



Bunbury City Council

Minutes

21 January 2014

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Western Australia

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Table of Contents

Item No	Subject	Page
1.	Declaration of Opening / Announcements of Visitors.....	1
2.	Disclaimer	1
3.	Announcements from the Presiding Member.....	1
4.	Attendance	2
4.1	Apologies	2
4.2	Approved Leave of Absence	2
5.	Declaration of Interest.....	3
6.	Public Question Time.....	4
6.1	Public Question Time	4
6.2	Responses to Public Questions Taken ‘On Notice’	4
7.	Confirmation of Previous Minutes and other Meetings under Clause 19.1.....	5
7.1	Minutes.....	5
7.1.1	Minutes – Ordinary Council Meeting.....	5
7.1.2	Minutes – Council Advisory Committees and Working/Project Groups	6
8.	Petitions, Presentations, Deputations and Delegations.....	7
8.1	Petitions.....	7
8.1.1	Petition – Request for the City of Bunbury to Build a Kids Water Park.....	7
8.2	Presentations	8
8.3	Deputations	8
8.4	Council Delegates’ Reports.....	8
8.5	Conference Delegates’ Reports	8
9.	Method of Dealing with Agenda Business.....	8
10.	Reports.....	9
10.1	Recommendations from Withers Advisory Committee Meeting (was listed as item 10.1.1 on the meeting agenda).....	9
10.2	Major Projects Update Report (was listed as item 10.2.2 on the meeting agenda)	13
10.3	Bunbury Regional Entertainment Centre – Seating Refurbishment (was listed as item 10.2.3 on the meeting agenda).....	15
10.4	Schedule of Accounts Paid for the Period 1 November to 30 November 2013 (was listed as item 10.3.1 on the meeting agenda)	18
10.5	Financial Management Report for the Period Ending 30 November 2013 (was listed as item 10.3.2 on the meeting agenda)	19

Table of Contents

Item No	Subject	Page
10.6	Business Improvement District (BID) Working Group (was listed as item 10.4.1 on the meeting agenda).....	23
10.7	Proposed Amendment to Planning Approval – Replacement of the Approved Limestone Block Noise Mitigation Wall by 35mm Thick Lapped Pine Wall at the Shell Gateway Site – Lots 26 and 27 Claughton Way, Glen Iris (was listed as item 10.4.2 on the meeting agenda).....	26
10.8	Petition Report – Bunbury Cycling Community Request for Progress on the Provision of Safe, Quality Cycleway (was listed as item 10.5.1 on the meeting agenda)	31
10.9	Council Policy – Councillor Discretionary Funds (was listed as item 10.2.1 on the meeting agenda).....	33
10.10	Proposed Home Business (Counselling) – Lot 79, No. 3 Sturt Street South Bunbury DA/2013/257 (was listed as item 10.4.3 on the meeting agenda).....	35
10.11	Petition Report – Bunbury Farmers Market (was listed as item 10.4.4 on the meeting agenda)	43
10.12	Spencer Street Underground Power (was listed as item 10.5.2 on the meeting agenda) ..	46
11.	Applications for Leave of Absence.....	51
11.1	Request for Leave of Absence – Councillor Betty McCleary.....	51
12.	Motions on Notice	52
12.1	Motion on Notice – Amendment to Council Decision 373/13 – Koombana Bay Rail Bridge	52
12.2	Motion on Notice – Introduction of Chilled Water Dispensers in the CBD	54
13.	Questions on Notice	56
13.1	Response to Previous Questions from Members taken on Notice.....	56
13.2	Questions from Members.....	56
14.	New Business of an Urgent Nature Introduced by Decision of the Meeting	56
14.1	Disaster Relief Reserve Fund – Use of Funds for Parkerville Fire Appeal.....	56
15.	Meeting Closed to Public.....	58
15.1	Matters for which the Meeting may be Closed	58
15.2	Public Reading of Resolutions that may be made Public.....	58
16.	Closure	58

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
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
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
DAA	Department of Aboriginal Affairs
DADAAWA	Disability in the Arts Disadvantage in the Arts Australia, Western Australia
DAFWA	Department of Agriculture and Food
DAP	Development Assessment Panel
DCU	Development Coordinating Unit
DER	Department of Environment Regulation
DFES	Department Fire and Emergency Services
DPaW	Department for Parks and Wildlife
DLI	Department of Land Information
DoE	Department of the Environment (Federal)
DoH	Department of Health
DoL	Department of Lands
DoW	Department of Water
DoP	Department of Planning
DoT	Department of Transport
DRD	Department of Regional Development
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 Minutes

Minutes of the Ordinary meeting of the Bunbury City Council held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street Bunbury held Tuesday 21 January 2014.

Minutes 21 January 2014

Note: These minutes are subject to confirmation at the next Ordinary meeting of the Council.

1. Declaration of Opening / Announcements of Visitors

The meeting was declared open by the Mayor Mr Gary Brennan at 5.30pm.

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

The Mayor announced that he had received notice of the City being successful in being awarded two (2) grants - \$15,000 from Lotterywest to go towards the Australia Day celebrations and \$1,300 (plus GST) from South West Development Commission for the Community Capacity Building Activities - Withers School Holidays Activities - Summer 2014.

4. Attendance

Present:

Council Members:	
Presiding Member	Mayor G Brennan
Deputy Presiding Member	Deputy Mayor Cr B Kelly
Members	Councillor B McCleary
	Councillor K Steele
	Councillor D Prosser
	Councillor J Hayward
	Councillor S Morris
	Councillor J Jones
	Councillor M Steck (<i>arrived 5.32pm</i>)
	Councillor N McNeill
Councillor M Cook	
Executive Leadership Team (Non-Voting)	
Chief Executive Officer	Mr A Brien
Director Community Development	Ms S Addison-Brown
Director Corporate Services	Mr W Wright
Director Works and Services	Mr P Harris
Council Officers (Non-Voting)	
Manager Development Assessment and Building	Mr G Fitzgerald (Acting Director Planning and Development Services)
Acting Media and Communications Officer	Ms L Wiseman
Administration Officer Corporate	Ms N Hribar
Others (Non-Voting)	
Members of the Public	20 approximately
Members of the Press	1

4.1 Apologies

Cr Jaysen Miguel was an apology for the meeting.

Cr Michelle Steck at 5.32pm.

4.2 Approved Leave of Absence

Cr Wendy Giles is on an Approved Leave of Absence from 21 to 28 January 2014 inclusive.

5. Declaration of Interest

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

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

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

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

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

Cr Kelly declared an impartiality interest in the item titled ‘Proposed Home Business (Counselling) – Lot 79, No. 3 Sturt Street South Bunbury DA/2013/257’ as he has known the proponent for over 20 years. He will vacate the Chambers and not participate in the vote or discussion on the matter.

Cr Morris declared a financial interest in the item titled ‘Motion on Notice – Introduction of Chilled Water Dispensers in the CBD’ as he sells bottled water in his shop. He will vacate the Chambers and not participate in the vote or discussion on the matter.

Cr Jones declared an impartiality interest in the item titled ‘Motion on Notice – Introduction of Chilled Water Dispensers in the CBD’ as she the Chairperson of the Aqwest Board of Directors. She will remain in the Chambers, participate in the discussion and vote on the matter.

Cr Prosser declared a proximity interest in the item titled ‘Spencer Street Underground Power’ as he is closely associated with a person who owns a property on the Street. He will vacate the Chambers and not participate in the vote or discussion on the matter.

6. Public Question Time

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

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

6.1 Public Question Time

Mr Chris Gibbs, 5 Sturt Street South Bunbury

Mr Gibbs asked a question in relation to the item titled '*Proposed Home Business (Counselling) – Lot 79, No. 3 Sturt Street South Bunbury*'. The response was provided by the Acting Director of Planning and Development Services:

Question: Could I please get a clarification of condition "q" in the recommendation? Who will bear the burden of costs and what is meant by a reputable contractor?

Response: The applicant will bear all costs of the fencing. In reference to the clarification of condition "q" the following has been recommended to be moved as an amended point if the Councillors deem it:

"The applicant is required to construct (work to be carried out by a suitably qualified person and at the cost of the applicant) new fencing (in accordance with the Private Property Local Law as published in the Government Gazette 03 12 2003 – Part 2 – Fences) along the Eastern boundary of the subject property (to a minimum height of 1.8 metres from existing ground level) and such new fence to the satisfaction of the Manager Development Assessment and Building Certification."

6.2 Responses to Public Questions Taken 'On Notice'

Nil

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

7.1 Minutes

7.1.1 Minutes – Ordinary Council Meeting

The minutes of the Ordinary meeting of the Bunbury City Council held 10 December 2013 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 10 December 2013 be confirmed as a true and accurate record.

Outcome – Council Meeting 21 January 2014

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

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

Council Decision 1/14

The minutes of the Ordinary meeting of the Bunbury City Council held 10 December 2013 be confirmed as a true and accurate record.

CARRIED

11 votes "for" / nil votes "against"

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, MTBN-3

Summary

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

1. Title: Minutes – Community Access Committee Meeting 6 December 2013
Author: Stephanie Addison-Brown, Director Community Development
Appendix: MTBN-1
2. Title: Youth Advisory Council Committee Meeting 11 December 2013
Author: Stephanie Addison-Brown, Director Community Development
Appendix: MTBN-2
3. Title: Minutes – Withers Advisory Committee Meeting 23 December 2013
Author: Phil Harris, Director Works and Services
Appendix: MTBN-3

Executive Recommendation

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

1. Community Access Committee meeting 6 December 2013
2. Youth Advisory Council Committee meeting 11 December 2013
3. Withers Advisory Committee meeting 23 December 2013

Outcome – Council Meeting 21 January 2014

The Executive recommendation (as printed) was moved Cr Steck, seconded Deputy Mayor Cr Kelly.

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

Council Decision 2/14

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

- 1. Community Access Committee meeting 6 December 2013***
- 2. Youth Advisory Council Committee meeting 11 December 2013***
- 3. Withers Advisory Committee meeting 23 December 2013***

CARRIED

11 votes "for" / nil votes "against"

8. Petitions, Presentations, Deputations and Delegations

8.1 Petitions

8.1.1 Petition – Request for the City of Bunbury to Build a Kids Water Park

Applicant/Proponent:	Carmel Kowal
Tabled by:	Deputy Mayor Cr Brendan Kelly
Executive:	<i>If petitions adopted by Council refer to:</i> Andrew Brien, Chief Executive Officer
Attachments:	Nil

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

Outcome – Council Meeting 21 January 2014

Deputy Mayor Cr Kelly tabled a letter and petition containing over 1535 signatures from Carmel Kowal on behalf of the residents of the City of Bunbury and the Greater Bunbury Region requesting that the City of Bunbury build a kids water park to be maintained by the City.

