



Bunbury City Council

Notice of Meeting and Agenda 4 February 2014

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Western Australia

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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

GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
IT	Information Technology
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, **4 February 2014** at 5.30pm.



Andrew Brien
Chief Executive Officer
(Date of Issue: 23/01/2014)

Agenda 4 February 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*

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.”*

At the Council Briefing Session held Tuesday 28 January 2014, the following declaration was made. This declaration is relevant for the Council meeting 4 February 2014.

Cr Cook declared an impartiality interest in the item titled ‘Jaycee Park Concept Plan’ as a relative of his lives directly opposite Jaycee Park. He will remain in the chambers for the discussion and vote on the matter.

Declarations made at the Council Meeting:

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'

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 21 January 2014 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 21 January 2014 be confirmed as a true and accurate record.

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Various
Attachments:	Appendix MTBN-1, MTBN-2

Summary

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

1. Title: Minutes – Bunbury-Setagaya Sister Cities Committee meeting 8 January 2014
Author: Stephanie Addison-Brown, Director Community Development
Appendix: MTBN-1
2. Title: Minutes – City of Bunbury Audit Committee meeting 28 January 2014
Author: Greg Golinski, Manager Corporate Performance
Appendix: MTBN-2

Council Committee Recommendation

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

1. Bunbury-Setagaya Sister Cities Committee meeting 8 January 2014.
2. City of Bunbury Audit Committee meeting 28 January 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 *Chief Executive Officer Reports*

10.1.1 Household Panel

Applicant/Proponent:	Internal Report
Author:	Lucy Wiseman, Corporate Marketing Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Nil

Summary

The purpose of this item is for Council to consider the establishment of a Household Panel.

The Household Panel will comprise a selection of City of Bunbury and Greater Bunbury residents and ratepayers who will be regularly contacted to provide comments and feedback regarding particular topics.

Executive Recommendation

That Council endorse the establishment of a Household Panel as outlined in the Officer's Report.

Background

At its meeting on 10 December 2013, Council adopted a set of additional key focus areas that included Community Focus and Customer Service (Decision 367/13). In line with this decision, it is recommended that Council endorses the establishment of the Household Panel that will aid Council's communication with the community.

The information collected from the panel will feed into Council's decision-making processes, be incorporated into the community consultation process for particular projects, and to gauge public opinion on specific matters. Information gathered will also enable the City to report against its Community Performance Measures, as outlined in the Strategic Community Plan.

Household Panels are currently used successfully in Local Governments in Western Australia and Nationally.

Council Policy Compliance

There is no Council Policy applicable to this matter however Council Decision 367/13 is applicable.

Officer Comments

The Household Panel will allow the City to contact and engage with a cross selection of the community on a regular basis to complete surveys, provide submissions on a range of topics and allow for issues or ideas to be tested with the community prior to development of formal positions.

The Household Panel will comprise City of Bunbury and Greater Bunbury residents and ratepayers on an opt-in basis. Upon registering each member will be required to provide demographic information regarding their age, suburb, sex, and household makeup which will allow Council to ensure there is a good cross-section of people who are providing feedback.

There will be no limit to the number of members, and members will be asked to remain on the panel for a period of at least one year.

The results of the surveys will remain confidential with all reporting being carried out at a summary level so that individuals cannot be identified.

The Household Panel is not intended to be used as the sole method for engaging the community, and alternative opportunities for engagement will be available for those who do not wish to commit to being member, dependent on the project or issue.

Analysis of Financial and Budget Implications

Funding for the project will be through savings in other areas within the media and marketing base operating budget.

Community Consultation

Research was undertaken on a number of Australian Local Governments who employ a similar system including City of Wanneroo, Manningham City Council, Wyndam City Council, City of Canada Bay, Willoughby City Council, and Woollongong City Council.

Economic, Social, Environmental and Heritage Issues

Social

It is important for the City of Bunbury to keep up with the changing needs of our community, and understand what our community wants. In order to do this we need to keep in contact with our residents and ratepayers, as well as those of surrounding Shires, on a regular basis.

10.1.2 Council Priorities – Key Focus Areas Strategies

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

Summary

At the Council Meeting held 10 December 2013, Council resolved as follows:

“Council Decision 367/13

That Council adopt the following key focus areas for Executive and for the CEO to provide a response including strategies to address each of the following:

- *Community Focus*
- *Customer Service*
- *Partnerships*
- *Capital Works*
- *Project Delivery*
- *Financial Management*
- *Administration Operations”*

Workshops have now been undertaken with Executive and Staff which resulted in the development of strategies to address each of the 7 key focus areas.

Executive Recommendation

1. That Council note the key actions and strategies contained in this report in response to the seven (7) key focus areas.
2. A review of the key focus actions and strategies and a report outlining the implementation and actions taken against each strategy, to be presented to Council on an annual basis.

Background

On 19 November 2013 the Mayor met with the CEO and Directors and discussed key focus areas for the administration and the City’s future.

A set of key focus areas was developed and issued by the Mayor to Elected Members for their consideration, following which, Council was presented with seven (7) key focus areas at the Council meeting of 10 December 2013.

The Council, at the Ordinary Meeting of 10 December 2013 resolved to adopt seven (7) key focus areas and requested that a further report be provided outlining how the Executive and the organisation are going to commence the process of actioning these.

The following are the initial responses to the focus areas and whilst some are longer term actions, many have already commenced implementation.

Key Focus Area 1 - Community Focus

The Executive and Council will focus on promoting a positive relationship in the way the Council and administration conducts itself.

Key actions:

- Increased communication in relation to City of Bunbury activities, projects, meetings and events via various mediums including Facebook, City Focus, Twitter, increased signage etc.
- Regular and early engagement with community on key projects and issues including the introduction of the Household Panel, reference groups, online surveys and informal groups
- Demonstrable commitment to the corporate values including a commitment to working with the community rather than separately from it
- Greater use of technology to provide more access to Council meetings and forums
- Review of the amount and type of reports/meetings which are not open to the public to allow greater participation by the community in Council activities

Key Focus Area 2- Customer Service

There will be an absolute focus on customer service whereby all of our staff strives to find solutions exploring avenues that may combat any legislative restrictions.

Key actions:

- Development of new customer service charter and delivery standards manual to ensure quality and consistency of service at each customer contact and to ensure corporate values and a customer-focused culture become the way we do business
- Conduct regular customer survey.
- Road show to provide overview of Councils expectations to all staff
- New engagement framework to seek feedback as part of decision making processes
- Drive new internal culture of cross-directorate cooperation to ensure customer enquiries are managed appropriately and quickly
- Implement improved request management system to ensure:
 - * all customer contact is appropriately recorded and monitored
 - * timely responses, including a review of appropriate service standards
 - * internal visibility in regard to how each request has been managed to remove confusion and ensure quality of responses

Key Focus Area 3 – Partnerships

The Executive and Council will continue to foster and establish partnerships with the government, business and most importantly the community.

Key actions:

- Proactive dialogue with all tiers of government and funding providers
- Establish reference groups as appropriate to maintain an ongoing dialogue with government, business and community stakeholders to help shape direction
- Grow and maximise upon informal local networks to gather input for projects and activities
- Work with surrounding local governments to ensure that Bunbury is recognised as the regional capital and facilitate outcomes relevant to the City's future

Key Focus Area 4 – Capital Works

The Executive and Council when considering capital works projects, adopt a whole of life costing to ensure future maintenance and replacement costs are also factored in to our decision making and long term financial planning. Council will determine the optimal number of projects to take on during each year to ensure that delivery is completed to the highest standard.

Key actions:

- Prior to adoption of 2014/15 budget whole of life costings will be reviewed on all projects proposed to be undertaken during the year
- A review of all projects within the Long Term Finance Plan will be undertaken to ensure that ongoing operational costs have been appropriately accounted for
- Ongoing operating income and expenditure impacts will be documented as part of preparing project proposal for consideration in the capital works program and these impacts will be factored into the long term financial plan
- All projects will be assessed against our Strategic Community Plan objectives using the project assessment model once endorsed by Council
- Staff will ensure that only those projects with sound business cases will be presented to Council for consideration

Key Focus Area 5 - Project Delivery

The City will strive for all approved capital works projects to be progressed within the approved financial year to ensure the community are able to see improvement and progress within the City.

Key actions:

- Linking with community and customer focus areas, the early engagement with the community will help prevent delays through community opposition and allow for more effective delivery of projects
- A new approach to project planning will ensure that all appropriate project requirements and timeframes are included at the time of adoption of projects ensuring more effective delivery
- The Executive Leadership Team have taken responsibility for the review of physical and financial performance on a monthly basis to improve reporting to Council on all projects
- The introduction of reporting systems over the last few years has now provided the tools and framework to assist in reporting of issues and will ensure that where projects cannot be achieved due to unforeseen circumstance will be reported early and allow for alternative projects or revised scope of projects to be actioned

Key Focus Area 6 - Financial Management

The City will be focused to review every aspect of Council business to ensure the projects and activities we approve do result in benefits to our community. This will include ensuring proposals for funding are supported by robust evidence and the City will focus on exploring options of increasing the rate base rather than increasing residential and business rates.

Key actions:

- Staff have undertaken a critical review of all operating expenditure and identified potential savings in the 2013/14 budget which will form part of the next budget review

- These savings are being reflected in a reduction in the base operating budget for 2014/15 although the increase in operating impacts of projects in the 2013/14 year partially offset some of these savings
- The Executive Leadership Team has undertaken an initial review of staff positions and identified opportunities to reduce staffing numbers through natural attrition during 2014/15
- Further reviews of staffing will be undertaken during 2014/15 to identify potential areas for further savings however it should be noted that the staffing reviews will not impact upon operational service delivery areas
- A systematic review of all functional areas of Council will be undertaken commencing prior to 2014/15 budget to identify potential savings and to look at alternate methods of service delivery

Key Focus Area 7 - Administration Operations

The Executive will continually review operations to ensure an increase in productivity wherever possible including the reduction of use of external consultants.

Key actions:

- Conduct ongoing service reviews to ensure we are responsive to community needs and future direction whilst also ensuring we run an efficient and lean business model with appropriate allocation of resources to deliver council and community expectations and target outcomes
- Maximise use of internal expertise of staff to plan for and deliver outcomes with minimal reliance on external consultants
- Regular review of Workforce Plan to ensure Council are appropriately resourcing key projects with the right mix of people and professional expertise
- Every position that becomes vacant is reviewed prior to consideration of replacement taking into consideration all organisational needs including opportunity for change in roles, reallocation of duties and not replacing the position
- Review of industrial relations framework to ensure that the structure has flexibility to enable adaptability and responsiveness to meet changing Council and community priorities
- Implementation of a structured approach to service and process reviews is being developed and a review program will commence by March 2014
- Roll-out of actions and strategies following the Organisational Culture Review in 2013 to focus on improvements in service delivery and efficiency

Council Policy Compliance

There is no Council Policy applicable to this proposal

Legislative Compliance

There is no legislative compliance applicable to this proposal.

Officer Comments

The Executive support this proposal and feel it would assist when delivering on administrative and operational processes.

Analysis of Financial and Budget Implications

There are no additional Financial or Budget implications.

Community Consultation

Council did not require any community consultation.

Councillor/Officer Consultation

Councillors have previously been informed and commented on the key focus areas that Executive and Council will be able to adhere to and these were adopted at the Council meeting 10 December 2013.

Workshops have been undertaken with City of Bunbury Executive and Staff which resulted in the strategies to address each of the seven (7) key focus areas being developed.

10.1.3 Stirling Street Arts Centre Concept Plan and Not-for-Profit Development

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

Summary

At the Council Meeting held 10 December 2013, Council resolved (Council Decision 378/13):

“Pursuant to Clause 11.1(b) of the City of Bunbury Standing Orders 2012, the debate on this matter is adjourned until the new year to enable further discussion with all stakeholders to take place. ”

A meeting was arranged for Thursday 9 January 2014 to enable discussions and consideration of future uses on the Stirling Street Arts Centre (SSAC) site, based on consultation feedback received.

The format for the meeting was one of discussion with representatives of Residents of Stirling Street (ROSS), current user groups, proposed user groups and other stakeholders invited to attend. It was hoped that as a result of this meeting, Council would be in a position to ascertain if there is support for any or for no development incorporating NFP on the site.

This report provides Council with the outcomes from these discussions as well as options to now progress discussions with residents and SSAC users for a concept plan for the Arts Centre and investigate alternative sites for the Not-for-Profit groups.

As a result of these discussions, an amended recommendation is provided for Council consideration.

Executive Recommendation

PART A

Pursuant to clause 11.6 of the City of Bunbury Standing Orders 2012, the debate be resumed in order for further discussion to be undertaken.

PART B:

That Council:

1. Accept that the Street Arts Centre Site is not an acceptable site for the development of Not-for-Profit Development based on opposition from Stirling Street residents.
2. Authorise the CEO to investigate alternate land and design options in conjunction with Lotterywest and current and proposed Not-for-Profit User Groups for Council consideration.
3. Authorise the CEO to progress consultation with the ROSS Group and SSAC users to develop an overall concept plan for the Stirling Street Arts Centre Site based on the needs of the current user groups and feedback from the ROSS Group.

4. Request that in relation to points 2 and 3 above, following investigation and consultation, the CEO prepare reports for consideration by Council.

Background

A meeting was held Thursday 9 January 2014 with the purpose of enabling discussions on consideration of future uses on the site, based on consultation feedback received and for the City to ascertain if there is support for any or for no development incorporating NFP on the site.

The format for the meeting was one of discussion with current user groups, proposed user groups and other stakeholders invited to attend. There were a total of 17 attendees.

As a result of the meeting, the final position of the residents was that they are not prepared to negotiate for any NFP development on the SSAC site, nor were they prepared to accept a significant intensification on the site for the SSAC user groups.

A summary of the outcomes of previous community meetings and consultation undertaken, are contained in the Council Report that was provided at the Ordinary Meeting of 10 December 2013.

Council Policy Compliance

The project is to be consistent with the following policies:

Assessment of Cultural Heritage Significance; Development Application Process for Heritage Places; Heritage Conservation and Development Policy for Heritage Places

Any development of the Stirling Street Arts Centre will need to be cognisant of the above mentioned, especially in relation to the portion of the site that is occupied by the former State Government Infant School 1917 included in the TPS 7 Heritage List.

Stirling Street Heritage Area

The Stirling Street Arts Centre is located within the Stirling Street Heritage Area; therefore any redevelopment will need to have regard to this policy in terms of heritage based design guidelines.

Access and Parking for Pedestrians, Bicycles and Vehicles - No. 3.1

Consideration of the location, detail design, amenity, access and egress to parking areas will need to have regard to this policy.

Legislative Compliance

Local Planning Scheme

TPS 7 indicates that the Stirling Street Arts Centre site is a Local Scheme Reserve designated "Parks and Recreation". Development approval may be given for a "Community Purpose" use in accordance with section 3.4 of the Scheme.

Officer Comments

Although resident's final position was that they are not prepared to accept any NFP development on the SSAC site, nor were they prepared to accept a significant intensification on the site for the SSAC user groups, it is noted that they are however prepared to work with the SSAC users to develop an overall concept plan for the site.

To progress this, it is proposed that point 3 of the Executive Recommendation will allow for the City to arrange further meeting with SSAC user groups and residents to develop a reviewed concept plan based on the needs of the SSAC user groups.

In relation to the NFP in the CBD, the City will now explore potential sites and provide Lotteries with an update on how the City is going to progress this including how the project team will be comprised.

It is felt that site assessment reports need to be undertaken looking at all suitable land owned by Council in the CBD, site constraints and how to maximise any potential revenue streams that could come from the proposed development.

Point 2 of the Executive Recommendation will allow for this to occur and the City will be making further arrangements to meet with Lotteries to further progress the concepts prior to a report being presented back to Council for consideration.

Analysis of Financial and Budget Implications

As per Councils previous resolution, the CEO will still pursue the acquisition of the Stirling Street Arts Centre site in freehold as part of the compensation from the Preston River to Ocean Regional Park as this will provide Council with the flexibility into the future in terms of value of land.

The development of the NFP on an alternate site may see additional opportunities for users through the maximisation of funding for the development. It should be noted that Lease arrangements will need to be determined and administered by the City's Contracts and Property Department in conjunction with the organisations that will occupy the site once determined.

Community Consultation

Extensive liaison with the various involved community groups and key stakeholders has been undertaken throughout this process. Details of previous community meetings and consultation undertaken, are contained in the Council Report that was considered at the ordinary meeting of 10 December 2013.

Point 2 and 3 of the Recommendation, will allow for this to continue and enable development of outcomes for Stirling Street Residents, Stirling Street Art Centre Users and Not-for-Profit users.

Councillor/Officer Consultation

Since August 2011, senior staff have been in ongoing discussions with Lotterywest in relation to funding assistance.

Staff will continue to liaise with Stirling Street Residents, Stirling Street Art Centre Users and Not-for-Profit users to work towards meeting agreed outcomes for all parties.

Economic, Social, Environmental and Heritage Issues

Economic

Funding for development of a site is to be sought from Lotterywest who have been a key facilitator in providing funding for the research and planning of community purpose sites in the Bunbury region. The ongoing costs associated with the running of the Not-for-Profit organisations will be the responsibility of each organisation.

Social

There was a shortfall of accommodation for Not-for-Profit organisations recognised in the JM Community/CT Management Group Development Study (Finalised April 2011). This endeavour will enable those organisations to more effectively provide for community members in need of assistance in terms of income, disability, ethnicity or other social disadvantage.

Environmental

Potential environmental issues have received significant scrutiny from Council's Environmental Officers. A possible contaminated site has been identified in the northern portion of the SSAC site and this is currently under investigation. A report is to be received on 30 October 2013. If a portion of the eventual building is to be located in an affected area geotechnical investigations will need to be carried out to determine any materials that may need to be excavated and backfilled, prior to construction.

