



## Bunbury City Council

### Notice of Meeting and Agenda 18 March 2014

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**CITY OF BUNBURY**  
4 Stephen Street  
Bunbury WA 6230  
Western Australia

*Correspondence to:*  
Post Office Box 21  
Bunbury WA 6231

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## GLOSSARY OF ABBREVIATED TERMS

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

## GLOSSARY OF ABBREVIATED TERMS

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

## Bunbury City Council Notice of Meeting

TO: Council Committee Members

The next Ordinary Meeting of the Bunbury City Council will be held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, **18 March** at 5.30pm.



Andrew Brien  
Chief Executive Officer  
(Date of Issue: 13/03/2014)

### Agenda 18 March 2014

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

Council Members:

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

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

## **2. Disclaimer**

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

## **3. Announcements from the Presiding Member**

## **4. Attendance**

### **4.1 *Apologies***

### **4.2 *Approved Leave of Absence***

## 5. Declaration of Interest

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

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

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

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

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

At the Council Briefing Session held Tuesday 11 March 2014, the following declarations were made. This declaration is relevant for the Council meeting 18 March 2014.

Mayor Brennan declared a financial interest for the below two (2) items:

- Item 10.4.2 titled *“Internal Audit Program Update”* as he has a business arrangement with AMD Chartered Accountants; and
- Item 10.5.3 titled *“Petition Report - Proposed Change of Use application of Tenancy 3D at the Homemaker Centre - LOT: 107 DP: 47979 #42 Strickland Street, South Bunbury”* as he has financial interests with submitters on the matter.

He will vacate the chambers for the discussion and vote on each matter.

Cr Judy Jones declared an impartiality interest for item 10.4.4 titled *“Proposed Deed of License over a portion of Jubilee Road to Erinom Pty Ltd t/as Bunbury Farmers Market”* and item 10.5.1 titled *“Proposed Car Parking on a portion of Jubilee Road Reserve immediately adjoining LOT 1 DP: 20227 #2-6 Vittoria Road, GLEN IRIS (Bunbury Farmers Market)”* as she is a sitting member on the Aqwest Board. Cr Jones will remain in the in the chambers for the discussion and vote on each 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

At the time of printing, no public questions had been received.

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

At the Council Meeting held 4 March 2014, a question was asked during Public Question Time that could not be answered during the meeting. A copy of the question and the written response provided by the CEO forwarded to the questioner following the meeting is provided below for public information:

#### **Ross Slater, 4/167 Ocean Drive**

*Question 2: Is council aware that the recommendations on page 351 of the Local Government Advisory Board Reform Report did not include recommending a reduction in elected member numbers and also on page 10 of the guidelines in section 1.2 recommends that the Local Government identifies first, amalgamation with their partners and then indulges in elected member numbers?*

**Response:** Schedule 2.2 of the Local Government Act 1995 provides Council the avenue to carry out reviews of the number of Councillors to represent the electors of the district.

The last review of wards and representation in the City of Bunbury was undertaken in February 2004 when Council resolved to disband ward systems in the City of Bunbury.

It is felt that it is now appropriate to carry out another review and seek Electors thoughts on Councillor Representation.

This review of Elected Member representation is being undertaken independently to any review of amalgamation.

## **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 4 March 2013 have been circulated.

#### **Recommendation**

The minutes of the Ordinary meeting of the Bunbury City Council held 4 March 2013 be confirmed as a true and accurate record.

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

<b>File Ref:</b>	Various
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Various
<b>Executive:</b>	Various
<b>Attachments:</b>	Appendix MTBN-1 – Audit Committee Appendix MTBN-2 – Policy Review and Development Committee Appendix MTBN-3 – Withers Advisory Committee

#### Summary

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

1. Title: Minutes – Audit Committee Meeting 25/02/2014  
Author: Greg Golinski, Manager Corporate Performance  
Appendix: MTBN-1
2. Title: Minutes – Policy Review and Development Committee 20/02/2014  
Author: Greg Golinski, Manager Corporate Performance  
Appendix: MTBN-2
3. Title: Minutes – Withers Advisory Committee 14/02/2014  
Author: Alison Baker, Executive Assistant Works and Services  
Appendix: MTBN-3

#### Council Committee Recommendation

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

1. Audit Committee Meeting of 25 February 2014
2. Policy Review and Development Committee of 20 February 2014
3. Withers Advisory Committee of 14 February 2014

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

### **8.1 *Petitions***

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

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

### **8.2 *Presentations***

### **8.3 *Deputations***

At the time of printing, no deputations had been received.