Pursuant to Clause 6.10(2)(a) of the City of Bunbury Standing Orders 2012, Deputy Mayor Cr Kelly moved, Cr Cook seconded that the Council receive the petition and refer it to the relevant officer for a report to be submitted within the next two (2) rounds of Council meetings.

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

Council Decision 3/14

Pursuant to Clause 6.10(2)(a) of the City of Bunbury Standing Orders 2012 the Council receives the petition from Carmel Kowal requesting the City of Bunbury to build a kids water park and refers the matter to the relevant officer for a report to be submitted within the next two (2) rounds of Council meetings.

CARRIED

11 votes "for" / nil votes "against"

8.2 Presentations

Nil

8.3 Deputations

All deputations were taken during the discussion of the items relevant.

8.4 Council Delegates' Reports

Nil

8.5 Conference Delegates' Reports

Nil

9. Method of Dealing with Agenda Business

Standing Order 5.5 permits the Council to adopt the recommendations “by exception” (en-bloc). The Mayor put the matters listed in Section 10 to be “adopted by exception” to the vote.

Pursuant to Standing Order 5.5, the Council “*adopted by exception*” (i.e. without discussion) those recommendations listed for items 10.1.1, 10.2.2, 10.2.3, 10.3.1, 10.3.2, 10.4.1, 10.4.2 and 10.5.1.

Items 10.2.1, 10.4.3, 10.4.4 and 10.5.2 of the meeting agenda were then discussed and voted on separately and in the order that they appeared on the agenda. The items have been renumbered with the items voted “by exception” listed first.

The items “*adopted by exception*” was moved Cr Steck, seconded Cr Cook.

10. Reports

10.1 **Recommendations from Withers Advisory Committee Meeting** (was listed as item 10.1.1 on the meeting agenda)

Applicant/Proponent:	Withers Advisory Committee
Author:	Phil Harris, Director Works and Services
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix ADV-1

Summary

The first meeting of the Withers Advisory Committee was held on Monday 23 December 2013.

The Function of the Withers Advisory Committee is as follows

- Review and progress the Withers Action Plan
- Make priority recommendations to Council and the Withers Community
- To provide stronger community relations in Withers

Advisory Committee Recommendation

That council endorse the following recommendations from the Withers Advisory Committee Meeting:

1. The commencement of the following projects for delivery in 2013/14:
 - a) Install CCTV Cameras \$40,000
 - b) Install Public Access Way Lighting \$25,000
 - c) Install Bus Shelters \$25,000

2. Further investigations for the following projects:
 - a) Laneway Closure \$20,000
 - b) Construct Path Devonshire Street \$170,000
 - c) Construct Path Littlefair Drive \$105,000
 - d) Upgrade Moriarty Park \$40,000
 - e) Upgrade DC Forster Park \$35,000
 - f) Construct Graffiti Wall – Stage 1 \$60,000

Background

At the Withers Advisory Committee held on Monday 23 December 2013 the committee considered and endorsed the function of the Withers Advisory Committee as stated in the Summary.

The Withers Advisory Committee was presented with nine (9) projects that were non-complex and deliverable this financial year. Council Decision 128/11 determined that \$300,000 per year commencing in 2011/12 to be funded to implement the Withers Action Plan from infrastructure development.

Delivery of some of the project has been problematic with Council now holding a reserve of \$385,813 from uncommitted Withers Projects excluding a \$300,000 allocation for 2013/14.

In July 2013 the Convenor of the Withers Action Group provided Elected Members with a revised list of Withers Action Plan priorities which when costed by City of Bunbury staff equate to approximately \$4,733,188

Projects such as road connections and laneway closures are dependent upon the Department of Housing review of the Withers Structure Plan which is due for completion mid-2014.

There are a range of projects identified in the **attached** Appendix ADV-1 consistent with the Withers Action Plan and feedback from residents of Withers that will achieve the five year / \$1,500,000 commitment.

The committee discussed each project individually making a recommendation that three (3) projects should proceed while others require further clarification and explanation. Works and Services staff have commenced supplying the additional information to the Committee on these projects.

Council Policy Compliance

In accordance with the City of Bunbury Standing Orders (2012) Committee recommendations are to be presented to Council for approval.

Legislative Compliance

There is no Legislative Compliance applicable to this matter.

Officer Comments

The **attached** Appendix ADV-1 details a range of projects consistent with the Withers Action Plan. Some of the projects can be delivered within a short timeframe, others will require considerable planning and work with external state government agencies.

In relation to Recommendation 2 where further investigation has been requested the following forms part of additional information provided to Withers Advisory Committee members since the meeting:

Laneway Closures

The Laneway Closure project is subject to Council Decision 220/13 with action already commenced to implement this project. It is anticipated that approximately \$20,000 of the allocated \$50,000 will be expended this financial year. A status update will be provided to Committee members at the next meeting.

Construct Path Devonshire Street

Members of the Committee questioned the value of expending \$170,000 on this path. The proposed path at 760 metres in length is listed as a priority 1 for paths identified in the Withers area for construction with the cost per metre approximately \$234. Devonshire Street currently has no paths forcing a number of residents in the area on mobility devices to utilise the road to access shops, medical facilities, library and public transport.

Construct Path Littlefair Drive

This path was nominated as a priority in the revised Withers Action Plan and at 400 metres in length traverses horizontal and vertical road alignment that can generate potential conflict between pedestrians and vehicles. Littlefair Drive is a route utilised to access schools and public transport. Construction costs of \$263 per metre are higher on Littlefair Drive due to the horizontal and vertical road alignment.

Upgrade Moriarty Park \$40,000

Upgrade of parks in the Withers area has been subject to both the Withers Action Plan and Withers Urban Renewal Strategy. A recent assessment of this park identified potential upgrades to the value of \$140,500. It is proposed that the upgrade will include the replacement of existing and provide additional playground equipment away from property boundaries to a central location within the park. External grant funding is being sought for further upgrade this park.

Upgrade DC Foster Park \$35,000

Upgrade of parks in the Withers area has been subject to both the Withers Action Plan and Withers Urban Renewal Strategy. A recent assessment of this park identified potential upgrades to the value of \$139,700. It is proposed that the upgrade will include the replacement of existing and provide additional playground equipment. External grant funding is being sought to further upgrade this park.

Construct Graffiti Wall \$60,000 Stage 1

The Revised Withers Action Plan details the construction of a Graffiti Maze as the sixth highest priority with an estimated cost of \$200,000 - \$215,000. For the purposes of achieving partial delivery it was proposed that the project be staged over three years and retitled Graffiti Walls. The Withers Advisory Committee made comment during the meeting that this project is no longer a priority.

Analysis of Financial and Budget Implications

The projects endorsed by the Withers Advisory Committee can be delivered within the available funding for the Withers Action Plan. Timely decision making will be a key in delivering projects in an efficient and cost effective manner.

Community Consultation

The Withers Advisory Committee comprises of three (3) elected members, two (2) Community members, two (2) members of the Withers Action Group and the Convener of the Withers Action Group. The Withers Advisory Committee is open to the public and advertised by Council

Councillor/Officer Consultation

The Withers Advisory Committee has three (3) elected members.

Delegation of Authority

In accordance with the City of Bunbury Standing Orders (2012) Committees of Council that do not have delegated authority are required to put recommendations to council for approval.

It had been suggested that Council consider providing delegation to the Withers Advisory Committee to enable them to make recommendations and implement them immediately.

The Withers Advisory Committee is comprised of elected and community members, and is constituted under section 5.9(2)(d) of the *Local Government Act 1995*.

Section 5.17 (1)(c) of the *Local Government Act 1995* deals with limits on delegation of power and duties to committees formed under section 5.9(2)(d), and states:

A local government can delegate to a committee referred to in section 5.9(2)(d), any of the local governments' powers or duties that are necessary or convenient for the proper management of:

- (i) the local governments' property;*
- (ii) an event in which the local government is involved.*

This matter is currently being investigated further with the Department of Local Government and additional information will be provided once available. However, at the time of preparation of the Council Agenda it would appear that Council is unable to delegate authority to the Withers Advisory Committee for any matters outside of the scope of Section 5.17 (1)(c)(i) and (ii) above.

Outcome – Council Meeting 21 January 2014

Pursuant to Standing Order 5.5 the recommendation (as printed) from the Advisory Committee was moved Cr Steck, seconded Cr Cook and adopted ('en bloc') to become the Council's decision on the matter.

Council Decision 4/14

That council endorse the following recommendations from the Withers Advisory Committee Meeting:

1. *The commencement of the following projects for delivery in 2013/14:*

- a) Install CCTV Cameras \$40,000***
- b) Install Public Access Way Lighting \$25,000***
- c) Install Bus Shelters \$25,000***

2. *Further investigations for the following projects:*

- a) Laneway Closure \$20,000***
- b) Construct Path Devonshire Street \$170,000***
- c) Construct Path Littlefair Drive \$105,000***
- d) Upgrade Moriarty Park \$40,000***
- e) Upgrade DC Forster Park \$35,000***
- f) Construct Graffiti Wall – Stage 1 \$60,000***

CARRIED

11 votes "for" / nil votes "against"

10.2 Major Projects Update Report (was listed as item 10.2.2 on the meeting agenda)

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

Summary

At the Council Meeting held 27 November 2013 Council resolved as follows:

“Council Decision 332/13

That Council:

- 1. Disband the Major Projects Committee.*
- 2. Request that monthly status reports on the City’s major projects be provided directly to Council and detailed progress report be provided on a quarterly basis.”*

Executive Recommendation

That Council receives and notes the circulated Major Projects update report.

Background

The Major Projects Committee was formed to provide an opportunity for elected members to have an oversight role in relation to the major projects. It was considered that these matters could more appropriately be dealt with through a formalised reporting arrangement direct to Council.

As an outcome of the Council Decision to disband the Major Projects Committee, the report **attached** at Appendix CEO-2 provides an overview of Councils endorsed major projects.

It is envisaged that this report will be submitted as an Item to be Noted at Council Meetings on a six weekly interval and to all items for works to be actioned.

It would be noted that in list of the projects identified in this report that not every project will have an update due to project delivery and consultation at different stages.

Council Policy Compliance

Not applicable.

Legislative Compliance

Not Applicable

Officer Comments

The Major Projects report is a positive tool to help effectively manage and report on current year Major Projects being undertaken by the City of Bunbury.