Heritage

The heritage value of the Bunbury Infant School is a key issue for the site in terms of protecting the integrity of this building. Any development adjacent to the heritage building will need to complement the architectural vernacular of this building and be designed so as not to detract from its heritage values.

10.1.4 Jaycee Park Concept Plan

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

Summary

On 6 August 2013, Council accepted the public exhibition of draft concept plans for both the Stirling Street Arts Centre and Jaycee Park developments to accommodate community service providers. On 4 December 2013, a Community Forum was held to discuss the Jaycee Park site.

This report provides the Council with a summary of submissions and officers responses as well as incorporates comments raised from the Jaycee Park Community Forum held Wednesday 4 December 2013.

The proposed recommendation provides a way forward in relation to the development of the NFP Project at Jaycee Park.

Executive Recommendation

That Council:

1. Authorise the CEO to progress the development of alternative design options in conjunction with user groups and residents for the development to accommodate community service providers at Jaycee Park on Lot 4669 Forrest Avenue, South Bunbury, taking into consideration the following:
 - a) Ensure adequate public access to playground and open space areas on the site.
 - b) Review traffic management options for the site with regard to minimising any potential impacts on adjoining residential areas.
 - c) Provide for maximum retention of existing trees on the site where possible and incorporate landscaping to ensure a high quality of visual presentation of the site.
 - d) Incorporation of Lots 4, 5 and 6 Forrest Avenue (Goomburrup Aboriginal Corporation), South Bunbury into the Jaycee Park Community Centre Master Plan.
2. That Council adopt the name Jaycee Park Community Precinct to define the project.
3. In conjunction with the proposed user groups and residents prepare a concept briefing paper for consideration by Council for the purposes of progressing to tender for detailed design.

Background

At its meeting held 6 August 2013, Council Decided (244/13):

“That Council resolves to:

1. *Accept the concept plans prepared for both the Stirling Street Arts Centre Master Plan and Jaycee Park Master Plan for the purpose of public advertising for a*

minimum advertising period of 42 days with the following amendment and clarification;

2. *Agree to the commencement of land administration procedures to change the purpose of Reserve 31563 from “Parking & Recreation” to “Community Purpose”.*
3. *Agree to the commencement of land administration procedures to change the purpose of Reserve 25317 from “Municipal Purposes” to “Community Purpose”.*
4. *Have the area currently identified as future expansion on the Stirling Street site shown as auditorium/exhibition space (noting that it is to be excluded from the Lotteries funding component, but is to be included in all design and costing stages to ensure the total integration of the design and feasibility for the future management of the site).*
5. *After the completion of the public advertising the CEO and the Mayor are to consult on the need to call a Special Council meeting to consider the next steps.”*

Advertisements for the concept plans were placed in Bunbury Mail on 28 August 2013, 4 September 2013, and 18 September 2013, and 2 October 2013 (Please note: we don't advertise in the South Western Times other than for adopted LPP's & Gazetted Scheme Amendments).

Information was uploaded onto the City's website on Wednesday 28 August 2013.

Copies of both concept plans were placed in the foyer of the Administration Building and at the City Library on 28 August 2013.

The submission period closed on 9 October 2013. The schedule of submissions, including Officer comments, is **attached** at Appendix CEO-1 for the Jaycee Park Site. A community forum was then held on Wednesday 4 December 2013.

Council Policy Compliance

There is no Council policy applicable to this matter.

Legislative Compliance

Local Planning Scheme

TPS 7 indicates the site is a Local Scheme Reserve designated “Parks and Recreation”. Development approval may be given for a “Community Purpose” use in accordance with section 3.4 of the Scheme.

Officer Comments

Thirty-one (31) submissions were received in relation to the Jaycee Park Centre concept plan. There were three (3) submissions in support of the proposal, thirteen (13) submissions were advice or no objection from government agencies, nine (9) objections to the proposal and six (6) submissions that did not object outright, but raised various concerns or suggested alternatives to the design.

The main concerns and issues raised were as follows:

- Loss of public open space area and insufficient public open space in the locality
- Increased traffic in Forrest Avenue

- Proposed playground/park area insufficient for local needs of children and residents
- Loss of trees on the park
- Increase in anti-social behaviour
- Loss of pleasant outlook for properties adjacent to the Park
- Further discussions are to be held with Goomburrup Pty Ltd to investigate opportunities to incorporate their land in the overall design.

In regard to the site, the main issues to be addressed in terms of site planning are the review of the size and accessibility of public recreation areas and the assimilation of the Goomburrup development into the design.

Analysis of Financial and Budget Implications

The ability of the Council to acquire the site in freehold as part of the compensation from the Preston River to Ocean Regional Park will provide an opportunity to use the freehold ownership as part contribution to the project.

The expansion of the NFP and SSAC in a joint project arrangement will see improvements for all users through the maximisation of funding opportunities by combining the NFP and SSAC improvements into the one project.

Lease arrangements or re-vesting orders will need to be determined and administered by Council's Property Services in conjunction with the organisations that will occupy the site.

Community Consultation

Extensive liaison with the various involved community groups and key stakeholders was undertaken in the first few months of 2013. The concept plans have been publicly advertised for a period of 42 days in accordance with the requirements of TPS 7, Section 9.4.

On 4 December 2013, a community forum was held to discuss the Jaycee Park site. During this forum, there were a number of questions raised and answers provided by the CEO. These are contained below.

Ms Joan Birkett

Ms Birkett a nearby resident stated she felt that no crown land or park should be at risk of takeover as residents have a right to public open space. Ms Birkett also noted that while the idea of this forum was suggested on 14 November today was the first time that the forum had been in any newspaper. She felt this was not a good beginning.

Ms Birkett indicated Jaycee Park was originally the entry or access road into Bunbury where people sought food/ drink and somewhere to sit. She also queried the proposed café on the concept plan asking is this would be open to the public and felt the Wollaston shops should have been contacted and advised.

Mr Brien responded to Mrs Birkett advising that while media releases and information was sent out, unfortunately newspapers do not always take up the information provided to them.

Mr Brien noted the café was requested and seen as an opportunity by the South West Environment Centre, with a focus on the needs of the site. The café is not a certainty and its inclusion can be re-considered.

Mr Brien indicated that the footprint of the proposal may be placed other ways and reconfigured to maximise green open space and feels there are possible solutions.

Ms Birkett asked the question would the ground floor at the Library be available or considered by the City for NFP'?

Note: While this question was not answered at the meeting, the review of space requirements for the NFP groups indicates that there is not sufficient space appropriate to accommodate them at the Library. Further, this space is currently let on a commercial basis.

Ms Susan Hill

Ms Hill introduced herself as a representative of the South West Environment Centre and a resident that has lived opposite the park. Ms Hill advised they were offered space in 2011 and felt the consultation process could have been better. Ms Hill explained to everyone the Café component of their allocation was a long term project it may or may not happen. The concept was to provide training, practice food preparation and maybe provide tea and coffee for users but not to be commercial as such to compete with others. Susan explained the Busselton Community Garden example.

Mr Brien noted Ms Hill's comments

Ms Joan Moore

Ms Moore is a resident and commented that many people live in units with no room for gardens and felt it was important to leave parks. Ms Moore was concerned that trees damaged in the tornado had not been replaced. Ms Moore indicated the park was important for exercise, health and a place for the elderly. She indicated most places just have a drive and every bit of space is important.

Mr Brien noted Ms Moore's comments.

Mr Graeme Heron

Mr Heron asked has there been any consultation with Jaycee's.

Note: A subsequent review of the Councils record system has indicated that there has not been any consultation with Bunbury Jaycees. Discussions with the last known members indicates that there is no longer a Bunbury Jaycees group in operation and that there has not been a Bunbury Jaycees group for a number of years .

Mr Heron is a resident and commented his family has been involved over many years in relation to the toilet block and cricket pitch and felt other places could be used better than this public open space (POS). He felt that they are losing too much space and we need to look at something more suitable. Mr Heron stated the traffic is abominable and it will bottleneck where the roundabout is planned. He note allocation of 194 car spaces and suggested that with this volume the roads would not handle the traffic. He felt the park could be better used for the children and the elderly from the units. Mr Heron stated his concern if the toilets are demolished as people use them constantly. He stated he felt it is not worth losing the park for an office block. Mr Heron indicated there was enough anti-social if there was more there for people to play with e.g. buildings and vehicles this would increase. Mr Heron agreed the NFP need something but not at Jaycee Park.

Mr Brien noted Mr Heron's comments.

Mr Les Ovens

Mr Ovens noted that truckies and others use the existing toilets and queried if there were no toilets where would they go? Les suggested the parkland at Kelly Park was absolute c—p and would be better used for this as it has access on three sides.

Mr Brien noted Mr Ovens's comments.

Ms Marian Gaspar

Ms Gaspar introduced herself as a resident and a NFP worker. Ms Gaspar indicated as a resident that she loves the proposal and felt it would beautify the area. She noted when her children were young they did not play in the park for fear of what they may step on. Ms Gaspar clarified that the proposal does provide new public toilet facilities. She also noted landscaping would see more trees and plants. Ms Gaspar felt it would be much nicer and better to look at.

Ms Gaspar queried if concerns of anti-social behaviour were directed at NFP as she cannot see this as an actual issue. Ms Gaspar summarised that many of the facilities and services would benefit the people in the area, provide a better park, activities etc. She felt the proposal provides benefit to community and residents.

Mr Brien noted Ms Gaspar's comments

Ms Joan Birkett

Ms Birkett commented the biggest area of green is not that much, she felt there would be nowhere to run and it won't get the wildlife or waterbirds if the building goes up.

Mr Ian Wallace

Mr Wallace introduced himself as a resident living adjacent to the park. Ian commented that the park is beautiful and yet he has not seen too many beautiful buildings and definitely did not wish this proposal to go ahead. Mr Wallace wondered how this may affect the value of his house. He noted he felt he would lose his vista something he enjoys, something he finds peaceful and calming. Mr Wallace asked when we are going to leave the parks alone. He stated land was important and as we don't have high rise, we have a lovely country feel. With growth everyday there needs to be plans for all projects. Mr Wallace indicated he felt that trailer and general storage should be in industrial areas using storage facilities. It may cost, but so do buildings. Mr Wallace noted he was concerned what noise would be had from the comings and goings in a commercial situation. Mr Wallace stated that if they lose the park it will never come back and that was a step backwards as the park meant a lot to him.

Mr Wallace then indicated his concern with a roundabout in relation to emergency vehicle access on Forrest Avenue. Mr Wallace stated that he believed in NFP and that there were other options, maybe that would be elsewhere and not in the Bunbury shire.

Mr Brien noted Mr Wallace's comments

Mr Gerard Murphy

Mr Murphy is a resident of Stirling Street and a representative of the Residents of Stirling Street (ROSS) group. Mr Murphy commented the proposal will have an effect on Bunbury. Once POS is taken it is gone. He queried why the City of Bunbury is insistent on using POS. Mr Murphy queried why a small organisation like Baptist Care required the allocated space and why Anglicare were included when they were not originally involved, how did they get to be included?

Mr Teale explained to Mr Murphy that it was at Lotterywest's suggestion that Anglicare be involved in the plan.

Mr Murphy's comments were noted.

Ms Joan Birkett

Ms Birkett raised a concern that if the City goes ahead with the plan to gain freehold then they would have no say and felt that is a bad situation.

Mr Brien explained that with the creation of the Ocean to Preston River Park the park absorbed and the City lost a significant amount of development land. This land (Jaycee Park) was one Lot of a number of Lots identified as part of a compensation agreement with government. However the situation is that they are not specifically dependant on one another in terms of the NFP project and compensation matters.

Ms Joan Moore

Ms Moore made the comment that Council should plant more trees; she felt all the street trees are butchered and cut back to a trunk. She stated people want shade and they need more trees.

Ms Moore's comments were noted.

Mr Peter Elderfield

Mr Elderfield is from the orienteering club and noticed this meeting in the newspaper. His club are looking for space and storage for their equipment. Mr Elderfield asked what will happen if this concept fails or falls on hard times?

Mr Elderfield then advised he would be happy to discuss specifically his issues with the Mayor and CEO at the end of the meeting.

Note: At the conclusion of the meeting Mr Elderfield discussed the matter with the CEO and agreed to provide additional information to the City of Bunbury for a response.

Community member – unknown

A member of the community asked about the old Punchbowl site on Ocean Drive and asked if this could be used in some capacity and what is happening to it.

Mr Brien advised the site is for sale. It was rezoned some time ago. He noted there is interest in the site however Council are not prepared to give it away as it is a prime development site within the Tourism Precinct. Council could consider development options for this site.

Mr Richard Taggart

Mr Taggart is representing a NFP Group Bunbury Community Legal Centre. Mr Taggart spoke for the site and noted that while they are pitched to be part of the proposed SSAC Concept they prefer Jaycee Park and like what they see. He advised they like Jaycee Park as it is closer to the people who will use their service. In a choice of the two (2) sites he feels Jaycee is closer to the clientele and noted costs and services. The group activities are legal advice and mediation. Allocation of 200m would provide for 10-15 staff with anywhere between 10 – 15/25 people per day. Mr Taggart indicated that for his group the proposed cluster of services and crossover provided better outcomes for clientele and would provide better help for people. In over 25 year the service has only hand a handful of conflict issues and the clientele is not of a criminal nature. The site is close to transport and provides ease of access for all including those outside Bunbury.

Community member – unknown

A community member asked that instead of using the park area why can't the City use the land to the west of the site?

Mr Brien advised there are issues of ownership and purchasing land can impact the costs to the community of the project.

Mr Kevin Woodward

Mr Woodward is a resident with his home being on a corner where the roundabout (RAB) is proposed. Mr Woodward noted he would be interested to see how much of the verge would be lost in the building of the roundabout and how close any traffic may come to his house. He noted that he finds RAB's to be excellent in slowing traffic down and a RAB would be an advantage in one respect given the high volume of traffic on Forrest Ave. Mr Woodward did indicate he has a concern of what the noise affect may be on his house. Kevin proposed he is all for the NFP's but is concerned about loss of open space but would be happy to share the park.

Mr Brien noted Mr Woodward's comments.

Ms Joan Birkett

Ms Birkett queried the land and the ownership of the land next to the park.

Paul O'Neill

Mr O'Neill introduced himself as the General Manager of the Goomburrup Aboriginal Corporation that owns the adjacent land.

Mr O'Neill indicated they are in favour of the area. Mr O'Neill noted while people mentioned use of the park for the elderly or dogs there was little mention of children using the park. Mr O'Neill indicated that in the plan some of the car park is across their land. He also noted that the corporations land could be developed as they like. That could be that they sell the land for development, they could keep the land for their own purposes and traditions (Elders would prefer to use the land as a meeting place and use the parkland as a meeting ground for corroboree and smoking ceremonies) or they could sell the land to the nursing home.

Elders would prefer to use the land as a meeting place or they could use it to help support the NFP that can help the whole of community.

Mr Brien noted Mr O'Neill's comments.

Ms Joan Birkett

Ms Birkett asked "Can they not all group together at one end?"

Mr Brien explained the concept plan is just that and that through more detailed design we can try to maximise open space

Mr Graeme Heron

Mr Heron noted he had heard now and then that costs come into consideration. He advised that someone should look into the costs of excavations as the site was an ex rubbish dump and the costs could run into the hundreds of thousands. He also noted that to undertake such an excavation would mean trees would be lost and that would be a waste. He felt the best alternative was to leave it as a park.

Mr Heron's comments were noted.

Councillor/Officer Consultation

Since August 2011, senior staff have been in ongoing discussions with Lotterywest in relation to funding assistance.

Economic and Social Issues

Economic

Funding for development of this site is to be sought from Lotterywest who have been a key facilitator in providing funding for the research and planning of community purpose sites in the Bunbury region. The ongoing costs associated with the running of the Not-for-Profit organisations will be the responsibility of each organisation.

Social

There was a shortfall of accommodation for Not-for-Profit organisations recognised in the JM Community/CT Management Group Development Study (Finalised April 2011). This endeavour will enable those organisations to more effectively provide for community members in need of assistance in terms of income, disability, ethnicity or other social disadvantage.

10.1.5 Withers Advisory Committee – Delegation of Authority

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

Summary

Following discussions with the Mayor, it has been suggested the Withers Advisory Committee (WAC) be delegated authority to enable a more efficient process when dealing with the implementation of the Withers priorities (see **attached** Appendix CEO-2).

It has been suggested that Council consider providing delegation to this Committee to enable them to make recommendations that could be implemented immediately. This would help to provide the community with confidence that they have some degree of control over the Withers Action Plan expenditure.

Executive Recommendation

That Council:

1. In accordance with Sections 5.16 and 5.17(1)(c)(i) of the *Local Government Act 1995*, Council delegate the following powers to the Withers Advisory Committee:
 - a. Authority to prioritise all works associated with the Withers Action Plan Priority projects as listed in attachment CEO-2 (4 February 2014).
 - b. Authority to authorise the commencement of all works as prioritised under point (a) above.
 - c. Authority to commence/initiate the necessary actions to carry out the works authorised under point (b) above.
2. The above delegations are to be restricted by the following:
 - a. Any actions which requires an absolute majority of Council cannot be actioned by the Committee
 - b. The Committee is restricted to authorising projects that are on Council owned or controlled land and are within the approved budget or Reserve Fund established for the Withers Action Plan.
 - c. A report is to be provided to Council outlining any decisions made under delegation.
 - d. A review of delegated persons is to be undertaken as part of the review of Committees following each local government election.
 - e. Any decision made by the Committee must have the unanimous support of the Elected Members appointed to the committee in attendance at the meeting.