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

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

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

## 10. Reports

### 10.1 Recommendations from Advisory Committees

#### 10.1.1 Review of Policy: Purchasing (other than tenders)

<b>Applicant/Proponent:</b>	Policy Review and Development Committee
<b>Author:</b>	Dave Russell, Senior Contracts and Procurement Officer
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix RAC-1 – Draft Policy: Purchasing (other than tenders)

#### Summary

The purpose of this report is for Council to consider a revised Policy relating to Purchasing (other than tenders).

A copy of the revised Policy is **attached** at Appendix RAC-1.

#### **Advisory Committee Recommendation**

That Council adopt the revised Council Policy entitled *Purchasing (other than tenders)* as presented.

#### **Background**

The Policy Review and Development Committee has reviewed existing Council Policy *Purchasing (other than tenders)* in line with current best practice, and has proposed some minor amendments.

#### **Legislative Compliance**

Regulation 11A of the *Local Government (Functions and General) Regulations* states that a local government is to prepare or adopt, and is to implement a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$100 000 or less.

#### **Officer Comments**

Proposed changes to the policy include:

1. Delegated authority has been increased from \$100K to \$250K as per Council decision from 27 August 2013. The \$500K for WALGA procurement remains. New clause 2(ii) also clarifies circumstances for contracts that contain provisions for extension.
2. The purchasing policy no longer includes reference to tender procurement. This is already covered in the Local Government Act and does not need to be included in the purchasing policy.
3. There are currently two separate verbal quotation forms for amount of up to \$1K and between \$1K – 10K. This has been simplified to one quote form which is user friendly and still maintains compliance.
4. \$10K - \$50K quotations. Current policy allows only one quote if obtained through “State Supply Commission Panel”. Has been amended so that three quotes are needed regardless of procurement source.

5. \$10K - \$50K quotations. Quotation form amended so that all quotations are submitted to the [tenders@bunbury.wa.gov.au](mailto:tenders@bunbury.wa.gov.au) address so that they can be captured and distributed to the appropriate officer.
6. \$50K - \$100K quotations. Amendment to only have quotes received through the Tenderlink portal for submissions.
7. Clause 7 (new) – States that where a preferred panel exists that quotes are only obtained from that panel and that the relevant number of quotes are still sought (up to three). Current policy allows amounts of \$100K to be procured from a preferred panel with only one quote obtained.
8. Clause 8 (new) – If WALGA or government panel quotation, no advertising required and up to three quotes still required depending on purchase amount.
9. Clause 10 (new) – States all officers will not procure goods or services without first raising a purchase order.
10. Amend point 3 by authorising the Chief Executive Officer to on-delegate to “any Director” instead of “any Officer”.
11. Amend point 4(i) to require verbal quotes for goods or services “between \$200 and \$1000”, instead of “between \$1 and \$1000”.
12. Amend the criteria in Form B in the area of Insurance, such that the requirement for Public Liability is increased to \$20,000,000 from \$10,000,000, consistent with advice from the City’s insurers.

There were some other minor word changes but nothing of any impact or consequence.

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

This revised policy as attached has been reviewed by the Policy Review and Development Committee.

#### **Council Policy Compliance**

This report proposes the revision of an existing Council Policy.

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

Nil

### 10.1.2 Review of Policy: Advertisement Appeals Policy

<b>Applicant/Proponent:</b>	Policy Review and Development Committee
<b>Author:</b>	Greg Golinski, Manager Corporate Performance
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Nil

#### Summary

The purpose of this report is for Council to consider revoking Council Policy – *Advertisement Appeals*.

#### Advisory Committee Recommendation

That Council revoke the Council Policy entitled *Advertisement Appeals*.

#### Background

Prior to 26 November 2013, the Advertisement Appeals Committee was the only Council Committee with any delegated authority and was a legal requirement under the provisions of the City's Advertising Devices Local Law.

In 2010 the Joint Standing Committee on Delegated Legislation advised Local Governments around the state that the approach of dealing with signage on private properties through a Local Law had no head of Power. The advice provided recommended that Councils adopt an approach utilising Section 150 of the Planning and Development Act which does provide the head of power for regulating signs and advertising devices under Local Planning Schemes.

Following advice from the Joint Standing Committee on Delegated Legislation the City initiated an amendment to TPS 7 adopting provisions dealing with signage which in effect meant that all advertisements not exempted under schedule 9 of the scheme required Planning Approval. This approach means that any application would be subject to the right of appeal under the Planning and Development Act.