This report will be circulated to Council for noting and receiving on a six (6) weekly basis. It would be noted that if any Elected Member wishes to receive an update on any major project outside of this timeframe, this option is still available.

Major projects which were included in the original list but have no allocated budget will form the basis of a separate report, these being:

- New depot
- Multi-deck parking
- Bunbury Marina Precinct
- Artificial reefs
- Art Gallery and Visitor Information Centre
- Regional Museum and Noongar Cultural Centre

Analysis of Financial and Budget Implications

Not applicable.

Community Consultation

There is no requirement for community consultation.

Councillor/Officer Consultation

Not Applicable.

Outcome – Council Meeting 21 January 2014

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

Council Decision 5/14

That Council receives and notes the circulated Major Projects update report.

CARRIED

11 votes "for" / nil votes "against"

10.3 Bunbury Regional Entertainment Centre – Seating Refurbishment (was listed as item 10.2.3 on the meeting agenda)

Applicant/Proponent:	Internal Report
Author:	Michael Stewart, Senior Projects Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Appendix CEO-3, CEO-4

Summary

The BREC Expansion project includes the refurbishment of the existing facility including the main auditorium seating. The original plan was to replace the seating new for old. However, substantial sums can be saved by retaining the original seating bases and replacing the seat and back cushions only. In effect a full refurbishment rather than a full replacement.

The seating bases are unique to the original seating supplier (Sebel) and as such, can only be refurbished by them. Sebel has quoted \$128,908.24 to complete the refurbishment. A copy of the quotation is **attached** at Appendix CEO-3.

According to Council Policy and the relevant legislation, all purchases over \$100,000 excluding GST must go to tender unless one of the exemption clauses is satisfied. One such clause pertains to the unique nature of goods being purchased and the likelihood of there being only one potential supplier.

Executive Recommendation

In accordance with Division 2, Section 11, (Part 2F) of the Local Government (Functions and General) Regulations 1996:

1. Council has good reason to believe that, because of the unique nature of the goods or services required it is unlikely that there is more than one potential supplier; and
2. Council accepts the quotation from Sebel Furniture Limited for the refurbishment of the existing auditorium seating at the Bunbury Regional Entertainment Centre.

Background

The BREC Expansion project includes the refurbishment of the existing facility, including painting, recarpeting and seating refurbishment in the foyer and main auditorium.

At one stage it was thought that the main auditorium seating should be replaced completely and was quoted in March 2012 at \$323,552.28 ex GST (refer to quotation **attached** at Appendix CEO-4). Discussions have since been held with the original seating manufacturer (Sebel) who advised that the bases of the current seating are in a condition that warrants refurbishment rather than replacement.

A recent quote from Sebel to replace all seats and back cushions, while retaining the existing bases, comes in at \$128,908.24 ex GST.

In accordance with Councils purchasing arrangements and the requirements of the Local Government Act an expenditure of this size would require going out for tender. As part of the BREC

tender processes prices have been sought previously in relation to the replacement of seating in the existing theatre. However as this is a refurbishment of seating unique to a particular manufacturer, there is only one business that is feasibly capable of supplying the goods required. As such, our Contracts and Property department have advised that in this situation, we can appoint a supplier directly without having to go back out to tender.

Council Policy Compliance

Council policy states that purchases over \$100,000 must go to public tender. This policy is taken from and governed by the legislative requirements as per below.

Legislative Compliance

Local governments must go to tender for all works or services contracts over the value of \$100,000. An exemption to this condition is contained in *Local Government (Functions and General) Regulations 1996, Division 2, Section 11, (Part 2F)* which states:

“the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier”

Officer Comments

Sebel is widely recognised as a provider of durable auditorium seating and is one of a very short list of seating suppliers recommended by the theatre consultant advising on the BREC Expansion project.

Discussions have been held with members of the BREC Board of Management and agreed that the bases of the seating units are in such a good condition that it would be a waste to see them discarded and reused.

In addition to the above, there is a substantial saving to be made by going down the path of refurbishment rather than replacement.

Analysis of Financial and Budget Implications

Full replacement (quoted March 2012) \$323,552.28 ex GST

Full refurbishment (new seat and back rests only) \$128,908.24 ex GST

The original quote to replace the seating in its entirety was received in March 2012, so the exact figures would have changed (likely increased). However, it is impossible to know what pricing would be achieved through a competitive tender.

Nevertheless, using this quote as a ‘rough indication’ of pricing, Council will save approximately \$195,000 by choosing the refurbishment option instead of a full replacement.

Community Consultation

Not applicable

Councillor/Officer Consultation

Advice has been sought from the Contracts and Procurement department regarding compliance and best practice methods for procurement. The Executive Recommendation is consistent with the advice received.

Outcome – Council Meeting 21 January 2014

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

Council Decision 6/14

In accordance with Division 2, Section 11, (Part 2F) of the Local Government (Functions and General) Regulations 1996:

- 1. Council has good reason to believe that, because of the unique nature of the goods or services required it is unlikely that there is more than one potential supplier; and***
- 2. Council accepts the quotation from Sebel Furniture Limited for the refurbishment of the existing auditorium seating at the Bunbury Regional Entertainment Centre.***

CARRIED

11 votes "for" / nil votes "against"

10.4 Schedule of Accounts Paid for the Period 1 November to 30 November 2013 (was listed as item 10.3.1 on the meeting agenda)

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 November 2013 to 30 November 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 \$5,808,952.85
2. Advance Account – payments totalling \$4,092,119.87
3. Trust Account – payments totalling \$28,326.47
4. Visitor Information Centre Trust Account – payments totalling \$13,605.75
5. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$374,066.78
6. Bunbury-Harvey Regional Council Advance Account – payments totalling \$289,342.53

Executive Recommendation

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

Outcome – Council Meeting 21 January 2014

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

Council Decision 7/14

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

CARRIED

11 votes "for" / nil votes "against"

10.5 Financial Management Report for the Period Ending 30 November 2013 (was listed as item 10.3.2 on the meeting agenda)

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 30 November 2013:
 - Actual operating income of \$40.76M is \$37K more than the year-to-date budgeted income of \$40.73M. There are no variances to report in accordance with Council's variance policy.
 - Actual operating expenditure of \$16.81M is \$1.61M less than the year-to-date budgeted expenditure of \$18.42M (refer explanation on next page).
 - Actual operating surplus of \$23.96M is \$1.66M more than the year-to-date budgeted operating surplus of \$22.30M (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 \$40.76M includes:		
* Cash and Investments	\$28.93M	\$11.34M
* Rates	\$10.80M	\$0.25M
* Other Current Assets	\$1.03M	\$2.17M
- Current Liabilities of \$8.67M includes:		
* Trade and Other Payables	\$4.22M	\$5.40M
* Annual Leave and LSL Provisions	\$3.00M	\$3.46M
- Working Capital (Current Assets less Current Liabilities)	\$32.09M	\$2.96M
- Equity (Total Assets less Total Liabilities)	\$441.46M	\$417.66M

3. Capital Works (**attached** at Appendix DCS-6)
 - Actual capital works of \$9.04M is \$5.1M less than the year-to-date budgeted capital works of \$14.14M (refer explanation on next page).

Executive Recommendation

The Financial Management Report for the period ending 30 November 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.	(\$32,162) (112%)
Non-Operating Income and Expenditure	
Grants and Contributions for the Development of Assets –Budgeted grant income for PR-1444 Implement the Hands Oval Master Plan – Stage 1 totalling \$335,001 has been carried forward from the 2012/13 financial year and not yet received. It is anticipated that these grant funds will be received in December following final acquittal of project works.	(\$308,804) (13%)
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.	(\$21,932) (24%)

Statement of Financial Activity	YTD Actual to YTD Budget Variance
Operating Expenses	
<p>Material and Contracts – Actual expenditure is down on year-to-date budgeted expenditure as of 30 November 2013 over both base operating and operating project accounts. A review of projects recently undertaken by Executives identified \$401K of projects for possible deletion or postponement; of which \$362K is for materials and contracts. These projects 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>\$1,431,392 22%</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>(\$308,804) (13%)</p>
<p>Proceeds on Disposal of Assets - See explanation above included in the Statement of Comprehensive Income variances.</p>	<p>(\$21,932) (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 (\$2.6M) that are yet to be completed and the expansion of the Bunbury Regional Entertainment Centre (\$1.1M).</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 have been reviewed and are scheduled to be completed during 2013/14.</p>	<p>\$5,096,083 36%</p>

Analysis of Financial and Budget Implications

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

Community Consultation

There is no requirement for community consultation on this report.

Councillor/Officer Consultation

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

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

Outcome – Council Meeting 21 January 2014

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

Council Decision 8/14

The Financial Management Report for the period ending 30 November 2013 be received.

CARRIED

11 votes "for" / nil votes "against"

10.6 Business Improvement District (BID) Working Group (was listed as item 10.4.1 on the meeting agenda)

Applicant/Proponent:	Internal Report
Author:	Bob Karaszewych, Director Planning and Development Services
Executive:	Gary Fitzgerald, Acting Director Planning and Development Services
Attachments:	Appendix DPDS-1

Summary

On 23 December 2013, the inaugural meeting of the working group was convened at the City of Bunbury. In attendance was Councillor James Hayward, Councillor Michelle Steck, CEO Andrew Brien, Director Planning and Development Services Bob Karaszewych, Bunbury Chamber of Commerce and Industry (BCCI) CEO Ray Philip, John Saunders and David Kerr (an apology from Steve Down was noted).

Members of the working group had unanimously agreed that the City prepare draft Terms of Reference and to circulate those to the BCCI for comment. A copy of the draft Terms of Reference is **attached** at Appendix DPDS-1.

Executive Recommendation

That Council,

1. Note the outcomes from the meeting between the City of Bunbury and the Bunbury Chamber of Commerce and Industry;
2. Note the Draft Terms of Reference for the Business Improvement District Working Group; and
3. Note that the Group has recommended additional time to complete a review of the Draft and the provision of a further report to Council.

Background

On 6 August 2013, Council considered a report on the Business Improvement District Working Group and decided to prepare a formal proposal to progress the development of a BID program for the City of Bunbury. Due to the Local Government Elections, the first meeting was not held until after the assessment of the outcomes of the inaugural CBD Discussion Forum held 25 November 2013. At the CBD Discussion Forum, business owners and key industry stakeholders participated in wide-ranging discussions that focussed on involvement of CBD businesses to generate innovative ideas on how to revitalise the CBD.