**Note: Absolute Majority required.*

Background

At the Council Meeting held 6 August 2013, Council Resolved to:

“Council Decision 248/13

1. *That Council agree to establish a Withers Advisory Committee as a formal committee of Council.*
2.
 - a) *Comprising of three (3) Elected members – voting*
 - b) *The Director of Community Development – non voting*
 - c) *One (1) Secretarial support Staff - non voting*
 - d) *Advertise and appoint four (4) ordinary community members. – voting two (2) of whom are to be members of the Withers Action Group*
 - e) *Public advertising for community representation shall be in accordance with advertising deadlines but immediately following Council decision.*
3. *The purpose of the committee is to submit recommendations to council pertaining to current projects and future considerations relating to the Withers Action Plan*
4. *To review and progress the Withers Action Plan.*
5. *Make priority recommendations to council.”*

At the Council meeting held 27 November 2013, Council resolved to appoint members for the committee as per below:

“Council Decision 350/13

That Council:

1. *In accordance with the Terms of Reference for the Withers Advisory Committee that:*
 - a. *Council appoint the following Councillors to the Withers Committee Cr Hayward, Miguel, and Steck;*
 - b. *Council appoint Mr Douglas Fimister and Ms Mary Dunlop as the two (2) Withers Action Group Representatives;*
 - c. *Council appoint Ms Joanna Hugues-Dit-Ciles and Mr Jayden Prosser as the two (2) community members;*
 - d. *Council advise all the nominees of this decision and thank them for their interest;*
 - e. *Council advise that all other members of the community are welcome to attend the meetings of the Committee but will not have voting rights; and*
 - f. *That the Committee include the Convenor of the Withers Action Group.”*

Council Policy Compliance

Not applicable.

Legislative Compliance

In relation to a Council or Committee, disclosure of interest extends to members of a committee. Section 5.59 of the Local Government Act 1995 defines the term “member” as a Council member of a member of the committee.

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.

If Council resolve to grant the Withers Advisory Committee delegated authority to make decisions, Committee Members need to be advised of potential conflict of interest issues from members of the Withers Action Group and other residents when it comes to projects in front of or adjoining, their houses.

Officer Comments

There has been some suggestion that delegation to the Withers Advisory Committee would enable a more efficient process when dealing with the implementation of the Withers priorities. For example the ability to quickly make decisions in relation to priority projects and the provision for Council staff to be able to act on these immediately.

In the event that the Council wants to proceed there will be a need to consider the level of delegation that the Council would like to include. Should this be the case then there is a need to ensure further levels of compliance as all decisions made under delegation must be made in a public meeting.

As previously mentioned, community members come under the same provisions as elected members and staff when it comes to disclosure of interests in committee meetings.

Members of the WAC will need to be mindful when making recommendations.

Analysis of Financial and Budget Implications

Council have previously resolved to establish a specific Withers Reserve to enable the compounding of interest on these funds as well as council determination on where the funds are to be expended.

Following the adoption and creation of the Withers Reserve Accounts, there is now the requirement for Council to formally endorse any expenditure out of the account is by way of resolution.

As noted in point 2 of the recommendation, any expenditure from the Withers Reserve is required to be endorsed by Council.

Community Consultation

There is no requirement for community consultation.

Councillor/Officer Consultation

It is felt that by allowing the Withers Advisory Committee delegation, this would enable the committee to make recommendations and implement more effectively.

This would help to provide the community with confidence that they have some degree of control over the Withers Action Plan expenditure.

10.2 Director Community Development Reports

10.2.1 Bunbury Regional Art Galleries – Review of Operational Structures and Functions

Applicant/Proponent:	BRAG Working Group
Author:	Stephanie Addison-Brown, Director Community Development
Executive:	Stephanie Addison-Brown, Director Community Development
Attachments:	Appendix DCD-1, DCD-2, DCD-3

Summary

Following Council Decision 279/13 made on 17 September 2013, a working group (“BRAG Working Group”) was established to undertake a review of the operational structures and functions of the Bunbury Regional Art Galleries.

This report seeks Council’s endorsement for the recommendations presented by the BRAG Working Group.

BRAG Working Group Recommendation

Council endorse:

1. That the following documents be prepared and implemented:
 - a. Memorandum of Understanding between City of Bunbury, Art Gallery of Western Australia and Bunbury Regional Arts Management Board detailing the strategic focus for BRAMB
 - b. Separate three year funding contracts to be prepared between:
 - i. City of Bunbury and BRAMB
 - ii. AGWA and BRAMB
 - c. An amended BRAMB constitution reflecting that Council will no longer be a party to the constitution and that the purpose of the constitution is solely for use by BRAMB as an independent Board for their own governance purposes. Amendments are to include the following:
 - i. Remove the requirement to have a Councillor representative on BRAMB
 - ii. Remove the requirement to have a City of Bunbury staff representative on BRAMB
 - iii. Remove all reference to constitutional changes being brought back to Council for approval
 - iv. Remove all reference to Council approving appointments or reappointments of Board members to BRAMB
 - v. Remove all reference to Council being mandatorily involved in the appointment of the Director BRAG
 - vi. Remove any other clauses that require Council involvement in the governance of BRAMB
2. That the matter of the management of the City of Bunbury Art Collection be referred to the City of Bunbury Art Collection Committee to review with the assistance of experts from the Art Gallery of Western Australia and for that Committee to make a recommendation to Council within three (3) months.

Background

On 6 August 2013, Council Decision 240/13 was made as follows:

- “1. That Council agree that BRAMB remain as a separate entity.*
- 2. That Council take no further action on the recommendations of the Alexander report.*
- 3. (a) That Council liaises with BRAMB to establish a working group comprising of representatives of all stakeholders to review the operational structures and functions of BRAG.*
(b) That this working group submit a proposed brief for this review to Council by 17 September 2013.
(c) That the working group report (including recommendations) be submitted to Council by 30 January 2014, in time for any recommended changes to be included in the budget process.
- 4. As a result of the 2010 and 2012 studies, Council acknowledges that the capital costs of a new gallery are beyond its means at this time, however Council will continue to investigate future opportunities as they may arise.*
- 5. That the Alexander report be publicly released.”*

On 17 September 2013, Council Decision 279/13 was made as follows:

- “1. Council endorse the proposed composition of the working group to undertake the operational and structural review of BRAG*
- 2. Council endorse the proposed brief for the operational and structural review of BRAG.”*

The BRAG Working Group was subsequently established in accordance with Council Decision 279/13 comprising the following members:

- Councillor Murray Cook, Bunbury City Council (Chairperson)
- Councillor Neville McNeill, Bunbury City Council
- David Ansell, A/Deputy Director General, Department of Culture and the Arts (DCA)
- Dr Stefano Carboni or Brian Stewart, Art Gallery of Western Australia (AGWA)
- Beth Ferguson, BRAMB Chairperson
- Margaret Perkins, BRAMB member (Stirling Street Arts Centre representative)
- Tresslyn Smith, City of Bunbury Art Collection Committee Chairperson and member of BRAMB
- Julian Bowron, Director of BRAG
- Stephanie Addison-Brown, Director Community Development, City of Bunbury and member of BRAMB (City of Bunbury staff representative)
- Wayne Wright, Director Corporate Services, City of Bunbury

The brief for the BRAG Working Group was endorsed as follows:

- “1. Undertake a review of BRAMB’s governance model to consider the following activities:
 - a. Review of the BRAMB constitution
 - b. Establish a three-way Memorandum of Understanding (MOU) between the City of Bunbury, AGWA and BRAMB
 - c. Review options for funding
2. Undertake a review of the previous efficiency and functions reviews of BRAG undertaken by BRAMB as part of this process
3. Undertake a review of the relationship between BRAMB and City of Bunbury’s Art Collection as part of this process”

BRAG Working Group meetings took place on the following dates (with some dialogue between members also taking place via email):

- Thursday 19 September 2013 (copy **attached** at Appendix DCD-1).
- Wednesday 27 November 2013 (copy **attached** at Appendix DCD-2).
- Thursday 16 January 2014 (copy **attached** at Appendix DCD-3).

The key outcomes from the review process include the following:

Review of BRAMB constitution

Discussion about membership of BRAMB resulted in the group recommending that, to ensure BRAMB operates independently of its funding bodies, neither Councillor representatives, City of Bunbury staff representatives or representatives from AGWA should sit on the Board. It was decided that the relationship between the relevant organisations would be best governed by a three-way MOU between the three organisations and by negotiated funding contracts between each government agency and BRAMB and that there was no justification or requirement for a Councillor representative on BRAMB. It was noted that the formally nominated Councillor position on BRAMB presents a possible conflict of interest as the Councillor would be expected to serve the interests both Council and the Board when those organisations may hold conflicting positions. It was also noted that the Councillor would be representative of the funding provider and should not therefore be party to the approach BRAMB makes to Council for funding. AGWA has advised it will be removing its representative on BRAMB for the same reasons and to ensure no conflict of interest. The role of Council and AGWA will be that of funding provider and party to the MOU with BRAMB increasing its independence from each organisation. It was agreed that BRAMB’s constitution needed to be amended to enable BRAMB to better manage their role as an independent Board and that future changes to this document should no longer need to be referred back to Council or AGWA for approval.

BRAMB’s constitution therefore needs to be updated to demonstrate a link with (and refer to) the MOU and funding contracts, but not duplicate what is contained in those documents (e.g. the constitution should not refer to the amount of funding provided each year).

The Working Group noted that Councillors may still nominate to join BRAMB as community representatives should they wish to. City of Bunbury staff may also attend BRAMB meetings by invitation, should this be deemed useful or appropriate. Working relationships between the City of Bunbury and BRAG staff will continue as before.

Three-way MOU between the City of Bunbury, AGWA and BRAMB

Officer Comments

This review has served to define, confirm and make explicit the governance model and inter-relationships between the three organisations involved in the Bunbury Regional Art Galleries (i.e. BRAMB, AGWA and City of Bunbury) but it has not resulted in increased funding or any change to the services delivered by the Bunbury Regional Art Galleries.

On 17 September 2013, Council resolved not to take any further action on the recommendations from the Alexander Report. This resolution precluded the BRAG Working Group from considering a Creative City Strategy, an alternative governance model or immediate exploration of alternative accommodation options for BRAG.

Given the new push from the community to see more creative projects and vibrancy in Bunbury, it is clear that a creative/cultural strategy would be of benefit to enable creativity to flourish and for Bunbury to embark upon a new direction where arts and culture are levers for some of the change the community want to see. While it is clear that BRAMB/BRAG plays an important role for arts in Bunbury, this organisation alone is not able to facilitate an increased range of arts and cultural outcomes due to limited resources and admonishing external funding opportunities. The City has a key part to play in working with local community and businesses to drive some of these outcomes.

With regard to the City's Art Collection, there are no clear tangible benefits supporting the transfer of the collection to BRAMB at this point in time, especially considering BRAMB have stated numerous times that they are currently struggling to manage and fund the current deliverables. The Director BRAG has advised City staff that he spends much of his time fundraising just to enable BRAMB to meet current operating costs and there is concern about how much time he would have to support and guide the Art Curator should her role be transferred to BRAG. Currently there is two (2) professional staff at the City with the necessary expertise and time to undertake the requisite duties relating to management and exhibition of the collection and they are well supported administratively by additional staff in the team. In addition, Council may note that the Chair of the Art Collection Committee has, for years, lobbied Council to retain the City of Bunbury Art Collection Committee and for the art collection to remain managed by the City and she has provided several arguments in support of that position which has resulted in that Committee being retained at each of the last two reviews of Council Committees.

Analysis of Financial and Budget Implications

There are no immediate financial or budget implications.

Should Council support the recommendations contained in this report there would be a requirement to establish a financial contract for the delivery of services by BRAMB.

It has been suggested that Council enter into an initial three year contract for these services.

Community Consultation

The BRAG Working Group comprised representatives from the Department of Culture and the Arts, AGWA, members of BRAMB, the Director BRAG, the Chair of the City of Bunbury Art Collection Committee, Councillors Cook, McNeill and Hayward and relevant City Of Bunbury staff. No further community consultation was deemed necessary.

Councillor/Officer Consultation

Councillors Cook and McNeill were the Council nominated Councillor representatives of the BRAG Working Group with Councillor Cook nominated as the Chairperson. Councillor Hayward was later invited to join the meetings once he had been appointed as the Councillor representative on BRAMB.

The Director Community Development and Director Corporate Services were also members of the group and other professional/technical staff were invited as required.

Strategic Relevance

This report relates to the following part of the Bunbury 2030 Strategic Community Plan:

Goal 4 (Social Enhancement)

- Objective 4.3 - Celebrate and conserve our culture and heritage
- Objective 4.4 - Enhance our sense of place, pride and participation in our community

Delegation of Authority

Not applicable

Relevant Precedents

Refer to Council Decision 240/13 made at the Council meeting held 6 August 2013 and Council Decision 279/13 from the 17 September 2013 Council meeting.

10.3 Director Corporate Services Reports

10.3.1 Schedule of Accounts Paid for the Period 1 December 2013 to 31 December 2013

Applicant/Proponent:	Internal Report
Author:	David Ransom, Manager Finance
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Appendix DCS-1

The City of Bunbury "*Schedule of Accounts Paid*" covering the period 1 December 2013 to 31 December 2013 has been issued to elected members and is **attached** at Appendix DCS-1. The schedule contains details of the following transactions:

1. Municipal Account – payments totalling \$7,762,042.68
2. Advance Account – payments totalling \$5,285,918.48
3. Trust Account – payments totalling \$22,038.74
4. Visitor Information Centre Trust Account – payments totalling \$10,555.80
5. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$26,618.66
6. Bunbury-Harvey Regional Council Advance Account – payments totalling \$203,182.60

Executive Recommendation

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

10.3.2 Financial Management Report for the Period Ending 31 December 2013

Applicant/Proponent:	Internal Report
Author:	David Ransom, Manager Finance
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Appendix DCS-2, DCS-3, DCS-4, DCS-5, DCS-6

Summary

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

1. Statement of Comprehensive Income (**attached** at Appendix DCS-2)

Actual Financial Performance to 31 December 2013:

- Actual operating income of \$42.11M is \$354K more than the year-to-date budgeted income of \$41.76M (refer explanation on next page).
- Actual operating expenditure of \$21.28M is \$1.44M less than the year-to-date budgeted expenditure of \$22.72M (refer explanation on next page).
- Actual operating surplus of \$20.83M is \$1.79M more than the year-to-date budgeted operating surplus of \$19.04M (refer explanation on next page).

2. Balance Sheet (**attached** at Appendix DCS-5)

Council’s year-to-date and forecast balances are as follows:

	Year-to-date	Forecast
- Current Assets of \$35.20M includes:		
- Cash and Investments	\$23.85M	\$11.44M
- Rates	\$9.99M	\$0.23M
- Other Current Assets	\$1.36M	\$2.19M
- Current Liabilities of \$7.85M includes:		
- Trade and Other Payables	\$3.43M	\$5.40M
- Annual Leave and LSL Provisions	\$3.00M	\$3.46M
- Working Capital (Current Assets less Current Liabilities)	\$27.35M	\$3.06M
- Equity (Total Assets less Total Liabilities)	\$438.89M	\$414.75M

3. Capital Works (**attached** at Appendix DCS-6)

- Actual capital works of \$10.65M is \$6.13M less than the year-to-date budgeted capital works of \$16.78M (refer explanation on next page).

Executive Recommendation

The Financial Management Report for the period ending 31 December 2013 be received.

Background

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

- Statement of Comprehensive Income (**attached** at Appendix DCS-2)
- Statement of Financial Activity (**attached** at Appendix DCS-3)
- Statement of Net Current Assets (**attached** at Appendix DCS-4)
- Balance Sheet (**attached** at Appendix DCS-5)
- Capital Works Expenditure Summary (**attached** at Appendix DCS-6)

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

Council Policy Compliance

Not applicable.

Legislative Compliance

In accordance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996, a Local Government is to prepare each month a Statement of Financial Activity (**attached** at Appendix DCS-3) reporting on the revenue and expenditure as set out in the annual budget under Regulations 22 (1) (d) for this month.

