelopment of the site since

the last valuation (ie: 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.

By adopting a concession policy staff will be able to assess individual properties against the Council approved criteria and then apply the concession. Should Council support this approach then a policy will be developed for consideration as part of the 2014/15 budget adoption together with a delegation to the Chief Executive Officer to implement the policy.

#### **Alternative Option Two – Reduction in the Rate in the Dollar to Reduce Impact**

This option was investigated by the Executive, however given the wide variations in terms of valuation increases and decreases and the setting of a single rate in the dollar it has determined that it is not a viable option to progress. This is due to the financial impact of a reduction in the residential component of the rate base which could not be off-set in other areas when applying a single rate in the dollar to all properties.

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

Any change to the previously advertised position in relation to rating options will have an impact on the development of the draft budget for 2014/15. The following tables provide an overview of the impact of a concession cap at various levels.

##### Concession for a maximum increase of 15%

(Properties with a less than \$100.00 increase removed and properties in the general and city centre/special use rating category are excluded)

<b>Category</b>	<b>Number Properties</b>	<b>Concession</b>
Industrial	400	\$467,747
Mixed Business	226	\$347,646
	<b>626</b>	<b>\$815,393</b>

##### Concession for a maximum increase of 20%

(Properties with a less than \$100.00 increase removed and properties in the general and city centre/special use rating category are excluded)

<b>Category</b>	<b>Number Properties</b>	<b>Concession</b>
Industrial	333	\$353,133
Mixed Business	160	\$237,505
	<b>493</b>	<b>\$590,638</b>

##### Concession for a maximum increase of 25%

(Properties with a less than \$100.00 increase removed and properties in the general and city centre/special use rating category are excluded)

<b>Category</b>	<b>Number Properties</b>	<b>Concession</b>
Industrial	238	\$255,580
Mixed Business	114	\$153,707
	<b>352</b>	<b>\$409,287</b>

### **Community Consultation**

This matter has been subject to community consultation including media releases, call for public submissions, information sessions and a public meeting.

As the agenda item has been prepared prior to final close of submissions they have not been included as part of the agenda item. All elected members will be provided with copies of all submissions prior to consideration of this item.

### **Councillor/Officer Consultation**

Councillors and staff have considered the matter on a number of occasions.

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

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

#### **15.1.1 CEO CONTRACT REVIEW**

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Mayor Gary Brennan
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Appendix CRUSC-1 Confidential Report CEO Contract Review

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

*A matter affecting an employee or employees.*

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

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

## **16. Closure**