On 26 November 2013, Council resolved:

“Council Decision 356/13

1. *Council appoint Councillor James Hayward to accompany Councillor Michelle Steck as the second Councillor Representative on the Bunbury Improvement District Working Group.*

2. *The outcomes of the City of Bunbury CBD discussion forum including parking, traffic management and transport associated issues be incorporated into a draft report to come back to Council in January 2014.”*

Council’s resolution reflects the observation that there is merit in combining issues raised with discussions on improvements to /revitalisation of the CBD.

Council Policy Compliance

There is no Council policy applicable to this matter.

Legislative Compliance

There is no Legislative Compliance applicable to this matter.

Officer Comments

As an outcome of the first meeting of the Group, Council staff were requested to prepare draft Terms of Reference and that the draft was to be circulated to the BCCI members for comment.

It was further agreed, without limiting the generality of the foregoing, that subsequent meetings would deal with the review of research; consultation with business operators; a SWOT and GAP analysis; workshops to prioritise actions for recommendation to the BCCI and the Council respectively for implementation.

Analysis of Financial and Budget Implications

At this stage there has been no budget allocation for this group and any recommendations that are proposed by the Group will be subject to budget consideration by Council.

Community Consultation

Not applicable.

Councillor/Officer Consultation

Councillors have been previously advised on this matter and had resolved to progress the BID Working Group in partnership with the BCCI.

Outcome – Council Meeting 21 January 2014

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

Council Decision 9/14

That Council,

1. *Note the outcomes from the meeting between the City of Bunbury and the Bunbury Chamber of Commerce and Industry;*

- 2. Note the Draft Terms of Reference for the Business Improvement District Working Group; and**
- 3. Note that the Group has recommended additional time to complete a review of the Draft and the provision of a further report to Council.**

CARRIED

11 votes "for" / nil votes "against"

10.7 Proposed Amendment to Planning Approval – Replacement of the Approved Limestone Block Noise Mitigation Wall by 35mm Thick Lapped Pine Wall at the Shell Gateway Site – Lots 26 and 27 Cloughton Way, Glen Iris (was listed as item 10.4.2 on the meeting agenda)

Applicant/Proponent:	MPM Development Consultants
Author:	Teshome Tadesse, Senior Planning Officer
Executive:	Bob Karaszewych, Director Planning and Development Services
Attachments:	Appendix DPDS-4, DPDS-5, DPDS-6, DPDS-7, DPDS-8, DPDS-9

Summary

The City has received an application from the owners of the Shell Gateway to amend the planning approval granted for the noise barrier wall at the Shell Gateway. The proposal amendment details the replacement of a Limestone Block Noise Wall to a 35mm thick pine lapped noise barrier wall. The acoustic report provided by Lloyd George asserts the replacement of the approved Limestone Block wall to a timber wall will make no difference in terms of a noise barrier as the resultant noise level at the closest residence will remain the same.

Executive Recommendation

That Council resolves to:

1. Approve the proposed amended plan as part of the implementation phase of the Noise Management Plan submitted by MPM Development Consultants – Lots 26 and 27 Cloughton Way, Glen Iris (Shell Gateway) Application reference DA/2013/66/2 in accordance with Town Planning Scheme No.7 (TPS 7) and pursuant to the provisions of the Planning and Development Act 2005 subject to compliance with all development conditions as listed on the City’s Planning Approval for DA/2013/66/1 dated 30 May 2013 (as attached) and with the following additional advice note to the applicant:
 - The applicant is required to contact Water Corporation to seek its approval to the proposed fence structure over 1.8m in height above ground level in proximity of Corporation assets (in accordance with the Water Services Act 2012 and Water Corporation Protection Services Guidelines).
2. Advise the applicant and the submitter of its decision.

Background

On 21 May 2013, Council resolved to grant planning approval for proposed various works to implement Noise Management Plan – Lots 26 and 27 Cloughton Way (Shell Gateway). Council’s resolution reads as follows:

“Council Decision 130/13

That Council, pursuant to the provisions of the Planning and Development Act 2005 resolves to:

1. *Approve the proposed development and associated development plan as part of the Noise Management Plan prepared by MPM Development Consultants – Lots 26 and 27 Cloughton Way, Glen Iris (Shell Gateway) Application reference DA/2013/66 in*

accordance with Town Planning Scheme No.7, subject to applicable development conditions to the satisfaction of the City of Bunbury.

2. *Advise both the applicant and submitters of the Council resolution."*

A copy of the full Council report and minutes is **attached** at Appendix DPDS-4.

In line with Council's approval, the City issued planning approval letter to the applicant on 30 May 2013, (copy **attached** at Appendix DPDS-5 is the City's planning approval letter dated 30 May 2013 – DA/2013/66/1).

On 17 October 2013, MPM, on behalf of the landowners, submitted a planning application to amend the City's approval. The proposed amendment is to replace the approved limestone block noise barrier wall with a 35mm treated pine lapped noise barrier wall to the southern portion of Shell Gateway. The proposed amendment which also contains the Lloyd George Acoustics report (Appendix 3) is **attached** at Appendix DPDS-6.

In addition to meeting the noise mitigation requirements, MPM representing the owner have provided the following reasoning as to the proposed amendment:

"The basic reasoning behind the requested amendment to the DA is an economic one, MPM were advised prior to the original DA of the estimated cost for a limestone block wall, upon tender this cost was significantly increased making the limestone wall option unviable. We have therefore sought alternate options for the noise wall.

A local builder has proposed the current option based upon the use of locally and readily available materials.

In addition the proposed timber wall offers the following benefits over the limestone block wall;

- *Approximately 90% of the existing vegetation to rear of the Gateway site will remain, as the timber fence does not require the removal of the existing sand bund.*
- *The timber fence will look very similar to the existing fence, only being higher and constructed of thicker panels and additional structural support.*
- *Reduced disturbance to the residents, no need for partial closures of Claughton Way for wall installation or the need to install scaffold within Claughton Way to join the wall blocks.*
- *The timber wall will not disturb any of the existing services into the Gateway site, which will result in less disruption to the neighbourhood's supplies. This is inclusive of the City's stormwater network, which required relocation for the limestone wall option."*

The applicant has proactively engaged with the surrounding residents and explained the proposed amendment to the landowners. A Location Plan is **attached** at Appendix DPDS-7.

On 25 November 2013, the City received one objection from the surrounding resident. The grounds of the objection can be summarised as follows: timber provides little noise mitigation, maintenance issue, that timber to be considered as a temporary or semi-permanent solution, fire risk related matter and incompatibility relative to the surrounding and that it lowers standards. The Schedule of Submissions is **attached** at Appendix DPDS-8.

The City recommended to the applicant to approach and discuss with the objector their concerns.

A number of discussions have been undertaken with the applicant regarding the nature of the proposal and the effectiveness of the 35mm pine wall in mitigating noise from the Shell Gateway site. The applicant has provided a report from Lloyd George Acoustics as justification that the proposed amendment will achieve the same noise mitigation outcome.

Council Policy Compliance

There is no specific Local Planning Policy (LPP), which directly relates to the current proposal.

Legislative Compliance

Clause 10.2.1 (n) of TPS 7 specifies the need for the preservation of amenity of the locality. It is considered that the proposed amendment is in keeping up with the Scheme requirements, as the Acoustics expert asserts that the amendment to replace the noise barrier wall with a 35mm thick wall is as effective as the approved limestone wall.

Officer Comments

On the basis of Lloyd George Acoustics analysis, Development Assessment considers that the amendment can be approved by Council subject to compliance with the conditions of the original development approval dated 30 May 2013 with an additional advice note as advised by the Water Corporation.

The Acoustics analysis shows no difference between the 90mm thick brick/lime stone wall and 35mm thick lapped pine noise barrier wall in terms of noise mitigation (49dB (A)) in both cases. In fact, it is mentioned in the Acoustic report that “...*the noise being heard will be a result of noise over the top of the barrier.*” The report goes on to say that the pine lapped fence should be free of gaps. The applicant is aware of the Acoustics expert report and will provide the pine lapped fence in line with the expert’s recommendation.

The objector’s main reason is that the pine noise barrier wall provides little noise mitigation. This is not the case in accordance with the Lloyd George Acoustics analysis on the matter as mentioned in its review dated 3 October 2013 i.e. the noise level at the residence is the same in both cases (the full account of the review is **attached** at Appendix DPDS-6 as part of the proposed amendment). However, the objector’s points in terms of fire risk and the required maintenance to timber wall compared to limestone wall should be noted. The applicant is expected to use treated pine which if regularly maintained should address the major concerns of the objector.

In regards to the objection raised relating to the replacement of materials i.e. limestone block to timber and the concerns raised as to the suitability of timber as an alternative it should be noted that timber lap fencing is a commonly used material for fencing providing an aesthetically acceptable option as well as meeting the desired outcome of noise attenuation as detailed by information provided by the acoustics report. While as with many building materials, ongoing maintenance will be required there would be no reason why Council should not consider the applicants request for amendment.

It should also be noted that the proposed wall does not directly separate or abut the objector’s property. Number 9 Cloughton Way is on the southern side of the road which overlooks the property. In regards to concerns raised relating to the timber fence being a fire hazard again the objectors property does not directly abut the wall and is separated by Cloughton Street road

reserve, therefore it should be noted that separation is achieved which would comply with the Building Code of Australia requirements.

Analysis of Financial and Budget Implications

There are no financial or budget implications directly linked to the application.

Community Consultation

The proposal was advertised from 13 November 2013 to 26 November 2013. At the end of the public consultation period, three (3) submissions were received (two (2) no objections from Government Agencies and one (1) objection from the surrounding resident).

The major issues raised by the objector are as follows:

- timber provides little noise mitigation,
- maintenance issue
- timber structure to be considered as a temporary or semi-permanent solution
- fire risk; and
- incompatibility relative to the surrounding and that it lowers standards

Councillor/Officer Consultation

The proposal has been discussed within Development Assessment staff and other divisional staff, prior to the finalisation of the report.

Delegation of Authority

It is considered that delegation of authority is not applicable in this case.

Relevant Precedents

There are no similar relevant precedents relative to the current proposal except the original development approval by Council to the proposed works to implement the Noise Management Plan at the Gateway Shell site.