Officer Comments

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

Statement of Comprehensive Income	YTD Actual to YTD Budget Variance
Operating Expenditure	
Material and Contracts (Contract Employment Expense) – Contract employment expenses are higher than year-to-date budget estimates. Any increase in contract employment expenses has been offset by savings in salaries and wages.	(\$33,122) (96%)
Utilities (Gas Expense) – Cost of gas at the South West Sports Centre is currently \$16,493 greater than the year-to-date budget estimate. An end of year estimate has been calculated that will increase the current budget estimate by \$25,000. This revised estimate will be included in the February budget review for Council consideration.	(\$14,579) (12%)
Non-Operating Income and Expenditure	
Grants and Contributions for the Development of Assets – Budgeted grant income for the following carried forward projects from the 2012/13 financial year have not yet been received: PR-1444 Implement the Hands Oval Master Plan Stage 1 (\$335,001) – Grant funds will be received following acquittal of project works. The acquittal has been delayed pending receipt of Western Power’s final claim for payment. It is now anticipated that the acquittal will be	(\$1,115,814) (30%)

<p>finalised in February 2014.</p> <p>PR-1018 Deconstruct timber jetty, construct heritage interpretation and undertake works required by state government Koombana Bay (\$735,678) – The jetty deconstruction component of this project is nearing completion, a final reconciliation and claim will be made in January for grant funding due on expenditure to date.</p>	
<p>Proceeds Plant and Vehicle Disposals – An amount of \$20,000 has been carried forward from the 2012/13 financial year for disposal of a heavy plant item. It is anticipated that this disposal will occur in March 2014.</p> <p>Current year replacement of corporate heavy plant included replacement of the following items scheduled for December:</p> <ul style="list-style-type: none"> - Mini Loader - 5 Gang Reel Mower <p>Quotes are currently being received and it is anticipated the replacement of these items will be finalised in February 2014.</p>	<p>(\$42,432) (24%)</p>

Statement of Financial Activity	YTD Actual to YTD Budget Variance
Operating Revenues	
<p>Contributions, Reimbursements and Donation – Increase in current year actual income is reflective of the claim being submitted for reimbursement of storm damage expenses relating to the June 2012 storm event totalling \$325K. Insurance reimbursement income for 2013/14 is now forecast to be \$410K, an increase of \$25K on the current budget estimate. This new estimate will be included in the February 2014 Budget Review.</p>	<p>\$243,581 38%</p>
Operating Expenses	
<p>Material and Contracts – Actual expenditure is down on year-to-date budgeted expenditure as of 31 December 2013 over both base operating and operating project accounts. Ongoing review of base operating and project budgets has identified possible savings of \$659K that will be included in the February 2014 Budget Review for Council consideration. Remaining variance relates to works that will be completed during 2013/14.</p>	<p>\$1,368,826 18%</p>
Capital Revenues	
<p>Grants and Contributions for the Development of Assets – See explanation above included in the Statement of Comprehensive Income variances.</p>	<p>(\$1,115,814) (30%)</p>
<p>Proceeds on Disposal of Assets - See explanation above included in the Statement of Comprehensive Income variances.</p>	<p>(\$42,432) (24%)</p>
Capital Expenses	
<p>Acquisition of Assets – Variance due to delay in commencement or progress of various projects. This variance includes projects carried forward from 2012/13 (\$2.07M) that are yet to be completed and the expansion of the Bunbury Regional Entertainment Centre (\$1.01M).</p>	<p>\$6,126,334 37%</p>

<p>The Capital Expenditure Report included at Appendix DCS-6 provides details of all projects and the expenditure progress versus year-to-date estimates for the project. All projects will be reviewed during January and February and any estimated changes to expenditure requirements will be included in the February 2014 Budget Review.</p>	
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Analysis of Financial and Budget Implications

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

Community Consultation

There is no requirement for community consultation on this report.

Councillor/Officer Consultation

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

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

10.3.3 Project Assessment Framework

Applicant/Proponent:	Internal Report
Author:	Greg Golinski, Manager Corporate Performance
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Nil

Summary

The purpose of this report is for Council to consider endorsing a Project Assessment Framework to assist with project prioritisation when undertaking future budget deliberations.

Executive Recommendation

That Council endorse the Project Assessment Framework and associated weightings for the Council's Goals and Objectives as presented within this report.

Background

The City's integrated planning software provides an ability to establish a Project Assessment Framework that can be used to evaluate all projects against the Objectives in the City's Strategic Community Plan (SCP).

In November and December 2013, Officers sought feedback from Elected Members in relation to the weightings of each Goal and Objective within the Framework, and have collated all responses received to generate a mean weighting for each area. The results are detailed in the table below:

Governance		51%	
1.1	Accountable and transparent governance		100%
1.1.1	Improve community and stakeholder participation in decision making		14%
1.1.2	Maintain a high standard of corporate governance and improve access to information		7%
1.1.3	Continue to improve the quality of service delivery		9%
1.1.4	Improve the City's financial performance		41%
1.1.5	Improve the City's asset management practices		14%
1.1.6	Build organisational capacity (staff)		7%
1.1.7	Improve local/regional/state/national political relationships		8%
Economic Social and Environment		49%	
2.1	Economic Diversity and Prosperity		35%
2.1.1	Maintain support for local businesses		44%
2.1.2	Improve transport services and infrastructure		29%
2.1.3	Create an environment that will attract new business		27%
2.2	Sustainable Natural and Built Environment		35%
2.2.1	Improve the quality and diversity of the built environment		18%
2.2.2	Protect and make better use of water resources		21%
2.2.3	Conserve natural biodiversity		17%
2.2.4	Conserve open space and promote recreational opportunities		20%
2.2.5	Minimise the environmental impact of pollution		14%
2.2.6	Mitigate against the possible impacts of climate change		10%

2.3	Social Enhancement	30%
2.3.1	Facilitate development of a range of land housing and transport options	19%
2.3.2	Increase participation in sport and leisure activities	21%
2.3.3	Celebrate and conserve our culture and heritage	12%
2.3.4	Enhance our sense of place, pride and participation in our community	14%
2.3.5	Improve community health and well-being	19%
2.3.6	Improve learning opportunities	15%

Legislative Compliance

There is no legislative compliance relevant to this matter.

Officer Comments

The Framework enables projects to be “scored” based on weightings applied to each Goal and Objective within our SCP, and is a tool that can be used to assist Councillors to make informed decisions in relation to project approval when undertaking budget deliberations.

If endorsed by Council, all future projects will be assessed within the Framework and the scores provided to Councillors as part of budget deliberation for 2014/15 and beyond.

Community Consultation

The SCP was developed in consultation with the community. The Goals and Objectives contained within the Strategic Community Plan are therefore consistent with community needs.

Councillor/Officer Consultation

An earlier iteration of the Project Assessment Framework was developed with the previous Council prior to the October 2013 local government elections. This was provided to all current Councillors for their feedback and was used as a starting point to amend the weightings for each Goal and Objective.

Responses have been received from eight (8) of thirteen (13) Elected Members and have been collated to generate a mean weighting for each area as presented within the body of this report.

Analysis of Financial and Budget Implications

There are no financial or budgetary implications associated with this matter.

10.3.4 Customer Service Charter Review 2014

Applicant/Proponent:	Internal Report
Author:	Sharon Chapman, Manager Information and Customer Support
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Nil

Summary

One of the City of Bunbury's key strategic goals is to ensure that it continues to monitor and improve the quality of service delivery. It is essential that the City establish clearly defined service standards and regularly measure and report on service delivery performance. This report outlines the review of the City's current Customer Service Charter (2007) and provides a copy of the proposed Charter (2014) for adoption.

Executive Recommendation

Council adopt the Customer Service Charter 2014 as presented.

Background

In 2005 the City of Bunbury developed a Customer Service Charter (CSC). This was reviewed and adopted in 2007. In 2013 the City reviewed the CSC to ensure it aligned with the City's Strategic Community Plan 2030.

Customer Service Charter 2007 (Current):

Our Vision for the Organisation

The City of Bunbury is a customer oriented organization which strives to provide excellent service on behalf of its community.

The City of Bunbury Promise to the Customer:

1. Provide efficient, friendly and courteous service
2. Treat customers with honesty, equity and fairness
3. Encourage and acknowledge customer suggestions
4. Respond to all enquiries in a timely manner
5. Provide accurate and appropriate information
6. Provide information on, and access to, all public facilities and services
7. Provide an effective procedure and customer grievance resolution

Customer Service Charter 2014 (Proposed):

Our Commitment

We will:

1. Deliver a standard of service that meets or exceeds your expectations
2. Engage with you to build an ongoing, positive relationship and keep you informed
3. Communicate in a way that is open, honest and respectful
4. Provide prompt, reliable and accurate information in a timely manner

5. Seek your feedback to improve our services
6. Display behaviours reflecting community and corporate values and standards

In 2013, the City also developed a set of key focus areas to guide the organisation into the future. This included a renewed commitment to the delivery of customer service to our community.

The proposed CSC will form part of an ongoing program that provides staff with a common understanding across the organisation as to what constitutes an acceptable level of customer service. Supporting documents are currently being developed to provide additional guidance to staff. These documents will outline a whole of organisation commitment and define a common set of principles and behaviours relating to delivering services to our customers. This guidance includes:

- Customer Service Charter;
- Customer Service Strategy;
- Customer Service Standards; and
- Customer Feedback Guide.

In general the City of Bunbury has a broad range of internal and external customers. This includes:

- Residents, businesses, other agencies and the community based organisations;
- Employees and internal departmental units; and
- Mayor and Councillors.

It is expected that the proposed customer service program will deliver significant improvements in the quality of customer service delivered by the City to the community. It will build on our strengths and ensure we deliver a high standard of customer service using best practice and continuous improvement methodologies. It will also provide the City with a strong measurement focus with the development of service standards across the organisation and the measurement of outcomes against those standards. These standards will be developed as part of the strategic community planning focus and reported through the City's annual report. Over time, the delivery of exceptional customer support will inevitably be ingrained as part of our culture.

Strategic Relevance

Strategic Community Plan 2030 (SCP), Goal 1 outlined the City's commitment to:

Goal 1: Accountable and Transparent Governance
Planning and delivering on our Vision is a shared responsibility that will be achieved through the development of relationships and partnerships with all stakeholders

Objective 1.3: Continue to improve the quality of service delivery
Council will establish clearly defined service standards, and regularly measure and report on service delivery performance.

Performance Measures

- *Community satisfaction with service delivery (percentage)*
- *Activities with defined service standards (number)*
- *Compliance with defined service standards (percentage)*

Council Policy Compliance

No policies will be affected with the implementation of the Customer Service Charter.

Legislative Compliance

No legislation is relevant with the implementation of the Customer Service Charter.

Officer Comments

The City's commitment to a customer service program, including the CSC, will be promulgated throughout the organisation as part of an internal customer service promotion in March 2014. As part of this promotion, the Manager Information and Customer Support will seek nominations from staff regarding an over-arching name for the program as part of what 'customer service means to them'. This will facilitate staff buy-in and acceptance of the program, i.e. support change management. It is then expected that it will be promoted on an ongoing basis each year as part of the worldwide 'Customer Service Week' promotions held in October.

The City will also promote its commitment to customer service through:

- Regular training sessions for all staff;
- Inclusion in the Induction program for all new staff; and
- Include responsibilities in staff position descriptions and performance evaluation assessments.

Analysis of Financial and Budget Implications

No budget implications are expected with the implementation of the Customer Service Charter.

Community Consultation

No community consultation required in the development of the Customer Service Charter.

Councillor/Officer Consultation

In May 2013 staff from customer contact points throughout the organisation and from the Customer Support team were brought together to develop a draft of the CSC. The intention to develop this program was also discussed with all Managers in December 2013. This draft of the CSC was distributed to the Executive Leadership Team in January 2014.

The endorsement of this Charter aligns with the Council's recently adopted key focus areas.

10.3.5 Disposal of Lot 200 Mangles Street, South Bunbury

Applicant/Proponent:	Internal Report
Author:	Massimo Andreone, Manager Contracts and Property
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Appendix DCS-7

Summary

At the Council Meeting held on 6 August 2013, a recommendation to engage SDEA Nominees Pty Ltd T/a Southern Districts Estate Agency (“the Agency”) to provide a marketing and sales service for the disposal of surplus commercial and residential freehold land owned by the City of Bunbury (“the City”), including Lot 200 Mangles Street, South Bunbury (“the Property”), was endorsed by Council, under Resolution Number 253/13.

The Agency had initially marketed the Property for auction. However, as no bids were received for the Property at the auction, the Agency was subsequently instructed to place the Property on the market for sale by private treaty.

This resulted in submission of a written offer to purchase the Property, via the Agency, from BP and KLV Plumb (“the Purchasers”), on 11 December 2013. The offer (“the Offer and Acceptance”) was accepted by the City on 18 December 2013, subject to statutory advertisement and Council endorsement, in terms of the provisions of the *Local Government Act 1995* (“the Act”).

In terms of the provisions of Section 3.58 of the Act, Council can endorse such a disposal of property pursuant to compliance by the Local Government with the applicable provisions of the Act.

Executive Recommendation

1. That Council endorses the disposal and transfer of the Property to the Purchasers, in terms of the Offer and Acceptance dated 18 December 2013.
2. That Council records its decision and the reasons for such decision in the minutes of the Council meeting at which the said decision is made in terms of the provisions of Section 3.58(3)(b) of the Act, in terms of which:-
 - a) Council agrees to the disposition of the Property as surplus to the City
 - b) Council confirms the consideration to be received for the disposition

Background

The Agency has been engaged by Council to provide a marketing and sales service for disposal of surplus freehold land, consisting specifically of four (4) commercial properties and three (3) residential lots.

A commission of 2.64% (inclusive of GST) of the actual selling price of the Property, was agreed with, and is payable to, the Agency, together with agreed marketing costs for picture signboards, advertising, and promotional flyers. An invoice has been submitted by the Agency for Auction Marketing Fees pertaining to all three (3) residential Lots, a sum of \$1,997, and has been paid by the City.

A market valuation for the Property was obtained via Landgate in June 2013, as follows:-

- Lot 200 Mangles Street, being 44 Mangles Street, South Bunbury – for 714m², \$220,000 inclusive of GST.

A Caveat (No.I314887) had been registered over the Property, in December of 2002, in favour of the Bunbury Water Board, in terms of which the Estate or Interest being claimed was *“a Leasehold estate and interest for a term of ten (10) years commencing on 8 November 2000 together with two further ten (10) year terms commencing on 8 November 2010 and 8 November 2020 respectively and a right of pre-emption to purchase the said Land”*.

The Agency held a multi-lot auction, in terms of the provisions of the Memorandum of Agreement concluded with the City, incorporating the Property, together with two (2) other residential Lots for sale, on 21 November 2013, without success. The Agency had at the time proposed a reserve price for the Property at auction, in sum of \$230,000.

The Agency was subsequently instructed to market the Property for sale by private treaty, resulting in submission of an offer by the Purchasers as joint tenants.

The principal terms and conditions of the Offer and Acceptance are as follows:-

- A purchase price for the Property in sum of \$230,000
- A deposit of \$2,000 to be paid within seven (7) days of acceptance to be held by the Agency
- The balance of the purchase price to be paid on settlement date
- Settlement within twenty eight (28) days of finance approval
- Finance approval within fourteen (14) days of acceptance of the offer
- The offer is subject to removal by the Seller of the Caveat over the Property

There is no Mortgage affecting the Property.

The deposit has been paid to the Agency, and the requisite finance approval has been secured by the Purchasers. Withdrawal of the Caveat has been formally registered, and the Instrument of Transfer of Land has been prepared by the Purchasers’ conveyancer, and signed by the Purchasers.

A week’s extension on the date of settlement has been agreed to with the Purchasers, until 7 February 2014.

Local public notice (“the Notice”) of the proposed disposition, in terms of the provisions of Section 3.58(3)(a) of the Act, was affected by advertisement in the Bunbury South Western Times newspaper issue dated 16 January 2014.

The Notice describes the Property; gives details of the proposed disposition, including the names of all parties concerned and the consideration to be received; confirms the fair market value of the disposition; and invites submissions to be made by members of the public, to the City, by no later than 4pm on 30 January 2014, being a date not less than two (2) weeks after the Notice was first given.

As at the date of preparing this agenda item, one (1) submission has been received from Mr Alan Summers of 14 Mansfield Street Bunbury dated 20 January 2014. A copy of the submission is **attached** at Appendix DCS-7.

Council Policy Compliance

There is no Council Policy applicable to this item

Legislative Compliance

Section 3.58 of the *Local Government Act 1995* – Disposing of Property, is applicable to this matter.

Officer Comments

Consideration for the Property accords with, and exceeds, the Landgate valuation, as well as the reserve at auction.

Council will need to consider any submissions received pursuant to publication of the Notice at the Ordinary Council Meeting on 4 February, and determine the issue prior to settlement.

Analysis of Financial and Budget Implications

Upon receipt of the full purchase price, the following outgoings will be deducted:-

- Southern Districts Estate Agency – Agents Commission:- \$6,072
- Slee Anderson & Pidgeon Trust Account – Costs and disbursements, including professional charges, title search fees, Landgate fast track fee on withdrawal of Caveat, Perth Agents fees, bank cheque fees, and sundry disbursements:- \$980.23

A provisional amount of \$2,000 will be held by Slee Anderson & Pidgeon pending possible adjustment of rates and taxes, leaving a net amount to be paid to the City in sum of \$220,947.77.

Community Consultation

Council did not require any community consultation however the submission from Mr Summers will be taken in consideration by Council.

Councillor/Officer Consultation

Not applicable.

10.3.6 Quarterly Report – Delegation 1.2 – Power to Accept Tenders

Applicant/Proponent:	Internal Report
Author:	David Russell, Senior Contracts and Procurement Officer
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Nil

Summary

In accordance with Delegation 1.2 (Power to Accept Tenders) of the City of Bunbury Delegations Register 2012, the Chief Executive Officer is to provide a quarterly report to Council on all tenders accepted up to \$250,000 excluding GST. This agenda item complies with that Delegation.

Executive Recommendation

That Council note the following tenders approved under delegation:

- RFT 1314-00002 Landscape Maintenance Back Beach and Warandi Memorial Park for \$145,440.
- RFT 1314-00007 Street Tree Pruning for \$200K - \$250K.

Background

Pursuant to Section 3.57 of the Local Government Act 1995 and Regulations 11 to 24 of the Local Government (Functions and General) Regulations 1996 ('the Regulations'), Council delegates its authority to the Chief Executive Officer to accept tenders received up to \$250,000 and up to \$500,000 (Council Decision 186/11) where a tender for the supply of products or services is procured through the Western Australian Local Government (WALGA), State of Commonwealth Governments or any of its agencies that provide preferred supplier contracts or agreements. The Chief Executive Officer is also delegated authority to undertake negotiations pursuant to regulation 20 of the Regulations with the person who in his opinion submitted the most advantageous tender, with the purpose of variation in respect of the required works or goods.

Conditions:

- The Chief Executive Officer is to provide quarterly advice on all tenders accepted over \$100,000.
- Each delegated officer's capacity to approve an original tender and/or variation **is set at according to the schedule of purchasing limits.**

Summary of Tenders accepted under Delegation 1.2 for the period 1 October – 31 December 2013 is as follows:

<i>Date</i>	<i>Tender Details</i>	<i>Contractor</i>	<i>Amount (ex GST)</i>
14/11/13	Landscape Maintenance Back beach and Wardandi Memorial Park (RFT1314 00002).	Dirt Design Landscaping	\$145, 440. (12 month contract).
28/11/13	Street Tree Pruning (RFT1314 00007). This Tender is a schedule of rates Tender so the contract amount has a range dependant on extent of service. Awarded to a panel Contract to achieve the best result for the City. Amount quoted is total contract amount (not per Contractor)	1. Arbor Guy 2. SW Tree Safe	\$200K - \$250K – (12 month contract)

Council Policy Compliance

This matter is in line with the City of Bunbury Delegations Register.

Legislative Compliance

Section 3.57 Local Government Act 1995 – Tenders for providing goods or services applies to this matter. The recommendations accord with the provisions of the *Local Government (Functions and General) Regulations 1996*.

Officer Comments

Where the delegation permits, the CEO approves acceptance of Tenders. When the CEO approves Tenders under delegation, internal and external reporting and compliance requirements regarding procurement remain the same as if an agenda item was presented to Council.

Tenders over the delegated threshold are presented to Council for endorsement.

Analysis of Financial and Budget Implications

Any tenders approved under the Power to Accept Tenders Delegation have budget funds approved and secured prior to the procurement process commencing.

Community Consultation

Not applicable.

Councillor/Officer Consultation

Not applicable.

10.3.7 Recommendations from Audit Committee

Applicant/Proponent:	Audit Committee
Author:	Greg Golinski, Manager Corporate Performance
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Nil

Summary

The purpose of this report is for Council to consider a number of recommendations made by the Audit Committee at its meeting on 28 January 2014.

Audit Committee Recommendation

That Council:

1. Request that any audit activities not within the scope of the annual financial audit be referred to the Audit Committee before they are undertaken.
2. Request that IT controls be implemented such that senior management do not have the ability to record journal entries.
3. Request the CEO prepare a risk analysis of the macro factors impacting on the operational viability of the City and report back to the Audit Committee (e.g. total long service leave accruals; rate income as a percentage of total income; condition of major assets; adequacy of reserves to fund costs.)

Background

As part of the Audit Committee meeting held on 28 January 2014, the Committee met with the City's Auditor (Mr Michael Hillgrove from Grant Thornton) as it is required to do each financial year. Mt Hillgrove presented a general overview of the City's 2012/13 financial audit.

As a result of discussion, a number of recommendations were made by the Committee from the floor. These recommendations are reflected within the Audit Committee Recommendation contained within this report.

Legislative Compliance

Not applicable.

Officer Comments

Officers support the recommendations made by the Audit Committee.

Analysis of Financial and Budget Implications

Nil

Councillor/Officer Consultation

Not applicable.

10.3.8 Membership of the Audit Committee

Applicant/Proponent:	Audit Committee
Author:	Greg Golinski, Manager Corporate Performance
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Nil

Summary

The purpose of this report is Council to consider expanding the membership of the Audit Committee.

Audit Committee Recommendation

That Council:

1. Increase the membership of the Audit Committee from three (3) to five (5), comprising three (3) Councillors and two (2) community members.
2. Appoint Mr Stephen Foster as a community member of the Audit Committee.
3. Request further information from Mr Paul Springate to support his nomination to be presented to the next meeting of the Audit Committee.

**Note: Absolute Majority required*

Background

At the Ordinary Council Meeting held 26 November 2013, Council resolved as follows when making appointments to the Audit Committee:

“Council Decision 340/13

That Council:

1. *Nominate the Mayor and Councillors Miguel and Steck as members of the Audit Committee.*
2. *Call for expressions of interest from suitably qualified community members to be part of the Audit Committee, with a further report to be provided to Council once applications have been sought.”*

In relation to point two of the resolution above, Officer’s undertook some advertising during December and January to seek expressions of interest from community members who may be interested in joining the Audit Committee.

Expressions of interest closed on 22 January 2014, at which point two (2) nominations had been received, being from Paul Springate and Stephen Foster.

At the Audit Committee meeting held on 28 January 2014, it was recommended that membership of the Committee be expanded to include two (2) community members, and that Mr Stephen Foster be appointed as a community member of the Committee. At the Committee’s request, further information will be sought from Mr Springate to support his nomination and will be presented to the next meeting of the Audit Committee for consideration.

Council Policy Compliance

Not applicable.

Legislative Compliance

The Local Government Act 1995 permits committees of Council to comprise community members as well as Councillors.

Officer Comments

In line with best practice and the principles of openness and transparency, it is recommended that Council consider the appointment of external members to the Audit Committee.

Analysis of Financial and Budget Implications

Nil

Community Consultation

Not applicable.

Councillor/Officer Consultation

Not applicable.

10.4 Director Planning and Development Services Reports

10.4.1 Peron Naturaliste Partnership – Appointment of Council Representative

Applicant/Proponent:	Internal Report
Author:	Andrew Brien, Chief Executive Officer
Executive:	Bob Karaszekwych, Director Planning and Development Services
Attachments:	Nil

Summary

The Peron Naturaliste Partnership (PNP) includes nine (9) member local government partners comprising Bunbury, Busselton, Capel, Dardanup, Harvey, Mandurah, Murray, Rockingham and Waroona. Those parties entered into a Memorandum of Understanding (MOU) to work collaboratively to build a resilient regional community to reduce risks and optimise opportunities presented by climate change and climate variability.

Representation on the PNP is generally made up of a Director/Executive Position and Mayor/President from each local government however, it has been requested to extend an invitation to all interested Elected Members to nominate as Council's representative on the Partnership.

Executive Recommendation

That Council:

1. Endorse the Director Planning and Development Services as a Council Representative on the Peron Naturalist Partnership.
2. Appoint Councillor _____ as Council's Representative on the Peron Naturalist Partnership.

Background

Bunbury, Busselton, Capel, Dardanup, Harvey, Mandurah, Murray, Rockingham, Waroona are a collective group of Local Governments between Cape Peron and Cape Naturaliste in the southwest of Western Australia who recognise the potential vulnerability of this coastline due to climate change impacts.

The PNP has a strategic approach to the management and implementation of coastal adaptation across the Peron Naturaliste Region of Western Australia. The partnership was originally formed in 2011 through a volunteer Memorandum of Understanding and the first PNP Business Plan was developed.

The vision of the PNP is to empower a resilient regional community to reduce risks and optimise opportunities presented by climate change. The overall objective of the Peron Naturaliste Partnership is to provide a regional mechanism to facilitate effective and timely adaptation responses to climate change.

At the Council Meeting of 21 May 2013, Council considered the Peron Naturaliste Partnership – Coastal Adaptation Decision Pathways Report and resolved as follows:

“Council Decision 149/13

That Council:

- 1. Note and accept the report.*
- 2. Continue as a signatory to the Peron Naturaliste Partnership Memorandum of Understanding as a non-legally binding instrument to collaboratively work to achieve agreed objectives.*
- 3. Approve a budget allocation of \$20,000 towards the Peron Naturaliste Partnership.*
- 4. The Climate Change Adaptation Options Assessment report - a source document for future analyses by local governments in the PNP region on flexible adaptations options to better manage future climate change-induced sea level rise posing risk to coastal and estuarine assets and communities, be released to the public via a Media Release and to appear on the City of Bunbury Website.*
- 5. Support PNP and local government representation to Federal and State Government Ministers and relevant heads of government agencies to provide ongoing funding for technical studies and changes to state planning policies and planning/development legislation.”*

Council Policy Compliance

Not Applicable.

Legislative Compliance

Not Applicable.

Officer Comments

It is felt that the PNP provides for an innovative shared approach to addressing a number of issues. This included developing hazard mapping and economic assessment and development of erosion hazard mapping and models.

The group has created a great deal of new learning, knowledge and sharing of information and resources.

The Memorandum of Understanding is to be reviewed within two years of signing. The last review of the MOU was undertaken at the 8 May 2013 PNP meeting with officer agreement for the continuation of the MOU.

The involvement in the PNP has demonstrated the need for a ‘long-term’ approach to addressing coastal climate change.

Analysis of Financial and Budget Implications

At its meeting held 21 May 2013 Council resolved to include an allocation of \$20,000 to contribute to the costs associated with the part-time employment of a Climate Change Adaptation Officer and Project Officer.

It is noted that the Peron Naturaliste Partnership will seek to attract additional funding from external sources.

Community Consultation

Communicating the outcomes to the community and stakeholders is an important consideration given obvious sensitivities and issues and requires agreement by all parties in the partnership.

How and when the information is communicated is discussed at the PNP meetings to enable a consistent message be communicated to the public, adapted to each local government circumstance.

Councillor/Officer Consultation

There is no obligation for Council to nominate an elected member representative to this committee however it is felt best practice to do so to enable Council representation on the group.

10.4.2 Proposed Change of Use from ‘Home Occupation’ to ‘Community Purpose’ – Lot 29 DP: 13315 (No.133) Spencer Street South Bunbury

Applicant/Proponent:	Multicultural Services Centre of WA Inc
Author:	Laura Sabitzer, Planning Officer
Executive:	Bob Karaszekwych, Director Planning and Development Services
Attachments:	Appendix DPDS-1, DPDS-2, DPDS-3, DPDS-4, DPDS-5, DPDS-6, DPDS-7

Summary

The proposal is for a change of use, from ‘Home Occupation’ to ‘Community Purpose’ at No.133 (Lot 29) Spencer Street, South Bunbury. The proposed tenant, the Multicultural Services Centre of WA intends to deliver services to the multicultural community from this location.

The proposed ‘Community Purpose’ use in a Residential zoning can be approved if the application is considered appropriate by Council. The proposal was publically advertised and two (2) submissions were received which raised the issues of parking and traffic in the area.

The application has been assessed against the City of Bunbury Town Planning Scheme No.7 and relevant Local Planning Policies. It is considered that the proposal is in compliance with these documents. Therefore, it is recommended that Council approves the development application, subject to the listed conditions and advice notes.

Executive Recommendation

That Council resolves to:

1. Approve a development application for the proposed change of use from ‘Home Occupation’ to ‘Community Purpose’ at Lot 29, No.133 Spencer Street, South Bunbury in accordance with the application received on 22 November 2013, subject to the following conditions and advice notes:
 - a) At all times, the development, the subject of this planning approval, must comply with the definition of ‘Community Purpose’ as contained in Schedule 1 of the City of Bunbury’s Town Planning Scheme.
 - b) All developments shall be in accordance with the approved development plans which form part of this planning approval.
 - c) 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.
 - d) Except without prior written consent from the City of Bunbury, no more than four employees shall work at the premises at a given time.
 - e) Except without prior written consent from the City of Bunbury, no pre-scheduled group classes shall be held at the premises.
 - f) Before the development is occupied, a minimum of five (5) car parking bays must be provided on the land the subject of this planning approval and to the satisfaction of the City of Bunbury (refer to Advice Note A).

- g) All verge areas shall be suitably grassed or planted and maintained at all times. The verge shall not be used for the purpose of parking nor for overflow parking. Additional hardstand or gravel sealing other than the cross-over will not be permitted on the verge (refer to Advice Note B).
- h) Existing trees located within the verge are a City of Bunbury Asset and as such must be retained, except where otherwise approved for removal by the City of Bunbury. Should removal be approved, all costs associated with the removal of any street trees are to be the responsibility of the developer (refer to Advice Note C).
- i) Before the development is occupied, the property must be connected to the Water Corporation reticulated sewerage system.

Advice Notes:

- A. Car parking bays are to be clearly delineated on site by the use of appropriate means, such as kerbing, signage, line marking and landscaping.
- B. Any landscaping to the verge other than lawn requires an approved 'Verge Treatment Permit' in accordance with the City's QF214 'Verge Treatment Guidelines Forms'. Approval must be sought prior to any works to the verge commencing. A copy of the Verge Treatment Guidelines can be obtained on the City's website.
- C. Generally this cost will range in price between \$500 - \$1,200 dependant on the size of the tree that requires replacement.
- D. It is advised that further intensification of the site will require the development to provide access and egress from the site in forward gear, to the satisfaction of the City of Bunbury's Engineering section.
- E. A Building Permit is required for any proposed change of building classification whether any works are proposed or not, in addition to planning requirements. The reclassification will consider Building Code specific requirements for e.g. fire separation, amenity, and equal access including all requirements for Disability (Access to Premises-Buildings) Standards 2010.
- F. Note any reclassification works requires compliance with the current Building Code of Australia.
- G. Advice should be sought from a registered building surveyor in the early design stages regarding Building Code requirements as any required alterations are site specific and can result in significant works to be undertaken.
- H. Owners, applicants and builders undertaking development of any kind are hereby advised of their responsibility to comply with the requirements of the Disability (Access to Premises – Buildings) Standards 2010 and Disability Discrimination Act 1992. The Building Permit application plans and specifications must indicate all provisions of access for people with disabilities, into and within the building, in accordance with the Building Codes of Australia – Volume 1, Part D3 and AS1428.1 – 2009.
- I. The City of Bunbury advises that the development, the subject of this planning approval, must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.

- J. The development, the subject of this planning approval, must comply with the requirements of the Health Act 1911.
 - K. The development, the subject of this planning approval, is required to comply with the City of Bunbury Health Local Laws 2001.
2. To advise the applicant of Council's decision.

Background

Referring to the location plan provided as **attached** at Appendix DPDS-1, the subject site is bounded by Spencer and Prosser Streets, with vehicle access to the site from Prosser Street. This application is for a change of use from the previously approved use of 'Home Occupation' to 'Community Purpose' with the proposed tenant being the Multicultural Services Centre of Western Australia. The proposed tenant has provided an outline of their activities as **attached** at Appendix DPDS-2. Additionally, **attached** at Appendix DPDS-3 the landowner has provided justification for the application.

The existing building at the site is to remain, with some minor changes being made to the building to allow for compliance with the current Building Codes of Australia. The development plans are **attached** at Appendix DPDS-4.

The property has previously been approved as a 'Home Occupation' land use, which is where an occupier of the dwelling conducts their occupation from the property. The previously approved occupations were a Building Designer (2004 -2009) and Counsellor (2010 to 2013). Prior to this the property was owned by the Lutheran Church of Australia and was used as a 'Place of Worship'.

Council Policy Compliance

Local Planning Policies (LPP) which are relevant to this proposal are LPP 3.1 Access & Parking for Pedestrians, Bicycles and Vehicles and LPP 3.4 Non-Residential Development Within or Adjoining Residential Areas. It is considered that the proposal complies with the applicable Local Planning Policies.

Legislative Compliance

The proposal is required to be in compliance with the provisions outlined in TPS7. The land use of 'Community Purpose' is listed as an 'A' use in a Residential zone. This means that Council can consider the application following the public consultation process. Council is to have due regard to the matters listed in clause 10.2 in TPS7 when considering the proposal.

The car parking requirements for the use are as determined by the local government with consideration to: the relevant Local Planning Policies, comparable use class parking requirements and the maximum capacity of the facility. This is discussed further in the section below.

Officer Comments

The following issues of land use, parking and traffic are considered relevant when assessing the application and for Council's consideration as to whether it will or will not grant planning approval for the proposed development.

Land Use

The property is zoned Residential. Under the City of Bunbury Town Planning Scheme No. 7 (TPS7) a 'Community Purpose' use is listed as an 'A' use, meaning that Council may approve the use if it is considered appropriate, following the application being advertised. It is noted that two (2) submissions were received during the public consultation period from surrounding owners raising the issues of parking and traffic in the area (refer to the comments below and the Community Consultation section).

Parking

In terms of car parking, TPS7 does not contain a minimum car parking requirement for a 'Community Purpose' use class. Rather, TPS7 states that car parking is, "*as determined by the Local Government with consideration of the Local Planning Policy, the most applicable or equivalent use class and the maximum capacity of all facilities when used simultaneously*".

Referring to the site plan provided as **attached** at Appendix DPDS-1, five (5) car bays are proposed which are accessed via the existing crossover on Prosser Street. There is an existing double carport and adequate space behind the carport for three parking spaces.

With consideration of the LPP 3.1 Access & Parking for Pedestrians, Bicycles and Vehicles, (LPP) the majority of the applicable provisions are general and relate to the size, layout and location of the car parking spaces. The proposal complies with these general provisions and the relevant Australian Standards. However the policy has particular requirements in regards to tandem parking bays (i.e. one car parked behind another), which this application proposes. The LPP requires that tandem bays are counted as one bay except where the tandem bays are to be used by employees. The tandem bays will be used by the employees and therefore as per the LPP, can be counted in the car parking assessment as individual car bays.

The most applicable or equivalent use class for 'Community Purpose' would be an 'Office' use. Using the TPS7 car parking requirement for an 'Office' use, a minimum of five parking spaces would be required. Therefore, the proposal provides for the same number of car spaces as the comparable use of 'Office'.

The applicant has advised (refer to **attached** Appendix DPDS-2) that the allocated staff number for the centre is 1.7 full time with an average of 2 staff working at the centre at a time. The staff provides consultancy/counselling services to clients on a one-on-one basis. Based on this information, it is expected that four vehicles will be at the property at any one time. The applicant has also advised that most of their service recipients are new arrived migrant/refugees who generally use public transport to access the centre. Bus routes 829, 832 and 843 stop within proximity to the subject site.

With consideration of the above it is deemed that the car parking provided on-site is sufficient for the proposed use, subject to recommended conditions relating to the restriction of staff numbers and that no group activities are held at the premises.

Traffic

The predicted traffic generation from the proposal will have minimal impact of the existing traffic situation in the area and can be accommodated by the current road network. The nature of the proposed use in conjunction with the recommended conditions limiting the number of staff and

restricting group classes to be held from the site, results in vehicle movements which are in keeping with typical vehicle movements in residential areas. Therefore, it is considered that the proposal will not produce any significant traffic issues.

Analysis of Financial and Budget Implications

The application is for works to be constructed on a private lot, and therefore has no budget / financial implications for the City.