Outcome – Council Meeting 21 January 2014

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

Council Decision 10/14

That Council resolves to:

- 1. Approve the proposed amended plan as part of the implementation phase of the Noise Management Plan submitted by MPM Development Consultants – Lots 26 and 27 Cloughton Way, Glen Iris (Shell Gateway) Application reference DA/2013/66/2 in accordance with Town Planning Scheme No.7 (TPS 7) and pursuant to the provisions of the Planning and Development Act 2005 subject to compliance with all development conditions as listed on the City's Planning Approval for DA/2013/66/1 dated 30 May 2013 (as attached) and with the following additional advice note to the applicant:***

- ***The applicant is required to contact Water Corporation to seek its approval to the proposed fence structure over 1.8m in height above ground level in proximity of Corporation assets (in accordance with the Water Services Act 2012 and Water Corporation Protection Services Guidelines).***

2. Advise the applicant and the submitter of its decision.

CARRIED

11 votes "for" / nil votes "against"

10.8 Petition Report – Bunbury Cycling Community Request for Progress on the Provision of Safe, Quality Cycleway (was listed as item 10.5.1 on the meeting agenda)

Applicant/Proponent:	Internal Report
Author:	Alison Baker, Executive Assistant Works And Services
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix DWS-1, DWS-2

Summary

At the Council Meeting held on 26 November 2013, Council Decision 324/13 resolved:

“Pursuant of Section 6.10 of the City of Bunbury Standing Orders 2012, the Council receives the petition and refers the matter to the relevant officer for a report to be submitted within the next two (2) rounds of Council meetings”.

Executive Recommendation

1. Council receives the petition report and notes that the subject of the petition is consistent with the Bunbury Bike Plan and the Greater Bunbury Bicycle Master Plan already adopted by Council.
2. The petitioners be advised of the outcomes.

Background

On Saturday 16 November 2013 a ‘Critical Mass Ride’ was conducted in Bunbury. More than 70 cyclists took part in the ride. During the event petition forms were distributed which called for the City of Bunbury to provide safe, quality cycleways. Cr Cook presented the petition which was not in formal format to Council meeting 26 November 2013. Cr Cook’s presentation contained twenty-two (22) submissions. A further twenty-four (24) submissions have been received by staff after the Council decision (a list of the petitioners is **attached** at Appendix DWS-1).

The petition was presented in a manner that does not comply with Councils Standing Orders and does not provide sufficient information to indicate if people who completed the individual forms are residents of Bunbury (see sample petition **attached** at Appendix DWS-2).

Whilst the petition was not in the usual form, staff have considered the matters raised and believe that it is consistent with the currently adopted cycleway strategies.

Council Policy Compliance

There is no Council Policy applicable to this matter.

Legislative Compliance

There is no Legislative Compliance applicable to this matter.

Officer Comments

The Works and Services Directorate is conducting Asset collection and rating work that will be able to show current linkages and gaps. This information will then be used in conjunction with the Bunbury Bike Plan and Greater Bunbury Bicycle Master Plan to determine priorities. Council has commenced work on the Parade Road cycleway which is partly funded by RBN (Regional Bicycle Network). Council has submitted an application for the 2014-2015 RBN program to complete the Parade Road link to Dalzellup.

Analysis of Financial and Budget Implications

Council has identified projects within the Long Term Financial Plan to progress the expansion of the Cycle network within the City and continues to apply for Grants to supplement funding for these projects.

Community Consultation

The petition received by Council contained twenty-two (22) individual forms. Additional forms were provided to staff after the Council Decision.

The Community were consulted during the development of the Greater Bunbury Bicycle Master Plan.

Councillor/Officer Consultation

Not Applicable

Outcome – Council Meeting 21 January 2014

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

Council Decision 11/14

- 1. Council receives the petition report and notes that the subject of the petition is consistent with the Bunbury Bike Plan and the Greater Bunbury Bicycle Master Plan already adopted by Council.**
- 2. The petitioners be advised of the outcomes.**

CARRIED

11 votes "for" / nil votes "against"

10.9 Council Policy – Councillor Discretionary Funds (was listed as item 10.2.1 on the meeting agenda)

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

Summary

The purpose of this report is for Council to consider adopting a Policy relating to the expenditure of Councillor Discretionary Funds.

Executive Recommendation

That Council adopt the Council Policy entitled *Councillor Discretionary Funds* as presented at Appendix CEO-1.

Background

The Department of Local Government (the Department) has written to the City advising that it has been made aware of the City allocating funds for Councillor discretionary use in its budget each year, and has expressed some concern at how these funds are accounted for.

The City has for many years budgeted annually for the provision of these funds. These funds originally started as “Ward funds”, which could be used by a collective of Ward Councillors to fund minor projects that had missed out in budget deliberations.

If the collective could not agree on any one project, each Councillor within that Ward was entitled to identify an individual project they considered to be beneficial to the residents and ratepayers of that Ward.

The transition away from the Ward system in 2004 has resulted in the Councillor Discretionary Fund system that exists currently.

Legislative Compliance

There is no Legislative Compliance applicable to this matter.

Officer Comments

The two (2) main concerns the Department raised in relation to Councillor Discretionary Funds is the lack of accountability mechanisms for such expenditure; and the lack of guidelines governing the expenditure of these funds.

To this extent, Officers have prepared a draft policy for the consideration of Council (as **attached** at Appendix CEO-1).

The purpose of the policy is to provide some overarching principles on the appropriate use of Councillor Discretionary Funds. The policy also stipulates that a report on a four (4) monthly basis in

line with the Budget Reviews, will be provided to Council detailing the particulars of Councillor Discretionary Fund expenditure.

Adoption of the policy would address the concerns raised by the Department in this regard.

Community Consultation

Not applicable.

Council Policy Compliance

This report proposes the adoption of a new Council Policy.

Analysis of Financial and Budget Implications

Councillor Discretionary Funds are considered by Council as part of the budget process for each financial year.

Outcome – Council Meeting 21 January 2014

Cr Cook moved Cr Steck seconded the following motion:

“That the matter of Councillor Discretionary Spend be referred to Council’s Policy Review and Development (Standing) Committee for consideration at their 20 February 2014 meeting.”

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

Council Decision 12/14

That the matter of Councillor Discretionary Spend be referred to Council’s Policy Review and Development (Standing) Committee for consideration at their 20 February 2014 meeting.

CARRIED

10 votes “for” / 1 vote “against”

10.10 Proposed Home Business (Counselling) – Lot 79, No. 3 Sturt Street South Bunbury DA/2013/257 (was listed as item 10.4.3 on the meeting agenda)

Applicant/Proponent:	Patricia Sherwood
Author:	Gary Fitzgerald, Manager Development Assessment and Building Certification
Executive:	Bob Karaszekwych, Director Planning and Development Services
Attachments:	Appendix DPDS-9, DPDS-10, DPDS-11, DPDS-12, DPDS-13, DPDS-14, DPDS-15

Summary

A Development Application (DA/2013/257) has been received from Dr Patricia Sherwood, requesting that a Home Business (Counselling) be permitted at 3 Sturt Street, Bunbury. The proposal satisfies the requirements of Town Planning Scheme No.7 (TSP7) and criteria outlined in the Local Planning Policy – Home Based Businesses and Family Day Care, sufficient to issue a time-limited grant of Planning Approval.

Executive Recommendation

That Council, pursuant to the *Planning and Development Act 2005* (as amended), hereby resolves to grant Planning Approval to Dr Patricia Sherwood, for the proposed Home Business (Counselling) at 3 Sturt Street, Bunbury, subject to the following conditions:

Part 1:

- a) This approval is limited to a 6 months trial period initially (from the date of Council determination on the matter). Council officers are to monitor the development over the first period of operation of the development and after a period of no more than five (5) months, Council officers are to review the matter, and to further report to Council with a view to alerting Council as to any issues which have arisen during the first period of operation. If no issues of substance are reported, Council will consider extending the initial approval for a further period of 6 months, and after such point in time, the matter will be considered on a yearly basis and in a similar fashion to all other Home Occupation/ Home Business approval.
- b) At all times the development (the subject of this planning approval) must comply with the definition of Home Business as contained in Schedule 1 of the City of Bunbury Town Planning Scheme No.7.
- c) Development shall be in accordance with the approved development plans which form part of this Planning Approval.
- d) Signage is not permitted on the site or in the proximity of the site.
- e) The Planning Approval will expire if the approved development has not substantially commenced within six (6) months from the date of issue or within any extended period of written consent granted by the City of Bunbury.
- f) The development is to operate in compliance with approval and with the Local Planning Policy entitled "Home Based Businesses and Family Day Care".

- g) The applicant must notify the City (in writing) on the commencement of the development as the approval is issued for a six (6) month period in accordance with the City's Local Planning Policy guidelines.
- h) The permissible times of operation are Monday to Friday (10am - 3pm); and Saturdays, Sundays and public holidays (no trading permitted).
- i) The development is to be operated on an '*appointments only*' basis, with a maximum of one (1) client on the premises at any one time.
- j) The applicant is required to maintain an appointments register on site, at all times, with the intent of indicating names (along with time of attendance) of all members of the public who attend the premises. It is intended that such register will be inspected by any relevant Council staff member at any time suitable to the applicant.
- k) Except with the prior approval of the City of Bunbury, the development must cease on 21 July 2014.

[Note: Should the applicant wish to continue to operate they will be required to reapply for Planning Approval. The application shall be received within two (2) months prior to the expiration of this approval.]

- l) The City of Bunbury advises that the development must comply with the *Environmental Protection Act 1986* and the Environmental Protection (Noise) Regulations 1997, in relation to noise emissions.
- m) The development, must comply with the requirements of the *Health Act 1911*.
- n) The development, must comply with the City of Bunbury Health Local Laws 2001.
- o) Adequate provision must be made for toilet facilities for clients on site to the satisfaction of the City.
- p) All car-parking for the development shall be contained within the subject property, and one additional car park bay is to be provided and marked on the approved development plan and maintained to the satisfaction of the City.
- q) The applicant is required to construct new proprietary fencing along the Eastern boundary with the subject property (to a minimum height of 1.8 metres from existing ground level) to satisfy the concern of overlooking by an adjoining owner, and such new fence is to be to the satisfaction of the City.

Part 2:

That Council note the petition submitted to Council by Mr Chris Gibbs, received by the City on 11 November 2013, representing residents within the area.

Background

The subject lot is zoned Residential R20. A location plan is **attached** at Appendix DPDS-9. The use-class "Home Business" is an "A" use in the Residential Zone under TPS 7 and accordingly, the proposal was advertised for fourteen (14) days. A site plan is **attached** at Appendix DPDS-10. It is proposed that the Home Business is operated from an outbuilding in the rear yard of the subject property (a plan and photograph of the outbuilding are **attached** at Appendix DPDS-11.

Council Policy Compliance

The relevant Local Planning Policy (LPP) is titled “Home Based Businesses and Family Day Care” (Copy **attached** at Appendix DPDS-12). The proposed development is compliant.

Legislative Compliance

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

Officer Comments

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

The applicant proposes to operate the business from an outbuilding in the rear yard of the subject property. The outbuilding measures approximately 37m² in area.