Community Consultation

The proposed Community Purpose is an 'A' use which can be considered by Council following the public consultation process in accordance with TPS7 requirements.

The application was advertised for public comment from 24 December 2013 to 13 January 2014. Public consultation included the following:

- Letters sent to surrounding landowners
- Development notification signs on-site
- Notice of proposal published in local newspaper (two consecutive editions)
- Notice of proposal on the City's website
- Plans and supporting information made available at the City's Customer Service Centre

In total two (2) submissions were received during the consultation period. The issues raised were in relation to parking, traffic and the advertising of the proposal during the school holiday period. Please refer to the schedule of public submissions as **attached** at Appendix DPDS-5.

Councillor/Officer Consultation

The proposal has been discussed internally with Planning and Development Services staff prior to the finalisation of this report.

Delegation of Authority

The application is referred to Council for determination, as the proposed land use and minimum car parking requirement are determined at the City's discretion in accordance with the provisions of TPS7. Additionally, public submissions have been received in relation to the proposal.

Relevant Precedents

In September 2013, Council approved a development application for the Change of Use to 'Community Purpose' use and an addition at No. 16 Little Street, Carey Park. This property is zoned 'Residential'. The Goomburrup Aboriginal Corporation delivers services to Aboriginal people from this location. This application is comparable to the subject proposal as it involves the approval of a 'Community Purpose' use in a 'Residential' zone.

10.4.3 Proposed Amendment 70 – Lot 8 Ocean Drive, Bunbury (Hungry Hollow)

Applicant/Proponent:	Planwest WA Pty Ltd
Author:	Anthony Pick, Statutory Planning Officer
Executive:	Bob Karaszewych Director Planning and Development Services
Attachments:	Appendix DPDS-6, DPDS-7, DPDS-8

Summary

Planwest WA Pty. Ltd, on behalf of Technotron Investments Pty. Ltd, has submitted a Scheme Amendment report to the City to amend Special Use Zone No. 32. The site is located at Lot 8, No. 135 Ocean Drive known as Hungry Hollow. The current zone permits the sole use of restaurant. The proponent seeks an amendment to enable the comprehensive redevelopment of the site for tourism mixed use. The list of uses proposed include: short-stay accommodation; unrestricted residential accommodation apartments; reception centre; shop; and restaurant.

The scheme amendment report was assessed by Development Assessment and a revised scheme amendment proposal is presented to Council for 'initiation'. The modified version ensures the amendment would comply with the planning policy framework, including the City's Local Planning Policy (LPP): 'Building Heights'.

The main reasons for not supporting the proponents request for a maximum building height of 18m are:

- The Development Impact Statement does not satisfactorily demonstrate that the proposed height up to 18m would not adversely impact on the established level of amenity in the surrounding residential area;
- The proposed Building Height of up to 18m would not be consistent with the desired height of buildings in the locality, as set out in Map 4 of the LPP, and it has not been demonstrated that the proposal would accord with the Performance Criteria of the Local Planning Policy: Building Heights.

The Hungry Hollow site is identified in the LPP as benefiting from a maximum 15m building height, where the Performance Criteria of the Policy are addressed. It should be noted that the adjacent lots along Ocean Drive have a maximum permissible building height of 12m.

However, the land use(s) proposed as part of the Amendment are indeed supported. Therefore, it is recommended that the modified Amendment, which reflects the Local Planning Policy for Building Heights, be initiated.

Executive Recommendation

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

1. Initiate Scheme Amendment 70 to the City of Bunbury Town Planning Scheme No. 7 to
 - (a) Replace the existing text in the Table under Schedule 2 – Special Use Zone No. 32 as per the revised Schedule 2 of the Scheme Amendment;
 - (b) Amend the Scheme Map by rezoning Lot 8 Ocean Drive (Hungry Hollow Restaurant Site) to 'SU 32 - Tourism Mixed Use';

2. Notify the Western Australian Planning Commission of Council's decision to initiate proposed Scheme Amendment 70, and provide the Commission with a copy of the Scheme Amendment documentation, prior to proceeding to public advertising.
3. Refer Scheme Amendment 70 documentation to the Environmental Protection Authority (EPA) for approval to advertise for public comment.
4. Subject to the consent of the Environmental Protection Authority, Council resolves to publicly advertise the proposed Scheme Amendment 70, for a period of at least 42 days.
5. Following the public advertising of proposed Scheme Amendment 70, return the scheme amending documentation, including any proposed modifications, along with any public submissions lodged with the City of Bunbury during the advertising period to Council for further consideration.

Background

The subject site comprises Lot 8 Ocean Drive, Bunbury having a total lot area of 1,944.64m².

A restaurant was established at this location in 1963. The site is located on the corner of Ocean Drive and William Street. The City's Local Planning Strategy for Tourism defines the primary/identified role for Hungry Hollow as 'Minor Mixed Use Tourism Activity Node'. The Strategy also recognises the importance of the site as an important amenity and provides an active frontage to Ocean Drive.

The Scheme Amendment seeks to permit the redevelopment of the site to enable the following mix of uses:

D (Discretionary uses)

- Restaurant
- Short Stay Grouped Unit
- Short Stay Multiple Unit
- Multiple Dwelling/Unrestricted Residential Accommodation (URA)

A (Advertising/special notice required)

- Hotel
- Motel
- Private Recreation
- Reception Centre
- Shop (maximum floor space of 100m²)

Council Policy Compliance

The Scheme Amendment report addresses the wider policy framework for assessing the proposed modifications to the Special Use Zone. A summary is provided below of Council's Policy.

Local Planning Strategy for Tourism (LPS-T)

The Hungry Hollow site lies within the Ocean Drive "Strategic Tourism Location" (STL) as per the LPS for Tourism. The Strategic objective for the Ocean Drive area is to provide a range of short stay tourist accommodation with ocean orientation and easy access to the beach and further enhance facilities for the Ocean Drive area.

The Strategy acknowledges that Ocean Drive is a major physical feature that helps define the City. It is also a highly valued recreation area and an area that presents significant opportunities for tourist developments. The Coastal Enhancement Project has substantially improved the beachscape and is providing a catalyst for tourism investment. Further enhancement will establish Ocean Drive as one of the premier tourist destinations and recreation areas in the state.

The LPS-T describes the setting of Ocean Drive Strategic Tourism Location as follows:

“Ocean Drive provides an impressive southern entrance into the heart of the City. With the exception of the Bunbury Surf Lifesaving Club and Ex-tensions Restaurant, the coastal foreshore is undeveloped. Landscaping and amenity up-grading is ongoing as part of the Bunbury Coastal Enhancement Project. The coastal enhancement program currently underway along Ocean Drive delivers new footpaths, public car parking provision, beach access, seating areas, revegetation of dunes, all of which will help to improve the appearance and amenities associated with this section of foreshore.

On the eastern side of Ocean Drive, the built form comprises a mix of new and older styled residential property; however this character is changing with the vibrant housing market driving residential redevelopment and modernisation. Besides the 2 motels, commercial activity is limited to the Hungry Hollow Restaurant, located at the junction of William St and Ocean Drive.”

Hungry Hollow is identified as a ‘Minor Mixed Use Tourism Activity Node’. The Strategy recognises that the public interface on the landward side of Ocean Drive is weak and needs to be encouraged to develop, and that, furthermore, any new commercial development that is proposed adjacent to Ocean Drive should be encouraged to provide an element of active frontage and address linkages with the beach. The proposed scheme amendment will be consistent with meeting the objective of the Strategy.

A condition of the Special Use is that an active frontage is provided at ground floor level to address Ocean Drive.

Local Planning Policy No. 3.12: Building Height

The City’s Local Planning Policy: ‘Building Height’ designates maximum building heights in the Ocean Beach North precinct, within which the subject site is situated. The Policy identifies a maximum height limit of 15m, subject to demonstrating that the performance requirements of the Policy are met. Lots either side of the subject lot on Ocean Drive are restricted to a maximum height of 12m.

Local Planning Policy No. 2.8: Unrestricted Residential Accommodation (URA)

This policy is intended for the proposed dual use of specifically designed new build single residential houses, grouped dwellings and multiple dwellings or the change of use and modification of existing multiple dwellings, for the optional purpose of providing short term accommodation on a commercial basis.

Legislative Compliance

The Planning and Development Act 2005 and the Town Planning Regulations 1967

The *Planning and Development Act 2005* and the *Town Planning Regulations 1967* outline the process of amending the Town Planning Scheme. If Council resolves to initiate the Scheme

Amendment, the Amendment documents are referred to the Environmental Protection Authority (EPA) for its consideration and comment on any environmental issues; and to the Western Australian Planning Commission (WAPC) for information purposes or for its consent to advertise.

Following consent to proceed with the Scheme Amendment, the proposal will be advertised for public comment for a period of 42 days in accordance with the provisions of the Regulations. On completion of the submission period, the amendment documentation, with a report on the submissions received, will be referred back to Council for a recommendation on the proposed Scheme Amendment. The recommendation of Council, the Scheme Amendment documentation and the schedule of submissions will then be referred to the WAPC for endorsement and ultimately referral to the Minister for Planning for final approval.

Please note: that once the Scheme amendment has been initiated, the ultimate decision maker will be the Minister for Planning.

Town Planning Scheme No. 7

The definitions of the various proposed land uses are found in Schedule 1 of the Scheme. The planning controls relating to Special Use Zone No.32 can be found in Schedule 2 of the Scheme.

Officer Comments

The Scheme Amendment, subject to a condition requiring height to be in accordance with the City's Planning Policy: Building Height, is supported, as it will facilitate a broader spectrum of tourism orientated mixed use development. The site is identified with the City's Tourism Strategy as a 'Minor Mixed Use Tourism Activity Node'. The conditions attached to the Scheme Amendment will ensure that an active frontage to Ocean Drive is provided as part of any redevelopment.

The Scheme Amendment is considered to be consistent, in principle, with the planning policy framework. The proposed residential density of R80 and overall total plot ratio of 1:35 is supported. Higher density is appropriate for mixed use development and is consistent with the tourism objectives for the Ocean Drive corridor.

A copy of the Scheme Amendment Report is **attached** at Appendix DPDS-6. A copy of the proponents Scheme Amendment Report is **attached** at Appendix DPDS-7 together with the Development Impact Assessment **attached** at Appendix DPDS-8.

Main Issue – Building Height

The site is located on a prominent corner lot where it is considered there is indeed scope for a landmark building. It is acknowledged that 'corner expressions' provide for the opportunity for architectural expression through the use of distinctive built form e.g. different geometric or volumetric design, projections or indentations, use of materials/ colour, additional height or other means.

The main point of contention with the Scheme Amendment relates to the maximum building height (up to 18m) proposed by the proponent. The City's Local Planning Policy: 'Building Height' designates maximum building heights in the Ocean Beach North precinct, within which the subject site is situated. The Policy identifies a maximum height limit of 15m, which takes account of the potential for a landmark building on the lot, subject to demonstrating that the performance requirements of the Policy are met.

The performance criteria requires that a Development Impact Statement be prepared that addresses the following matters: views of significance from public viewpoints, including the impact upon visual permeability to coastal foreshores / ocean view sheds and identified landmarks; overshadowing of public areas; impact on adjacent properties – including overshadowing, solar access, and, maintaining a reasonable outlook from habitable rooms.

In consultation with the Strategy Team, it is considered the Development Impact Statement fails to demonstrate that the proposal would not result in an adverse impact. The view shed analysis undertaken provides limited benefit as it is undertaken at too large a scale and does not address the local context. It is also considered that the Development Impact Statement fails to satisfactorily demonstrate that the proposed height would not adversely impact on the character of the surrounding area or amenity of adjacent residents. The document seeks to justify a height of up to 18m by reference to the Local Planning Policy height of 15m. However, it must be noted that the maximum 15m height under the Policy is only permissible where the impacts can be demonstrated to be acceptable. It cannot therefore be used as a fall-back position. The document provides little analysis of the impact on the outlook of adjacent residents, in particular those at 4 William Street.

Having regard to height, bulk, scale and massing, the analysis undertaken and resulting Development Impact Statement should provide sufficient justification to establish a graduated building envelope across the subject site which would be used to inform future development. However, the Development Impact Statement is considered limited in scope and flawed in approach and fails to adequately demonstrate how the building height / footprint would not be detrimental to the residential amenity of the immediate area.

The proposed increase in height of up to 18m is also not considered to be consistent with the desired height of buildings in the locality, as required by the Performance Criteria of the Building Height Policy. The adjoining lots are restricted to a maximum building height of 12m as identified on Map 4 of the Local Planning Policy: Building Height.

The revised building height sought by the proponent cannot therefore be supported.

Analysis of Financial and Budget Implications

None, other than advertising costs.

Community Consultation

Subject to initiation by the Council, it is intended that Scheme Amendment 70 be advertised in accordance with the Planning and Development Act 2005 and associated Town Planning Regulations 1967, for a minimum period of 42 days; includes a sign(s) being placed on site, letters to adjoining/nearby owners, letters to servicing authorities and advertisements in a local newspaper.

Councillor/Officer Consultation

The Special Use Zone has been subject to dialogue and engagement with the proponent over a number of years.

Delegation of Authority

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

10.4.4 Proposed Serviced Apartments - Lot: 517 DP: 54092 (No.4) Epacris Elbow Pelican Point SAT Appeal DR 258/2013

Applicant/Proponent:	Dynamic Planning and Developments
Author:	Sam McNeilly, Team Leader Development Services
Executive:	Bob Karaszekewych, Director Planning and Development Services
Attachments:	Appendix DPDS-9, DPDS-10, DPDS-11, DPDS-12, DPDS-13, DPDS-14, DPDS-15

Summary

This report is necessary because of a State Administrative Tribunal (SAT) appeal which relates to a prior planning application (originally considered by Council at its meeting of 2 July 2013). Council refused to grant planning approval for the proposed development made by Dynamic Planning & Developments for 11 Multiple Dwellings at 4 Epacris Elbow in Pelican Point (copy of DA refusal dated 25 July 2013 is **attached** at Appendix DPDS-9).

The matter is currently being considered by SAT through its Mediation processes.

Pursuant to Section 32(1) of the *State Administrative Tribunal Act 2004* (WA), the SAT has invited Council to reconsider its original decision, based on revised plans, to refuse to grant planning approval to Dynamic Planning & Developments for the proposed development.

The next Mediation meeting is scheduled for 7 February 2014.

Officers of the City have now reached, what is considered to be, a reasonable consensus position with the appellant as part of the SAT Mediation process; and now wish to present this position to Council for its consideration.

Executive Recommendation

Council, pursuant to Section 31 of the *State Administrative Tribunal Act 2004* (WA) reconsiders its prior resolution made on 2 July 2013, sets aside its original decision and substitutes its new decision by resolving to:

1. Grant planning approval to Dynamic Planning & Developments for the proposed 11 serviced apartments at lot 517 (No. 4) Epacris Elbow, subject to the following conditions (to be completed prior to occupancy) and informative notes:

Use and Development

- (1) At all times, the development, the subject of this planning approval, must comply with the definition of "Serviced Apartments" as contained in Schedule 1 of the City's Local Planning Scheme.
- (2) All developments shall be in accordance with the approved development plans (**attached** at Appendix DPDS-10) 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 has granted prior written consent.

- (4) The developer is required to comply with all requirements of the R-Codes in respect of guaranteeing the privacy of 5 Rialto Close (e.g. high-level windows and screening in accordance with R-Code provisions) and to the satisfaction of the City.
- (5) 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.
- (6) Laundries shall have a minimum of 3m² floor area with a minimum dimension of 1.5m.
- (7) The developer is required to provide, where necessary, uniform fencing around the entire site to the satisfaction of the City.

Car Parking Requirements

- (8) Before the development is occupied, a minimum of 1 car parking bay must be provided for the exclusive use of disabled persons in accordance with AS/NZS 2890.6:2009 and to the satisfaction of the City.

Drainage and Road Requirements

- (9) Before the development is commenced, a path network contribution of \$3,578.40 must be paid to the City in accordance with the City of Bunbury's Schedule of Fees and Charges.
- (10) Before the development commences, a damage bond to the value of \$2,000 must be paid to the City in accordance with the City of Bunbury's Local Planning Policy "Bonds".
- (11) A minimum of 1m³ of storm water storage for each 65m² of impervious area must be provided on site in accordance with the City of Bunbury's Information Guide – Stormwater Disposal from Private, Commercial and Industrial Properties.

Detailed design plans of the proposed stormwater management must be submitted for approval prior to the development commencing, and be implemented in accordance with the approved plan prior to the development being occupied.
- (12) Before the development is occupied, the access way(s), car parking and turning area(s) shall be constructed in accordance with the development approval to the satisfaction of the City of Bunbury.
- (13) Before the development commences, a crossover permit must be obtained from the City of Bunbury. Construction and maintenance of the crossover shall be in accordance with the crossover permit.
- (14) Before the development is occupied, any alterations, relocation or damage of existing infrastructure within the road reserve must be completed and reinstated to the specification and satisfaction of the City of Bunbury.
- (15) Before the development is occupied, line marking and parking signage must be installed in accordance with the approved plans.

Health Requirements

- (16) Before the development is occupied, the property must be connected to the Water Corporation reticulated sewerage system.

Advice Notes:

- (1) The development, the subject of this planning approval, must comply with the requirements of the Health Act 1911.
- (2) The development, the subject of this planning approval, is required to comply with the City of Bunbury Health Local Laws 2001.
- (3) All documentation submitted with the Building Permit Application shall be in accordance with the Building Regulations 2012 and the Building Code of Australia – Volume 2 including, in particular, detailed plans and specifications for the site works (including finished ground and floor levels), storm water and roof run-off disposal, existing easements, cross-over and parking areas (including pavement type), to the satisfaction of Council.
- (4) Energy efficiency details of the proposed project to comply with the Building Code of Australia – Volume 2, (Housing Provisions) Part 3.12 for Climate Zone 5.
- (5) The Plans and Specifications must be submitted to the Water Corporation for approval.
www.watercorporation.com.au
Bunbury Office: Level 3, 61 Victoria Street.
Phone: (08) 9791 0400.
- (6) When a new crossover is proposed, and before construction of it can commence, a separate verge crossover application must be submitted and approved.
A permit application form can be obtained on the City's website www.bunbury.wa.gov.au
- (7) The City notes that there may be a possibility of the existence of Acid Sulphate Soils (ASS) on the land concerned. At the time of subdivision and/or at the time of the construction of any buildings/structures on the land, the applicant is to ensure compliance with all relevant legislation and/or standards in this regard.
- (8) The City of Bunbury contains many places of Aboriginal Heritage significance. Proponents are advised to consider Aboriginal heritage issues and their obligations under the *Aboriginal Heritage Act 1972* at an early stage of planning. Further information can be obtained from the Department of Aboriginal Affairs on 9235 8000 or at the following web site <http://www.daa.wa.gov.au/en/Heritage-and-Culture/>.
- (9) This Planning Consent issued by the City of Bunbury does not remove any responsibility the applicant may have in notifying Department of Sustainability, Environment, Water, Population and Communities of the proposal for consideration of impacts in accordance with the *Environmental Protection and Biodiversity Conservation Act 1999*. Further information can be obtained from Department of Environment and Heritage 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>.

Background

Council previously considered the matter at its meeting held on 2 July 2013 (Item 10.8 refers). A copy of the Council Minutes (which includes Council's reasons for refusal) is **attached** at Appendix DPDS-11. Council then resolved to refuse to grant planning approval for the principle reason that

the proposed development was considered to be inconsistent with the relevant Development Guide Plan (Grand Canals North).

Since then the applicant appealed to SAT on the grounds as **attached** at Appendix DPDS-12. The matter has progressed through a series of Mediation meetings to date.

The City's Planning Staff have attended a series of SAT Mediation meetings in association with the City's legal counsel, with the purpose of determining whether the matter could be mediated such that a mutually satisfactory position could be achieved. It is considered that a mutually satisfactory position has now been achieved and this is reflected in the Executive Recommendation.

Council Policy Compliance

The subject Lot is designated for "Grouped Dwellings and Tourist Accommodation" on the Grand Canals North Development Guide Plan (Endorsed Structure Plan – 28 September 2007). A copy of the current Grand Canals North Development Guide Plan is **attached** at Appendix DPDS-13). It is considered that the applicant's current proposal would now satisfy the provisions of the Grand Canals Development Guide Plan and the Scheme, in that the proposal now falls within the use-class "Serviced Apartments" and in that the definition of Tourist Accommodation is defined in the Scheme (TPS 7) as "serviced apartments or grouped dwellings available for tourist use".

Legislative Compliance

It is considered that the processing of the application to date, has met all relevant legislative requirements.

Officer Comments

The application has progressed through the SAT Mediation process to such an extent that both parties have reached a position whereby Council's further formal consideration is necessary.

Pursuant to Section 32(1) of the *State Administrative Tribunal Act 2004* (WA), the SAT has now invited Council to reconsider its original decision (based on revised plans) which was to refuse to grant planning approval to Dynamic Planning & Developments for the proposed development.

The next Mediation session which has been arranged by SAT is scheduled for 7 February 2014.

Plans and details relating to the original development application are **attached** at Appendix DPDS-14.

Originally the applicant had proposed to limit the proposed development to the use-class "Multiple Dwellings" (a "D" use in the respective Special Use Zone). The applicant was given the option (by the City) to accept a tourist related use-class "Unrestricted Residential Development" (URA) with a view to allowing the proposed development to be considered as a tourist-related development, which would have meant that Council could have considered the proposed development more favourably: in that the proposed development would have included a component of tourist related development, which is a requirement of the Development Guide Plan and in effect TPS 7.

Initially it was considered that the use-class URA would have been the preferred use-class, such that the development could be considered as satisfying the requirement for providing a tourist-related development. On advice from the City's legal counsel, it is considered now that the

preferred use-class is “Serviced Apartments”, which falls within the definition of “tourist accommodation” in TPS 7.

At the most recent SAT mediation session on the matter, on 21 November 2013, the Applicant agreed to the development being considered “Serviced Apartments”. This addresses the key issue relative to satisfying the key provisions of TPS 7 and the provisions of the Grand Canals North Development Guide Plan. Whilst the use-class “Multiple Dwellings” did not address the matter of the provision of tourist accommodation, the use-class “Serviced Apartments” specifically addresses this issue, and in effect, results in the proposal being compliant with the Scheme and the Grand Canals North Development Guide Plan.

Plans and details of the currently proposed development submitted by the applicant as part of the SAT Mediation process are **attached** at Appendix DPDS-10.

The City’s current position on the matter (as part of the SAT process) is premised on the following basis:

- “1. *Clause 6 of Special Use Zone 23 (SUZ 23) as set out in TPS 7 states that: “the following uses are permitted (P use) on the proposed R40 Lots (which includes the subject lot): - ‘grouped dwellings; and ‘tourist accommodation’. All other uses that are permitted (‘P’) and discretionary (‘D’) in the residential zone can be considered by Council.*
2. *Clause 11 of SUZ 23 in TPS 7 states that: ‘Tourist accommodation’ for the purpose of this amendment is defined as “serviced apartments or grouped dwellings available for tourist use”.*
3. *The definition of Serviced Apartments in TPS 7 is: “...group or multiple dwellings for permanent tenancy exceeding three months duration which is provided with facilities such as tennis courts, sauna, spa, common dining and recreation areas for the primary use of the residents living within the complex”.*
4. *Clause 3 of SUZ 23 states: “Council will encourage (emphasis by writer) ‘tourist accommodation’ to be developed in the area subject to such development being compatible with the residential scale, form and character of the Grand Canals locality”.*
5. *Clause 4.1 of SUZ 23 states: “‘grouped dwellings’ and/or ‘tourist accommodation’ development to an R40 density shall occur (emphasis by writer) on the two proposed larger lots (NOTE: one of which is the subject lot) at the north-eastern and south-eastern portion of the subject land, as generally shown on the draft Development Guide Plan”. In this respect it is considered that the Scheme is instructive to the effect that tourist accommodation “shall occur” on the subject land. The Scheme doesn’t use the word “may” but, rather, “shall” which therefore, is considered, strongly suggests that this is a requirement of the Scheme.”*

The current proposed development plans now show communal facilities to specifically meet the definition of “Serviced Apartments” and in this respect the applicant has proposed to include a common dining and recreation area, a spa and BBQ facilities along with communal areas and a bike store. Whilst the actual provision of communal facilities is not extensive, in effect, it is considered that the applicant has complied with the spirit of the definition of serviced apartments in that he has provided a number of the facilities listed in the definition. Essentially, therefore, the definition of “Serviced Apartments” is seen to be satisfied.

The applicant has also substantially redesigned the elevations of the proposed building complex. It is considered that the current design is significantly improved from a design perspective, and in terms of better blending visually, and being more “compatible” with the existing development in the surrounding area. It is therefore considered that the currently proposed development satisfies the specific requirement of Clause 3 of SUZ 23 in TPS 7, which requires “*such development being compatible with the residential scale, form and character of the Grand Canals locality*”. This is therefore, also considered to satisfy one of Council’s prior concerns in respect of design and which was previously a reason for refusal of the original proposal.

As indicated in the previous report to Council (2 July 2013), the proposal has been assessed in accordance with the requirements of Table 4 and Part 7 of the Residential Design Codes (R-Codes – State Planning Policy 3.1). The proposal meets the Design Requirements of the R-Codes for “Serviced Apartments” (at a density of R40) in respect of parking provision, open space, building heights and plot ratio.

The Executive Recommendation includes a condition to ensure that the proposed development guarantees the privacy of 5 Rialto Close by requiring high-level windows and/or screening in accord with the requirements of the R-Codes and to the satisfaction of the City. This relates to one of the reasons for refusal of the proposed development initially.

If the matter is resolved on Council’s reconsideration of the application with the revised plans, the next mediation session can be cancelled and the application for review can be withdrawn.

It is not considered that there is any need for the matter to be further advertised in that the proposal to utilise the use-class “multiple dwellings” has already been fully canvassed previously to the general public and in that the use-class “Serviced Apartments” is a “P” (permitted use) in the Residential zone and on that basis it is considered that there would be no sound reason to further advertise the matter. Notwithstanding it is considered that the previous submissions should be formally considered as part of the final determination on the matter and, in this regard, the Submitters Schedule is **attached** at Appendix DPDS-15.

Analysis of Financial and Budget Implications

There are no known adverse Budget implications.

Delegation of Authority

All forms of development other than R40 development be referred to Council for determination.

Community Consultation

The matter was previously advertised for public comment as part of the normal processing of the Development Application. A total of 32 submissions were received on the proposal from local residents and landowners. All comments were against the development proceeding. The key issues concerning the submitters related to traffic increase in local streets; vehicle parking on site; visual amenity (concern regarding the actual bulk of the proposed building); front set-back too close to street; scale of the proposed development – not in harmony with the established residential character; and proposed development not in accordance with the Development Guide Plan.

Councillor/Officer Consultation

The proposal was presented at the internal Development Coordination Unit (DCU) meeting where the application was discussed in a multi-disciplinary environment. Internal referrals were requested by relevant departments and their comments and requirements were taken into account in terms of further processing of the Development Application.

10.4.5 Section 31 Order – SAT – Lot 30 (No. 22) Palmer Crescent, Davenport

Section 31 Order – State Administrative Tribunal Act 2004 – Reconsideration of the decision to refuse the (retrospective) change of use from Storage to Industry: Noxious (sandblasting / spray painting) – Lot 30 (No. 22) Palmer Crescent, Davenport.

Applicant/Proponent:	David Evans
Author:	Anthony Pick, Planning Officer
Executive:	Bob Karaszekwych, Director Planning and Development Services
Attachments:	Appendix DPDS-16

Summary

Pursuant to Section 31(1) of the *State Administrative Tribunal 2004 (WA)* Council is invited by the State Administrative Tribunal (SAT), for the second time, to reconsider its original decision to refuse the retrospective change of use to Industry: Noxious (sandblasting / spray painting). (*See background section for reasons*).

Following an appeal by the applicant, Council formally reaffirmed its decision on 27 August 2013 following a Section 31 Order. Council subsequently resolved in November 2013 to seek a temporary approval through the Mediation process. However, the applicant advised at Mediation that a temporary approval was not acceptable. The SAT issued a further Section 31 Order for Council to reconsider its decision.

The Executive Recommendation is for a twelve (12) month temporary approval, which would be tightly conditioned to ensure the use(s) are unable to operate until it has been verified that all environmental safeguards are in place, to Australian Standards, and the activity would be carried out in accordance with the Regulations. The City's Environmental Officer has advised that a twelve (12) month timeframe would be required to ensure comprehensive monitoring of the use across different seasons and weather patterns. The results would be presented to Council at the end of the temporary approval to fully inform any further consideration of the development. The Department of Environment Regulation are the responsible state body for ensuring compliance with the Regulations.

Executive Recommendation

Council, pursuant to Section 31 of the *State Administrative Tribunal Act 2004 (WA)*, reconsiders its decision and sets aside the original decision and substitutes its new decision by resolving to:

1. Grant temporary Planning Approval for twelve (12) months subject to the following planning conditions and informative notes:
 - (1). Development shall be in accordance with the approved development plans (dated 7 August 2013) which form part of this planning approval.
 - (2) This is a temporary planning approval and the development, the subject of this temporary approval, must cease on (*date to be fixed twelve months from the date of decision*) at which time the approval will expire pursuant clause 10.6 of the *City of Bunbury Town Planning Scheme No. 7*.
 - (3) Within 21 days of the date of the decision notice the applicant shall provide to the City, verification from a suitably qualified independent consultant (to the

satisfaction of the City) that the sandblasting equipment is installed and certified to Australian Standards and that the sandblasting operations are in full compliance with the Environmental Protection (Abrasive Blasting) Regulations 1988.

- (4) No spray painting activities shall be carried out until the applicant provides to the City verification from a suitably qualified independent consultant (to the satisfaction of the City) that all necessary modifications and environmental controls are installed and certified to Australian Standards and that spray painting operations are in full compliance with the Environmental Protection (Metal Coating) Regulations 2001.
- (5) There shall be no sandblasting or spray painting carried out in the open.
- (6) The applicant shall instruct a suitably qualified independent consultant to undertake scientific monitoring of the potential impacts arising from the development, in respect of the following matters: noise, air quality (dust), and odour for a continuous period of not less than 11 months. The results shall be analysed and presented to Council at the expiry of the temporary approval in the form of a scientifically valid independent consultants report. The monitoring results shall be made available, on request, to the City during the monitoring period.

The brief for the monitoring and scientific report shall be agreed with the City within four (4) weeks of the date of the decision notice. The monitoring and scientific report shall be carried out in accordance with the agreed brief.

- (7) The applicant shall submit to the City a Management Plan based on the parameters set out in 'Suckling Civil & Structural Engineers Management Plan' within 21 days of the date of the decision notice.

In addition, the Management Plan shall include a contact and telephone number for the public to call should an incident occur and/or report any concerns arising from the development. The applicant shall give notice on the contact details to all residents within 200m of the subject site. The applicant shall maintain a register of any complaints received from local residents concerning the operation of the business, including information as to:

- (i) the date and time of the complaint;
- (ii) the address of the person making the complaint;
- (iii) the nature and details of the complaint;
- (iv) the work being undertaken by the business at the time of the complaint;
and
- (v) the measures taken by the business in response to the complaint;

and make this register available for inspection on request by the City.

The Management Plan shall be strictly adhered to at all times unless any variance is agreed to in writing by the City of Bunbury.

- (8) Notwithstanding the submitted plan, a minimum of 16 car parking bays shall be provided on the land the subject of this planning approval and to the satisfaction of the City of Bunbury. A minimum of one of those car parking bays shall be provided for the exclusive use of disabled persons in accordance with AS/NZS 2890.6:2009 and to the satisfaction of the City of Bunbury. Car parking bays shall remain accessible and be used solely for the purposes of parking vehicles at all times.
- (9) There shall be no storage of materials within the parking, access driveways, or landscaped areas.

- (10) All verge areas abutting the boundaries of the subject site must remain clear at all times and must not be used for any other purpose including car parking, trade display, storage and signage to the satisfaction of the City.
- (11) Except with the prior written consent of the City of Bunbury, the approved use must only operate between the following times (excluding public holidays):
 - 7am and 5pm Monday to Friday
 - 7am and 1pm Saturday.
- (12) The application shall install a solid 1.8m high fence along the boundary(s) of the lot adjoining the Regional Open Space.

Notes:

1. At the end of the temporary approval the applicant is required to apply to the City of Bunbury for Planning Approval. The City will require the applicant to demonstrate that the land use(s) operated without any adverse impact on the environment or amenity of the locality, and shall submit a scientific report and monitoring analysis as required by Condition 6 of this temporary approval for Council's consideration.
2. The City of Bunbury advises that the development the subject of this planning approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100.
3. The City of Bunbury advises that the development the subject of this planning approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100.
4. The development the subject of this planning approval must comply with the requirements of the Health Act 1911.
5. The development, the subject of this planning approval, is required to comply with the requirements of the Department of Mines and Petroleum (Resources Safety Section) in relation to the storage of dangerous goods. Further information may be found at this Departments website at www.dmp.wa.gov.au

Background

The subject site comprises Lot 30 (No. 22) Palmer Crescent, Davenport and is 4027m² in area. The site is zoned 'Industrial' under the Greater Bunbury Region Scheme (GBRS) and 'Industry' under the City of Bunbury Town Planning Scheme No. 7 (TPS7). There are two (2) colorbond sheds on the Lot previously used for storage. The building to the front is used for sandblasting whilst the shed to the rear is used for spray painting. The site is bound by industrial development to the north and south east. To the south west the lot adjoins Regional Open Space in the form of Loughton Park Reserve, which is used for recreational purposes. The play equipment is located approximately 109m from the site boundary of the subject lot. The nearest residential development is located at Young Close and Godwin Street and measures 113m from the subject boundary to the residential boundary.

Retrospective Planning Approval was sought in April 2013 for a change of use to operate sandblasting / spray painting on the lot following complaints to the City. The complaints were

largely as a result of the operations, in particular sandblasting, being carried out in the open. The Department of Conservation (DEC), now Department of Environmental Regulation (DER), required the operator (17 August 2013) to cease sandblasting activities in the open.

Staff met with the Department of Environmental Regulation and the applicant on site during the initial consideration of the application. The DER advised that since operations were restricted to the building the activities were unlikely to adversely impact on residents. The DER subsequently advised the City, as part of the mediation process, that the modified building used for sandblasting comprised a 'blast chamber' for the purposes of the Abrasive Blasting Regulations 1998, as it is a fully enclosed structure. The DER's advice was that with the correct management and maintenance the sandblasting component would pose minimal risk to boundary neighbours from fugitive dust and noise.

In respect of spray painting the DER advised that the operator would be unable to comply with the EP (Metal Coating) Regulations 2001, until three-phase power is installed to operate the mechanical ventilation and extraction system. This is required to prevent untreated air and paint overspray from leaving the premises.

Staff had previously recommended temporary approval on the basis that the DER advised the City that the spray painting activities were unlikely to adversely affect residents or businesses and the DER did not have any objections to the company undertaking sandblasting activities whilst working towards full compliance with the Regulations. A temporary approval had been recommended to enable three phase power to be installed and full compliance with the Regulations be achieved within a short time frame.

The other main issue related to noise. Pending the installation of three phase power the operator used a generator and compressors. The DER had advised the City that a hired generator (to replace the original generator) had reduced the impact of noise to a minimal or negligible impact.