The following criteria are considered relevant in terms of properly considering the matter, and in terms of Council considering whether it will or will not grant planning approval for the proposed development. It is to be noted that the relevant use class “Home Business’ is an “A” use (requiring public advertising).

- Employment – the only person proposed to be employed is Dr Sherwood (the definition of Home Business allows a maximum of two (2) people not members of the occupier’s household).
- Amenity – it is considered that there should be no substantial adverse impact on the established level of amenity in the neighbourhood if the service provided is by appointment only and if the hours of operation are limited to Council’s satisfaction, and on the basis that the activities are contained within the property boundaries.
- Size – the area of the proposed activity does not exceed 50sqm (maximum limit as listed in the definition of Home Business), and is therefore compliant.
- Retail Selling/Hiring – This is proposed to be controlled by a condition of any grant of approval (i.e. the Planning Approval will require compliance with the definition of Home Business).
- Vehicles – all vehicle parking is contained within the property boundary, and should not “result in traffic difficulties”.
- Services – it is considered that there will be no requirement for “an essential service of greater capacity than normally required in the zone” therefore the development is compliant.

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

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

The Policy further states:

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

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

1. Streetscape character: It is considered that on balance there would be no adverse impact on the character of the streetscape, and the amenity in the area in that the proposed activity is contained within the curtilage of the subject property.
2. Amenity, noise and odour emissions: The professional nature of the business there would be minimal or nil impact from and noise and odour perspective.
3. Traffic impact, safety of road users and pedestrians: Because of the professional nature of the business there should be no adverse impact.
4. Incidental to residential character: The business is “incidental” to the “residential” use of the land.
5. Economic importance of home based businesses: By its very nature, would “acknowledge evolving work practices and technology” by being a specialised home-based business.

The applicant has submitted a Development Impact Statement (**attached** at Appendix DPDS-13) considered as having adequately addressed the relevant LPP (“Home Based Businesses and Family Day Care”), hence the development satisfactorily meets the requirements and objectives of the policy.

Public advertising: the City has received three (3) written submissions (refer Schedule of Submissions **attached** at Appendix DPDS-14).

Issues raised:

1. Traffic.
2. Safety.
3. Noise.
4. Privacy.
5. Hours of operation.
6. Parking concerns.
7. Risk of “unknown” clientele attending and volume of clients.
8. Level of services may be more than counselling and may include medical services.
9. Signage.
10. Safety of children.
11. Impact on amenity of neighbourhood.

One (1) submission incorporated a copy of a Petition (**attached** at Appendix DPDS-15) signed by 20 persons who live in close proximity to the proposed development.

The Petition reads:

“We, the undersigned, do respectfully request that the City reject the application for a home based business (counselling) to be run from the premises situate at lot 79 and being 3 Sturt Street, South Bunbury, because the application, if successful, will have

major impact on the amenity of the residential neighbourhood” (“Note: correspondence in respect of this Petition should be addressed to Mr Chris Gibbs, 5 Sturt Street, South Bunbury, WA 6230”.)”

The proposed business is of a professional nature, and there does not appear to be conflict having regard to the established level of amenity in the immediate neighbourhood.

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

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

The hours of operation are limited to less than allowable (in relation to Acceptable Development Criteria), in the Local Planning Policy (LPP). The LPP states that hours of operation should be Monday – Saturday (7am – 7pm) and Sunday (nil). The recommendation proposes times of operation be limited to Monday – Friday (10am – 3pm) and Saturdays, Sundays and public holidays (nil hours).

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

Notwithstanding in this case and in light of the high level of community opposition to the proposed development, it is suggested that the approval be conditioned such that staff are to monitor the subject premises during the initial period of operation of the proposed business, and to report back to Council after a period of five (5) months. This is reflected in the Executive Recommendation.

The proposal is not considered to compromise residential amenity; the proposal complies with the requirements of TPS7; and satisfies criteria in Local Planning Policy – Home Based Businesses and Family Day Care.

Analysis of Financial and Budget Implications

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

Community Consultation

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

Councillor/Officer Consultation

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

Outcome – Council Meeting 21 January 2014

Deputy Mayor Cr Kelly declared an impartiality interest in this matter (see section 5). He left the chambers at 5.45pm and was not present for the discussion or vote on the matter.

Dr Patricia Sherwood, 3 Sturt Street South Bunbury, addressed the Council and spoke in favour of the recommendation. She stated that she was against conditions “j” and “q” and wanted condition “k” deleted. She requested that the Council approve the hours of operation to extend to 5pm due to the majority of her clients were adolescents and school children and most appointments occur after school hours. She urged the Councillors to vote for the recommendation with the changes that she has outlined.

Mr Chris Gibbs, 5 Sturt Street South Bunbury, addressed the Council and spoke against the recommendation. He outlined the reasons why he believed the Councillors should vote against approving this application.

Cr Steck moved the Executive recommendation (as printed) with the following amendments:

Remove condition “j” and “q”. Change the hours of operation to “Monday to Friday (10am – 5pm)”.

The motion failed to get a seconder and therefore lapsed for the want of a seconder.

Cr McNeill moved Cr Hayward seconded the Executive recommendation (as printed) with the following amendments:

Remove condition “j” and change the hours of operation to “Monday to Friday (10am – 5pm)”.

The Mayor put the motion (as amended) to the vote and was adopted to become the Council’s decision on the matter. The votes were tied at 5 votes “for” / 5 votes “against”. The Mayor used his casting vote in favour of the motion.

*Note: the conditions have been renumbered following the deletion of condition “j”.

Council Decision 13/14

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

Part 1:

- a) This approval is limited to a 6 months trial period initially (from the date of Council determination on the matter). Council officers are to monitor the development over the first period of operation of the development and after a period of no more than five (5) months, Council officers are to review the matter, and to further report to Council with a view to alerting Council as to any issues which have arisen during the first period of operation. If no issues of substance are reported, Council will consider extending the initial approval for a further period of 6 months, and after such point in time, the matter will be considered on a yearly basis and in a similar fashion to all other Home Occupation/ Home Business approval.***

- b) At all times the development (the subject of this planning approval) must comply with the definition of Home Business as contained in Schedule 1 of the City of Bunbury Town Planning Scheme No.7.**
- c) Development shall be in accordance with the approved development plans which form part of this Planning Approval.**
- d) Signage is not permitted on the site or in the proximity of the site.**
- e) The Planning Approval will expire if the approved development has not substantially commenced within six (6) months from the date of issue or within any extended period of written consent granted by the City of Bunbury.**
- f) The development is to operate in compliance with approval and with the Local Planning Policy entitled “Home Based Businesses and Family Day Care”.**
- g) The applicant must notify the City (in writing) on the commencement of the development as the approval is issued for a six (6) month period in accordance with the City’s Local Planning Policy guidelines.**
- h) The permissible times of operation are Monday to Friday (10am - 5pm); and Saturdays, Sundays and public holidays (no trading permitted).**
- i) The development is to be operated on an ‘appointments only’ basis, with a maximum of one (1) client on the premises at any one time.**
- j) Except with the prior approval of the City of Bunbury, the development must cease on 21 July 2014.**
[Note: Should the applicant wish to continue to operate they will be required to reapply for Planning Approval. The application shall be received within two (2) months prior to the expiration of this approval.]
- k) The City of Bunbury advises that the development must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997, in relation to noise emissions.**
- l) The development, must comply with the requirements of the Health Act 1911.**
- m) The development, must comply with the City of Bunbury Health Local Laws 2001.**
- n) Adequate provision must be made for toilet facilities for clients on site to the satisfaction of the City.**
- o) All car-parking for the development shall be contained within the subject property, and one additional car park bay is to be provided and marked on the approved development plan and maintained to the satisfaction of the City.**
- p) The applicant is required to construct new proprietary fencing along the Eastern boundary with the subject property (to a minimum height of 1.8 metres from existing ground level) to satisfy the concern of overlooking by an adjoining owner, and such new fence is to be to the satisfaction of the City.**

Part 2:

That Council note the petition submitted to Council by Mr Chris Gibbs, received by the City on 11 November 2013, representing residents within the area.

CARRIED
6 votes “for” / 5 votes “against”

It was requested that the votes be recorded as follows:

For: Mayor Brennan, Cr Prosser, Cr Hayward, Cr McNeill, Cr Steck
Against: Cr McCleary, Cr Steele, Cr Morris, Cr Jones, Cr Cook

Deputy Mayor Cr Kelly returned to the chambers at 6.10pm.

10.11 Petition Report – Bunbury Farmers Market (was listed as item 10.4.4 on the meeting agenda)

Applicant/Proponent:	Internal Report
Author:	Bob Karaszekwych, Director Planning and Development Services
Executive:	Gary Fitzgerald, Acting Director Planning And Development Services
Attachments:	Nil

Summary

On 2 December 2013, the City had received a Petition objecting to the removal of condition 4 as advertised for the proposed amendment of the Bunbury Farmers Market Planning Approval. Condition 4 requires a fence along Jubilee Road to be erected prior to occupation of the site. Petitioners outlined concerns about, direct vehicle access to Jubilee Road from the Bunbury Farmers Market, increased traffic risks to children and devaluation of properties.

Executive Recommendation

1. That Council receive and note the Petition.
2. That Council note the letters of advice to local residents
3. That Council advise Petitioners that Council has received an application for the Bunbury Farmers Market to permanently lease a section of Jubilee road. The application outlines no vehicle access from the Farmers Market to the residential section of Jubilee Road and that public comments on the lease application close on 28 January 2015.

Background

Just prior to the opening of the Bunbury Farmers Market the Developers Consultants lodged an application to remove the fencing requirement of condition 4 of their approval. As required by TPS7 the application was advertised for comment.

However as the issue could not be resolved prior to the opening of the store, The developers erected a temporary fence to satisfy the condition until the planning process for the amendment was resolved.

The Bunbury Farmers Market commenced operations on 29 November 2013 in their new location with unprecedented popularity. A number of contributing factors resulted in traffic congestion adversely impacting within the site; on the surrounding road network; and upon local residents.

Officers met proprietors of Bunbury Farmers Market to address short and long term operational performance to ensure the adequacy of car park spaces; vehicle manoeuvrability; pedestrian safety and neighbourhood amenity.

As an outcome of those discussions the proprietor wrote to Council offering a practical solution. The solution involved the temporary use of the Jubilee Road reserve for overflow car parking with improved vehicle circulation including the incorporation of additional parking. Council supported an MOU to facilitate the immediate commencement of works (at the full cost of the Bunbury Farmers Markets) to accommodate the anticipated demand leading up to Christmas.