Council determined to refuse the application on 2 July 2013 for the following reasons:

- “1. *The development is contrary to the provisions of Clause 10.2 (d) of the City of Bunbury Town Planning Scheme No. 7 (Scheme), in that the proponent has not fully demonstrated that the proposed development (sandblasting and spray painting) would comply with the Environmental Protection (EP) (Abrasive Blasting Regulations) 1998 or the EP (Metal Coating) Regulations 2001.*

Furthermore, the Lot (at the time of determining the application) is not served by mains power and as such, the proponent is unable to comply with the aforementioned regulations. The absence of mains power for the proposed development would be contrary to Clause 10.2(s) of the Scheme.

** Note – the reference to mains power in the reason for refusal should be three phase power.*

2. *In the absence of a site specific environmental assessment (to establish the need for appropriate buffer distances and assess the impact(s) arising from the proposed development (sandblasting and spray painting activities), the City considers that the propose development would be likely to have an adverse impact on the environment and the established resident amenity in the locality, by reason of dust, noise, vibration, and smell from the development. The proposed development would therefore be incompatible with its setting and contrary to Clause 10.2, criteria (b), (d), (i), (n) and (z) of the Scheme.”*

Following refusal of planning, the City issued a Stop Work Direction under s.214 of the *Planning and Development Act 2005*. The applicant immediately appealed both the planning refusal and the Stop Work Direction to the State Administrative Tribunal (SAT). In regards to the Stop Work Direction, the SAT agreed to a stay of proceedings, pending the outcome of the SAT review. It should be noted, however, that this does not limit the powers of the Department of Environment Regulation (DER) to take action should the applicant operate in breach of the environmental regulations.

During the initial round of Mediation the SAT issued a Section 31 Order for Council to reconsider its decision. On 27 August 2013, Council resolved to reaffirm its original decision and reasons to refuse the application.

A confidential report was presented to Council on 26 November 2013 when, further to consideration of legal advice, Council resolved to not actively oppose the application for review at SAT. Instead Council resolved to seek a mediated outcome dependent upon a three (3) month temporary approval, during which time the applicant would be required to bring into operation all of the necessary environmental (dust/noise) control measures. Council further resolved that at the expiry of the temporary approval any subsequent application would be time limited for five years.

Staff attended the SAT Mediation on 6 December 2013 when Council's revised position was presented to the SAT. However, the applicant advised at the Mediation meeting that a temporary approval was no longer an acceptable position. The applicant requested to the SAT that the application be determined on the basis of seeking a time-unlimited planning approval. The SAT were advised by the City's Counsel that as there could be no agreement between parties, other than on the basis of the parameters set by Council i.e. a temporary approval, it would be necessary to go to full hearing on the matter. However, the SAT Presiding Member made it clear to all parties that before SAT would proceed to Hearing that all options of mediation should be fully exhausted. The SAT therefore issued a second Section 31 Order, under the *State Administrative Tribunal Act 2004*, for a further invitation to Council to reconsider its decision.

The Presiding Member advised the parties that the applicant may provide any additional information to the Council which would be material to the reconsideration of its decision. The applicant's legal advisor has submitted additional information, which is set out in **attached** Appendix DPDS-16. The contents present the applicant's case in support of a planning approval without any time restriction. The SAT requested the matter be reported to Council on 28 January 2014.

Summary of Submissions

The application was advertised in accordance with the provisions of clause 9.4 of TPS7 with the following results:

- (a) Twelve (12) objections were lodged by owners and occupiers of neighbouring properties including both residential and industrial properties. The objections emphasised issues of noise, dust, fumes and odours;
- (b) Advice from Western Power indicated amongst other things that any change to the existing (power) system, if required, was the responsibility of the developer;
- (c) Advice from the Department of Water referred to the 'Conservation Category' wetland to the west and to the south-east of Lot 30, and the potential for adverse impact on adjoining vegetation from spray drift;

- (d) The Department of Health advised that the City must determine whether or not the existing on-site wastewater system is adequate to cope with the proposed change of use and the City needed to give consideration to measures necessary to prevent the escape of noise, odours and/or spray drift onto neighbouring properties;
- (e) The Department of Planning advised that:
 - The DoP had no objection in principle to the proposal;
 - The application should be referred to DER and the Department of Water for comment (which was in fact done);
 - The subject land abuts land reserved for Regional Open Space;
 - Given conflict between the proposed new use and the purposes of the Regional Open Space reservation, application under the GBRS was required;
 - Department of Planning is advisory role only;
- (f) Advice from DER detailed the issues of concern from an environmental regulation point of view including:
 - Lot 30 (the subject lot) is adjacent to Lot 617 which is depicted as a proposed conservation site listed as 'Loughton Park' on the Preston River to Ocean Regional Park Plan;
 - Lot 30 is also adjacent to Lot 568 which is an existing recreation site and also mapped as part of Loughton Park and contains an existing playground;
 - Any proposed change of use involving sandblasting and/or spray painting must comply with the relevant environmental protection regulations;
 - Any future development application for abrasive blasting or spray painting would need to demonstrate construction of fully contained chambers and booths, inclusive of appropriate dust extraction systems, and include detailed design drawings that meet the requirements of the Environmental Protection Regulations;
 - The EPA's Guidance Statement No. 3 – Separation Distances between Industrial and Sensitive Land Uses (June 2005) identifies separation distances for different types of industry to protect sensitive land uses from emissions such as dust. Land uses considered to be potentially sensitive from emissions include playgrounds and some commercial, institutional and industrial land uses which require high levels of amenity. Sensitive land uses therefore would include residential uses, playgrounds, retail outlets, offices, training centres and some types of storage and manufacturing facilities.
 - DER recommends the separation distances between industrial and sensitive land uses as listed in the Guidance Statement No. 3 be considered as part of the application for a change of use. (The separation distance for spray painting to the nearest sensitive land use should be 200m. The separation distance for sandblasting depends on the nature of the activity, some of the relevant variables being the size of the blasting booth, and the amount of abrasive materials used annually).

DER subsequently presented the following advice during the Mediation process:

- Abrasive Blasting at Lot 30 Palmer Crescent Davenport meets Regulation 5 of the EP Abrasive Blasting regulations 1998 as it is DER's opinion that the activity is being carried out in a fully enclosed structure being the shed. DER is of the opinion also that with correct management and maintenance Abrasive Blasting would pose minimal risk to boundary neighbours from fugitive dust and noise.
- The EP Metal Coating regulations require a spray paint booth to be designed, constructed, installed and maintained in accordance with AS/NZS 4114.1. That is that mechanical ventilation and dust extraction system be operational to prevent untreated air and paint

overspray from escaping to the environment. DER understands that three phase power is required to complete the installation so that the spray painting booth can operate correctly. DER is of the understanding that until three phase power is connected to the premises then the spray paint chamber is unlikely to comply with the Regulation 6 (a) and (b).

- Noise in the past has originated from the use of diesel powered generators and compressors and DER is of the opinion that a hired generator has reduced this impact to negligible or minimal complaint. The DER is of the view that by converting diesel engines to three phase electricity noise emissions will be reduced even further.
- Should noise continue to be a concern then DER will investigate to gather information to evidentiary standards where enforcement action under the regulations may result. DER's recent assessments of noise have determined it to be within the Environmental Protection (Noise) Regulations 1997.
- If the City of Bunbury has requested an Environmental Assessment that has not been provided then, Council should consider its next steps, action or decision with the applicant. Regulations do not require DER to review an impact assessment provided by the applicant but agree is a very useful planning tool.

Council Policy Compliance

Local Planning Policy 'Access & Parking for Pedestrians, Bicycles and Vehicles' is applicable. The applicant detailed specific lay down areas in the original submission which necessitates a further seven (7) parking bays, which staff are satisfied can be provided on site and a condition be imposed to secure this.

Legislative Compliance

The application is subject to GBRs approval, as the lot adjoins Regional Open Space.

The application is delegated to Local Government for determination, under Schedule 2, Instrument of Delegation – pursuant to s16 of the *Planning and Development Act*, subject to meeting one of the following provisions:

- (a) Development where the Local Government accepts the recommendation and any advice of the Department of Planning;
- (b) Development for which the Local Government decides to refuse approval under the GBRs.

TPS7 – Noxious: Industry use is not permitted in the Industry zone unless the Council exercises its discretion in favour of the application and has granted planning approval after advertising the application in accordance with Clause 9.4 of the Scheme.

Landowners who previously submitted comments during the formal 'Advertising' period have been notified of the Council meeting where they may request to address Council on the matter. Mediation including conditions and discussions will, however, be on a confidential basis.

Officer Comments

Pursuant to Section 31 of the *State Administrative Tribunal Act 2004 (WA)* the Council is invited by the Tribunal to reconsider its decision.

The following options available to Council are:

- (a) affirm its formal decision to refuse the application; or
- (b) vary the decision; or
- (c) set aside the decision and substitute its new decision.

With regards to option (c), which is the preferred option, the following alternatives are amongst those available to Council for consideration.

1. revise its position and recommend to SAT a temporary approval for twelve months;
2. revise its position and recommend to SAT a temporary approval for an alternative timeframe;
3. revise its position and recommend a time-unlimited planning approval as sought by the applicant.

The Executive Recommendation is for a temporary 12 month conditional planning approval.

The proposed land use Industry: Noxious (sandblasting / spray painting) has the potential to generate off-site impacts e.g. noise, air quality (dust) and odour. The Environmental Protection Authority guidance document entitled 'Separation Distances between Industrial and Sensitive Land Uses No. 3' provides a planning tool to identify generic buffer distances between industrial development and sensitive land uses e.g. recreational (playgrounds); residential development. The guidance document identifies the generic buffer for spray painting as 200m and sandblasting to be determined on a case by case basis. Where the separation distances are less than the generic buffer or where there is no generic buffer distance a scientific study based on site and industry specific information must be presented to demonstrate that a lesser distance will not result in unacceptable impacts.

The subject site adjoins Regional Open Space in the form of Loughton Park Reserve to the South West, which is used for recreational purposes. The Reserve also includes play equipment that is located approximately 109m from the site boundary of the subject lot. The nearest residential development is located at Young Close and Godwin Street. The nearest residential property to the subject site, measured boundary to boundary, is 113m.

In this case, the applicant has not submitted a scientific report and the land use is within the identified generic buffer distances. However, the DER from the outset has worked with the operator to control any impacts arising from the development. It should also be noted that the use has been operating and the DER had not previously reported any specific harm arising from the operations despite undertaking investigations. Furthermore, there was no formal objection to the proposal from any of the referrals undertaken during the advertising of the application. The recommendation has consistently been based on facilitating development, where no impacts had been identified by the DER, and requiring effective monitoring to be undertaken to inform a scientific report for Council's consideration at the end of the temporary approval.

However, the continued objections from residents need to be taken into account in terms of the current decision-making in respect of the matter. The DER and Work Safe in responding to Ministerial questions are understood to be, independently, undertaking an audit of the premises. The DER has advised that the City that the spray painting component does not comply with the regulations. The DER advised staff that further submissions will be made following an audit of the premises, in response to continued complaints received. Council will be updated of any further submissions from the DER. It is therefore recommended that a new condition be imposed that prohibits spray painting until the applicant has installed the necessary environmental controls and equipment, verified to Australian Standards. The applicant will be required to instruct a mechanical

engineer to verify to the City that spray painting can be carried out in full compliance with the Environmental Protection (Metal Coating) Regulations 2001 prior to the activity being carried out.

As previously referenced, the applicant had advised that three phase power was required to operate the machinery and environmental controls to comply with the regulations for spray painting. The applicant's legal team, through the mediation process, now state that three phase power is not required to comply with the regulations. The DER during a meeting with staff noted the submission and advised that the DER would expect that any equipment must meet Australian Standards and comply with the Regulations. However, it is the applicant's machinery that is dependent upon three-phase power. The applicant's position is that the installation of three phase power infrastructure requires a significant financial commitment. The applicant will not proceed to install three phase power until there is some certainty, in the form of a planning approval. Three-phase power would also reduce noise and enable the sandblasting operations to be carried out more efficiently, by reducing the time required for the dust to settle prior to the equipment being moved from the shed. Nevertheless, it is the City's view, consistent with discussions with the DER, that whether it is three-phase power or alternative equipment it is appropriate to prohibit the spray painting activities until it is verified that such activity would comply with the Regulations.

The City's Environmental Officer has advised that the monitoring should be undertaken over different seasons and weather patterns. The recommendation is therefore for a temporary planning approval for a period of twelve months. The results would be available to the City and the DER throughout the temporary approval, should complaints be received. In addition the DER has their own processes and compliance powers if a breach were to be identified. Council would then be in an informed position at the end of the temporary approval to determine whether to issue a further temporary approval; a time unlimited conditional approval; or to refuse the application.

Analysis of Financial and Budget Implications

The current legal costs are in the vicinity of \$20,000 and are likely to exceed this amount if the matter continues.

Community Consultation

This matter has previously been the subject of extensive community consultation, media attention and ongoing complaints. There are landowners who oppose the development (one of whom is willing to be a witness in the event the matter proceeds to Hearing).

Councillor/Officer Consultation

This matter has previously been referred to Council, and the executive management.

10.5 Director Works and Services Reports

10.5.1 Tender for: Supply and Install Hardwood Floor to the Paisley Centre, RFT 1314-00013.

Applicant/Proponent:	Internal Report
Author:	David Russell, Senior Contracts and Procurement Officer
Executive:	Phil Harris, Director Works and Services
Attachments:	Confidential Report – CRUSC-1

Summary

The City of Bunbury is seeking to engage a suitably qualified and experienced Contractor to supply and install a hardwood floor to the Paisley Centre as part of works to the heritage building.

The works to be carried out will consist of the following:

1. Supply and construction of sub floor structure.
2. Laying and finishing of new Jarrah flooring.
3. Preparation and Sealing to all new timber works.
4. Supply and construct a section of suspended concrete floor as shown on drawing.

The contract is anticipated to commence on Monday, 10 February 2014. The Contract will be considered complete upon successful completion of the works by the Contractor to the satisfaction of the Principal. It is envisaged that work will conclude by Monday, 17 March 2014.

Executive Recommendation

Council accepts the tender submitted by CAM Contracting for the supply and installation of a hardwood floor to the Paisley Centre as part of works to the heritage building.

Background

This tender was advertised in the West Australian and the Bunbury South West Times newspapers on 11 and 12 December 2013. The documentation was made available via www.tenderlink.com/bunbury/. A total of 62 suppliers viewed the documents on-line, nine (9) companies downloaded the documentation and at closing two (2) responses were received from:

1. CAM Contracting – 1B Cummins Place, Bunbury WA 6230
2. Phillip Best Plumbing Pty Ltd – PO Box 1733, Bunbury WA 6231

An evaluation panel comprising of the Manager Building and Trades, Senior Building and Structures Officer and the Senior Contracts and Procurement Officer, assessed the responses.

The tenders were evaluated using the following criteria:

- Compliance Criteria – Yes / No answers
- Qualitative Criteria weighting
 1. Relevant Experience – 40%
 2. Key Personnel – 30%
 3. Tenderer's Resources – 20%
 4. Demonstrated Understanding – 10%

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

Council Policy Compliance

The tender process complies with the requirements of the City's Work Procedure WP4.12 "Tender Procedure and Associated Legislation."

Legislative Compliance

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

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

Officer Comments

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

Analysis of Financial and Budget Implications

Funding for this work has been provided in the 2013/14 budget through the Community Buildings Acquisition Upgrade and Renewal Budget area (Project Number 1798).

Delegation of Authority

As the value of this tender exceeds the delegation limits, it has been referred to Council.

Relevant Precedents

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

10.5.2 Hay Park Multi Sports Pavilion

Applicant/Proponent:	Internal Report
Author:	Jason Gick, Manager Engineering
Executive:	Phil Harris, Director Works and Services
Attachments:	Nil

Summary

Council Decision 384/13 seeks to review the project and investigate alternate options in accordance with current funding and stakeholder requirements.

The review of options considered to date has not resulted in a level of savings originally anticipated therefore further engagement of industry representatives is required.

Executive Recommendation

Council note that a report in accordance with Decision 384/13 will be submitted to Council for consideration at its 4 March 2014.

Background

Council Decision 384/13 states:

“That Council:

- 1. Advise the tenderers that all tenders exceeded Council’s budget for the project and therefore no tender has been accepted.*
- 2. Requests the CEO to undertake an investigation to redesign the multi sports pavilion in accordance with current funding and stakeholder requirements*
- 3. Requests a further report be provided in January 2014 outlining a proposed way forward.”*

The Architect, Quantity Surveyor and staff have been working closely with stakeholders to identify opportunities to reduce costs without compromising the requirements of the stakeholders or provision of the DSR Grant.

At the 14 January 2014 stakeholder meeting with the Architect and staff the group indicated that they were open to alternate designs options including a single storey structure. At the time of the agenda being prepared the redesign options have not resulted in the level of savings that Council anticipated however further engagement with industry representatives will be ongoing until a workable solution can be presented to Council.

Council Policy Compliance

Not Applicable

Legislative Compliance

Not Applicable

Officer Comments

Unfortunately availability of industry representatives and specialist design consultants has been problematic in the period since the Council Decision.

Most parties are now available for continued discussions.

Community Consultation

The City has met with the user groups twice since Council Decision 384/13 with the Architect attending the most recent meeting on 14 January 2014. The Department of Sport and Recreation have been informed of the project status.

11. Applications for Leave of Absence

12. Motions on Notice

13. Questions on Notice

13.1 Response to Previous Questions from Members taken on Notice

13.2 Questions from Members

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

15. Meeting Closed to Public

15.1 Matters for which the Meeting may be Closed

15.2 Public Reading of Resolutions that may be made Public

16. Closure