The Bunbury Farmers Markets has now made application to Council for a Deed of Licence for the long term use of the road reserve, which includes full construction at the full cost to the Bunbury Farmers Markets proprietors.

This proposal has been advertised for comment commencing on 15 January 2015, and once completed will be brought to Council for formal consideration.

Importantly it should be noted that the advertised proposal does propose a fence on the lease and property boundary of the site that restricts any vehicle access to the residential section of Jubilee Road and satisfies the intent of condition 4 of the current development approval, as the developers since the stores opening acknowledge the importance of the fencing.

Upon resolution of the lease application the applicant has advised they consider that their application to amend condition 4 will become redundant.

Council Policy Compliance

There is no Council policy applicable to this matter.

Legislative Compliance

WA Local Government Act 1995 Sections 3.50 and 3.50(A) relate:

“To close a road for either an emergency, temporary or permanent closure, including enter into an arrangement for a specific purpose.”

Analysis of Financial and Budget Implications

Bunbury Farmers Markets will bear the full cost of both temporary and permanent works. The City will provide design and supervision support to ensure all works are to acceptable standards and ongoing maintenance. Both the MOU and Deed of Licence will in all probability bring revenue to the City.

Community Consultation

On 29 November 2013, officers became aware of the above issues and immediately hand delivered a letter to 70 neighbouring residents with the advice the City was addressing concerns raised.

On 13 December 2013, the City wrote a “To The Householder” letter to 70 local residents providing an update on the management of operational issues advising that Council granted temporary rights to Bunbury Farmers Market to use a portion of Jubilee Road, recently closed to vehicles with the water filled red and white barriers, for staff and customer overflow car parking.

Direct vehicle access to and egress from the Bunbury Farmers Market onto Vittoria Road is required by the conditions of the planning approval; and the onsite car parking arrangement and directional movement of vehicles is being improved. No vehicle movements are permitted into Jubilee Road from the temporary car park; pedestrian access to the Bunbury Farmers Market from Jubilee Road is permitted.

City Officers have overseen construction works associated with the temporary car park. Officers had monitored the performance of the car park during the Christmas/New Year holiday period.

Councillor/Officer Consultation

Councillors have been kept informed on officers initiatives to address matters of concern.

Economic, Social, Environmental and Heritage Issues

The Bunbury Farmers Markets provides an important economic and employment benefit to the city.

Relevant Precedents

Recent precedents, include:

- Plaza Shopping Centre - car park bays on Council road reserve.
- Citygate – car parks partially on the Blair Street road reserve.
- Citygate – relinquishing part of Mervyn Street.

Outcome – Council Meeting 21 January 2014

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

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

Council Decision 14/14

- 1. That Council receive and note the Petition.**
- 2. That Council note the letters of advice to local residents**
- 3. That Council advise Petitioners that Council has received an application for the Bunbury Farmers Market to permanently lease a section of Jubilee road. The application outlines no vehicle access from the Farmers Market to the residential section of Jubilee Road and that public comment on the lease application close on 28 January 2015.**

CARRIED

11 votes "for" / nil votes "against"

10.12 Spencer Street Underground Power (was listed as item 10.5.2 on the meeting agenda)

Applicant/Proponent:	Western Power on behalf of the Office of Energy
Author:	Jason Gick, Manager Engineering
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix DWS-3

Summary

The cost estimates for the delivery of the Spencer Street Underground Power Local Enhancement Project are greater than anticipated at the time of the grant application. The Council needs to decide whether it wants to continue with this project at this time.

This project has been considered by the Council for many years. The scope of the project has been reduced several times to fit within the Councils budgetary constraints. The most recent cost estimates provided by Western Power are greater than anticipated in the grant application.

Executive Recommendation

That due to the increased costs, the Spencer Street Underground Power Program – Localised Enhancement Project (Round 5) application and works will not be progressed.

Background

As part of the State Underground Power Program, the Government introduced Localised Enhancement Projects, which provide opportunity for Local Governments seeking to beautify streetscapes and traffic routes of significance.

The Council has considered the undergrounding of overhead power lines in Spencer Street for several years. Council Decision 250/08 required a community survey of affected ratepayers within the full project area (Stirling Street to Beach Road) to determine the level of community support for the project.

The community survey presented to the Council at its 8 September 2009 meeting indicated that 62% of respondents agreed with the proposal of undergrounding overhead power lines in Spencer Street, but it also showed that 72% of respondents disagreed with the concept of contributing towards the cost.

This information prompted Council to explore a reduced project scope (Stirling Street to Ramsay Street) and an alternative funding regime. Council Decision 178/09 applies:

“Council Decision 178/09

- 1. Due to the feedback from the property owners affected, the Spencer Street Localised Enhancement Project does NOT proceed in the form previously proposed.*
- 2. That enquiries be made with Western Power as to whether this project can be re-scoped to involve half the area of Spencer Street previously covered, so that the project costs could be apportioned.*
 - \$250,000 Western Power*
 - \$250,000 City of Bunbury*

- \$225,000 Ratepayers / property owners

On receipt of this information the matter should be returned to Council.

3. *That Council officers be requested to liaise with Western Power for the preparation of a strategy, with proposed time frames, for undergrounding of power throughout the entire City of Bunbury.”*

Western Power indicated that it was willing to proceed with the reduced scope Spencer Street Localised Enhancement project (Stirling Street to Ramsay Street). The advice was forwarded to the Council which resulted in Council Decision 168/10.

“Council Decision 168/10

1. *Council proceeds with the Spencer Street Underground Power Program - Localised Enhancement Project Round 4 (Four) between Stirling Street and Ramsay Road.*
2. *That the City makes provision for the collection of \$225,000 from the relevant ratepayers to offset the Council contribution of the project.”*

Subsequent to Council Decision 168/10, the Office of Energy advised that it did not support the Councils decision to apportion costs to ratepayers / landowners against majority opposition. The Office of Energy subsequently withdrew the project from the Round 4 Local Enhancement Project list.

The Council reconsidered the matter at its 8 November 2011 meeting where it considered increasing the City’s contribution to the project and eliminating the ratepayer contribution proposal. The table below outlines the project cost estimates at that time.

Item	Costs (\$,000's)	Revenue 1/3 Option (\$,000's)	Revenue ½ Option (\$,000's)
Original Western Power cost estimate (Stirling Street to Ramsay Street) (520m)	720		
10% Contingency	72		
10% appreciation (estimate + contingency)	80		
Western Power/Office of Energy contribution		291	436
City of Bunbury contribution		291	436
Ratepayer contribution		290	
Balance	872	872	872

This led to Council Decision 265/11 to re-apply the project to the Round 5 funding regime.

“Council Decision 265/11

1. *That the City submit the Spencer Street (Stirling Street to Ramsay Street) project for Round 5 of the Office of Energy’s Localised Enhancement Project with the funding being provided equally one half from the Office of Energy and the Council.*
2. *The Chief Executive Officer advise Council as to the implementation of previous Council Decision (178/09) for the overall strategy for Bunbury.”*

At the time between Council Decision 168/10 and Council Decision 265/11, the City was undergrounding sections of Spencer Street overhead power lines to accommodate the civil works for the signalisation of the Spencer Street / Stuart Street intersection. This resulted in 140m of overhead power line being undergrounded from just north of Lovegrove Avenue to just south of Stockley Road.

Given the works at Spencer Street / Stuart Street, Western Power was asked to price the works to connect to the already undergrounded power at this intersection.

Council Policy Compliance

There is no Council policy applicable to this matter.

Legislative Compliance

The funding agreement needs to be in accordance with the legislative framework surrounding the project.

Officer Comments

In order to deliver this project, the Council will need to enter into a high level agreement with Western Power and the Office of Energy.

The next steps required to realise the Spencer Street project are:

- Council decision to proceed (Council Decision 265/11 applies)
- Submission to Office of Energy (Project submitted 5 December 2011)
- Western Power finalise detailed design and obtain tender price (email advice from Western Power dated 23 October 2013)
- Report to Council for final endorsement of tender price (this report)
- Formal instrument of agreement to be prepared and signed
- Budget adjustments to accommodate agreement

The program guidelines have now introduced a community support criteria. For the project to meet the community support criteria any community subsidisation of the project must be supported by a simple majority of the affected ratepayers. To determine this figure, the Office of Energy will undertake an independent survey once the project is shortlisted.

As indicated earlier, 72% of respondents indicated in the City's 2008 survey that they did not agree with rate payer contributions towards the project. It is unlikely that a significant reduction in opposition has occurred since that time. As such, the project funding arrangements as depicted in Decision 178/09 are unlikely to be supported by the Office of Energy.

Analysis of Financial and Budget Implications

The project is currently included in the Councils 2013/14 Budget (PR-1874). The project expenditure was estimated at the time of application as being \$875,000, with the Council contributing its 50% share at \$437,000.

The following table summarises the project cost estimates for three development options:

Option	Description	Project Cost \$,000	CoB Contribution \$,000
1	Stirling St to Ramsay St Approved project	875	437
2	Stirling St to Lovegrove Ave Increased cost	1,200	700
3	Defer Stirling St to Lovegrove Ave section to a future round	>1,200	>700

Once shortlisted and confirmed as a Council endorsed project, the City was obliged to make a \$12,500 deposit towards the project design. This amount has been paid and is non-refundable.

Community Consultation

As described above, the Council undertook an extensive survey of affected land owners and business occupiers in 2008. The result of that survey showed that most respondents agreed with the proposal, but most did not agree with it being funded by them.

The project was approved by the (then) Minister for Energy on 11 October 2012 and the Manager Engineering was interviewed by ABC Radio on 15 October 2012 to discuss the delivery of the project.

As part of the project initiation, a letter dated 27 February 2013 was sent to all affected land owners and business occupiers outlining the project delivery strategy and the proposed communication strategy. A sample of that letter is **attached** at Appendix DWS-3.

Western Power has provided a Communications Plan that outlines the communication strategy typically required for this type of project, which includes periodic newsletters and milestone letters to property owners that would be initiated with the delivery phase of the project.

Councillor/Officer Consultation

Councillors were advised of the Ministers approval by email on 11 October 2012.

Councillors were advised of the task breakdown required to deliver the project by email dated 27 December 2012.

Councillors were given a project update by email dated 16 July 2013. In that advice, Western Power indicated that it wanted to deliver the project in February 2014. That delivery framework cannot be achieved, and Western Power has subsequently indicated that it can postpone the delivery to later in the program schedule (i.e. 2014/15).

The project has been discussed at Executive level and it is recommended to postpone the project to a future year, to enable a better balanced Municipal Budget.

Outcome – Council Meeting 21 January 2014

Cr Prosser declared a proximity interest in this matter (see section 5). He vacated the chambers at 6.11pm and was not present for the discussion or vote on the matter.

Pursuant to Clause 11.1(b) of the City of Bunbury Standing Orders 2012, Deputy Mayor Cr Kelly moved, Cr Hayward seconded that the debate on the matter be adjourned until the Council meeting to be held on 4 March 2014.

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

Council Decision 15/14

Pursuant to Clause 11.1(b) of the City of Bunbury Standing Orders 2012, the debate on the matter be adjourned until the Council meeting to be held on 4 March 2014.

CARRIED

10 votes "for" / nil votes "against"

Cr Prosser returned to the chambers at 6.12pm.

11. Applications for Leave of Absence

11.1 Request for Leave of Absence – Councillor Betty McCleary

Applicant/Proponent:	Councillor Betty McCleary
Author:	Andrew Brien, Chief Executive Officer
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Nil

Summary/Background

Councillor McCleary requests leave of absence from all Council-related business from 18 February to 4 March 2014 inclusive.

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

Executive Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor McCleary is granted leave of absence from all Council-related business from 18 February to 4 March 2014 inclusive.

Outcome – Council Meeting 21 January 2014

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

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

Council Decision 16/14

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor McCleary is granted leave of absence from all Council-related business from 18 February to 4 March 2014 inclusive.

CARRIED

11 votes "for" / nil votes "against"

12. Motions on Notice

12.1 Motion on Notice – Amendment to Council Decision 373/13 – Koombana Bay Rail Bridge

Applicant/Proponent:	Councillor Betty McCleary
Author:	Councillor Betty McCleary
Executive:	If adopted by Council refer to: Phil Harris, Director Works and Services
Attachments:	Nil

Cr Betty McCleary submitted the following motion for the Council Meeting on 21 January 2014:

"That Council endorses an amendment to Council Decision 373/13 to include Point 4 below, therefore making the resolution read:

- 1. Council advise the Public Transport Authority that it will not accept the transfer of the Koombana Bay Rail Bridge in its current condition.*
- 2. Request the Public Transport Authority consider demolition of the superstructure and constructing a new pedestrian bridge across the channel.*
- 3. Request the State funds the relocation of the reticulation main and footpath if a new pedestrian bridge is not constructed.*
- 4. Should the Koombana railway bridge be demolished, Council consider retaining the central pylon."*

Comments - Cr McCleary

In support of her motion, Cr McCleary states that, *"For the future, long term, it would make a great footing for a piece of artwork or viewing platform or similar.*

Perhaps in years to come the City of Bunbury may wish to build a footbridge and by considering the retention of the central pylon, the footing would be there therefore possibly saving Council expenditure on the cost of construction.

It also allows Council to keep future options open for creative development opportunities."

Executive Comments

The addition of Point 4 to the existing Council Resolution 373/13 would allow for investigations to be undertaken on the feasibility of keeping the central pylon should the Rail Bridge be demolished.

The bridge had a well utilised pedestrian walkway and during the Landcorp redevelopment of the Marlston Water front area a 150 mm pipeline was attached to the structure to provide water for reticulation to parks and reserves in the area.

City staff have been investigating options to relocate the reticulation main and divert the pedestrian path to the road bridge with initial advice that the most economical method of relocating the reticulation main may be to bore the main under the channel.

Given the City's experience with the Bunbury Timber Jetty, taking on responsibility of a non-complaint marine structure places unnecessary financial risks for Council and Ratepayers.

City officers requested a structural assessment of the bridge and on 18 November 2013, staff received a copy of the structural assessment report which indicated that the bridge was non-complaint with current standards requiring an estimated \$400,000 - \$500,000 to make complaint.

The capital improvement costs of approximately \$400,000 to \$500,000 do not form part of Councils Long Term Financial Plan nor has any whole of life costs been calculated.

Cr McCleary's Motion

That Council endorses an amendment to Council Decision 373/13 to include Point 4 below, therefore making the resolution read:

1. Council advise the Public Transport Authority that it will not accept the transfer of the Koombana Bay Rail Bridge in its current condition.
2. Request the Public Transport Authority consider demolition of the superstructure and constructing a new pedestrian bridge across the channel.
3. Request the State fund the relocation of the reticulation main and footpath if a new pedestrian bridge is not constructed.
4. Should the Koombana railway bridge be demolished, Council consider retaining the central pylon.

Outcome – Council Meeting 21 January 2014

Councillor McCleary withdrew the motion on notice. No further discussion on the matter was undertaken.

12.2 Motion on Notice – Introduction of Chilled Water Dispensers in the CBD

Applicant/Proponent:	Councillor Murray Cook
Author:	Councillor Murray Cook
Executive:	If adopted by Council refer to: Andrew Brien, Chief Executive Officer
Attachments:	Nil

Cr Murray Cook submitted the following motion for the Council Meeting on 21 January 2014:

“That:

- 1. Council Investigate the possible introduction of Chilled Water Dispensers by commercial entity ProAcqua Australia to Bunbury.*
- 2. Council Officers to prepare a report and recommendation for Council prior to the end of May, 2014.”*

Comments - Cr Cook

In support of his motion, Cr Cook states that, *“This motion seeks to have Council look into the feasibility of allowing the introduction of Chilled Water Dispensers to Bunbury.*

ProAcqua Australia have introduced an Italian Water Refill Station system to Australia (to make money) and reduce the use of Plastic Water Bottles.

Below is some detail but readers can visit ProAcqua’s website for more information: <http://www.proacquaaustralia.com.au/>

- Filtered, Refrigerated Water Dispenser – still or sparkling water.*
- 25c for 500ml, 40c for a litre or 50c for 1.5L.*
- Purchases are made by a smartcard which costs \$5 and that includes 20 x 500ml refills. Smartcards and double skinned water bottles can be purchased from retailers.*
- Supplied and installed free of charge to Councils. Maintenance is also covered by ProAcqua.*
- Units contain an info digital screen and Council can have short event advertising free of charge.*
- Small revenue stream to Council – 6% of takings.*
- Suggested ratio of machines is 1 per 10,000 people.*
- Units are being installed in Perth City and, I understand, one is earmarked for Margaret River.*

Finally, there is no financial outlay required from Council to buy/procure and Council is only required to grant approval to the company to install these machines around the CBD. Council may even gain a very small income stream out of it.

The Motion requests that Council Officers check for feasibility of the idea.”

Executive Comments

In order to progress this there is a need for some investigation as there are a number of factors associated with this motion being:

- It may be contrary to our purchasing policy as there may be alternate or other potential suppliers
- It may be that looking at the suggested ratios (1:10,000) Bunbury does not have the population that makes this feasible for the companies.

It is felt that Council may prefer to request the Council investigate options for the supply of chilled water dispensation within Bunbury and report back to Council by May 2014. Should Council be supportive of the amended direction the following motion would be appropriate:

“That Council request the CEO investigate options for the supply of chilled water dispensation within Bunbury and report back to Council by May 2014.”

Cr Cook’s Motion

That:

1. Council investigate the possible introduction of Chilled Water Dispensers by commercial entity ProAcqua Australia to Bunbury.
2. Council Officers to prepare a report and recommendation for Council prior to the end of May, 2014.

Outcome – Council Meeting 21 January 2014

Cr Morris declared a financial interest in this matter (see section 5). He vacated the chambers at 6.13pm and was not present for the discussion or vote on the matter.

A PowerPoint presentation on the system from representatives of ProAcqua Australia was shown to the Councillors.

The Motion on Notice was moved Cr Cook, seconded Cr Steele to become the motion under discussion.

The Mayor put the motion to the vote and the votes were tied 5 votes “for” / 5 votes “against”. The Mayor used his casting vote against the matter.

Council Decision 17/14

That:

- 1. Council investigate the possible introduction of Chilled Water Dispensers by commercial entity ProAcqua Australia to Bunbury.***
- 2. Council Officers to prepare a report and recommendation for Council prior to the end of May, 2014.***

LOST

5 votes “for” / 6 votes “against”

Cr Morris returned to the chambers at 6.37pm.

13. Questions on Notice

13.1 Response to Previous Questions from Members taken on Notice

Nil

13.2 Questions from Members

Nil

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

14.1 Disaster Relief Reserve Fund – Use of Funds for Parkerville Fire Appeal

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

Summary

Following the recent Parkerville Fires, the Lord Mayor of Perth set up the Lord Mayor's Distress Relief Fund and is calling upon donations from fellow west Australians.

The purpose for this report is to seek elected members support to donate funds from Council's Reserve towards the appeal to assist with the rebuilding of the affected properties.

Executive Recommendation

That Council make a donation of \$10,000 from the Reserve Fund to the Lord Mayors Distress Relief Fund for assistance with the rebuilding after the Parkerville fires.

Background

Individuals and organisations wishing to assist those impacted by the Parkerville bushfires are urged to donate through the Lord Mayor's Distress Relief Fund (LMDRF).

The fund has been activated to coordinate donations to support victims of the bushfires which have destroyed 55 homes and property in the Parkerville area.

Donations of funds are through the LMDRF's dedicated appeal account or the City of Perth.

Analysis of Financial

Following Council Decision 47/11 (1 March 2011) Council established a Disaster Relief Reserve Fund to provide relief of personal hardship and distress arising from natural disasters occurring within Western Australia and Australia.

It is suggested that \$10,000 be paid from this fund to the appeal.

Relevant Precedents

Council has contributed to similar appeals in the past.

At the Meeting of 29 November 2011 Council resolved (Decision 289/11) to make a donation of \$10,000 to the Augusta-Margaret River Shire following the Margaret River Fires.

Officer Comments

Through the establishment of the Disaster Relief Reserve Fund, funds are readily available to be distributed to disaster relief via appropriately formed disaster fund appeals.

It is suggested that the City make a contribution of \$10,000 to the Parkerville Fire Appeal.

Outcome – Council Meeting 21 January 2014

The Executive recommendation (as printed) was moved Deputy Mayor Cr Kelly, seconded Cr McCleary.

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

Council Decision 18/14

That Council make a donation of \$10,000 from the Reserve Fund to the Lord Mayors Distress Relief Fund for assistance with the rebuilding after the Parkerville fires.

CARRIED

11 votes "for" / nil votes "against"

15. Meeting Closed to Public

15.1 Matters for which the Meeting may be Closed

Nil

15.2 Public Reading of Resolutions that may be made Public

Nil

16. Closure

The meeting was declared closed at 6.38pm.