This committee was therefore disbanded by Council on 26 November 2013 as it no longer had any relevance, as any appeal/review of a determination by Council is controlled through the Town Planning Scheme and the Planning and Development Act and subject to review by the State Administrative Tribunal.

#### Legislative Compliance

Not applicable

#### Officer Comments

With the committee now disbanded, the Advertisement Appeals policy is no longer relevant, and should therefore be revoked, as appeal rights are now contained within the Planning and Development Act.

**Councillor/Officer Consultation**

This report emanates from a recommendation by the Policy Review and Development Committee.

**Council Policy Compliance**

This report proposes the rescission of an existing Council Policy.

**Analysis of Financial and Budget Implications**

Nil



### 10.1.3 Councillor Discretionary Funds Policy

<b>Applicant/Proponent:</b>	Policy Review and Development Committee
<b>Author:</b>	Greg Golinski, Manager Corporate Performance
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Appendix RAC-2 – Draft Policy Councillor Discretionary Funds

#### Summary

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

#### Advisory Committee Recommendation

That Council adopt the Council Policy entitled *Councillor Discretionary Funds* as presented at Appendix RAC-2.

#### 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.

The Policy Review and Development Committee considered this draft policy at its meeting held on 20 February, which is now presented to Council for consideration.

#### 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.

The purpose of the policy is to provide some overarching principles on the appropriate use of Councillor Discretionary Funds. The policy also stipulates that quarterly reports 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.

#### 10.1.4 Delegation Register Review

<b>Applicant/Proponent:</b>	Policy Review and Development Committee
<b>Author:</b>	Greg Golinski, Manager Corporate Performance
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Appendix RAC-3 – Register of Delegations

#### Summary

The purpose of this report is for Council to consider endorsing the Policy Review and Development Committee's review of Council's register of delegations.

#### Advisory Committee Recommendation

That Council receive the review of the City's Register of Delegations, and request the Chief Executive Officer to provide a subsequent report to Council detailing the proposed amendments to delegations as provided by the Policy Review and Development Committee.

#### Background

Under the provisions of the *Local Government Act 1995* (the Act), Council's Delegations of Authority are to be reviewed at least once every financial year.

This item was considered by the Policy Review and Development Committee at their meeting on 20 February, who undertook a review of the register which is now presented to Council for consideration.

#### Council Policy Compliance

N/A

#### Legislative Compliance

Under the provisions of the *Local Government Act 1995*, Council's Delegations of Authority are to be reviewed at least once every financial year.

#### Officer Comments

A local government the size of the City of Bunbury cannot operate without utilising Council's power under the Act to delegate functions to the Chief Executive Officer. Delegations free up Council time to enable Elected Members to focus on strategic aspects of the business, thereby enabling the Chief Executive Officer to efficiently implement Council resolutions and Policy.

A local government may delegate to its Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under the Act, other than those specified. Likewise, the Chief Executive Officer is able to be delegated all allowable delegations from legislation other than the *Local Government Act*, including regulations and local laws made under these Acts.

The Chief Executive Officer may delegate to any employee of the City the exercise of any of the CEO's powers or the discharge of any of his duties under the provisions of the Act, other than the

power of delegation. On-delegated powers and duties are identified at the rear of each section of the Delegations Register.

Council has been operating successfully over the past years with these delegations and they have proved suitable for the efficient management of the organisation.

The Policy Review and Development Committee has reviewed the City's current Delegations Register, which is now presented to Council for consideration. A copy of the current register with amendments (changes tracked) is presented at Appendix RAC-3.

Three changes to the Register have been made as follows:

1. Amendment to Delegation 1.2 Power to Accept Tenders.

Following a resolution of Council on 20 November 2012, the City engaged the WALGA Procurement Consultancy Service to conduct a Procurement Probity Review for the City of Bunbury. Council adopted all 46 recommendations from the Audit at its meeting on 27 August 2013, one of which (recommendation #9) recommended that the CEO be delegated authority for the awarding of all contracts to the value of \$250,000.

The change to the Register simply updates the existing delegation based on the information above, increasing the limit from \$100,000 to \$250,000.

2. Amendment to Delegation 8.1 Advertising Devices Policy Committee

Prior to 26 November 2013, the Advertisement Appeals Committee was the only Council Committee with any delegated authority and was a legal requirement under the provisions of the City's Advertising Devices Local Law.

In 2010 the Joint Standing Committee on Delegated Legislation advised Local Governments around the state that the approach of dealing with signage on private properties through a Local Law had no head of Power. The advice provided recommended that Councils adopt an approach utilising section 150 of the Planning and Development Act which does provide the head of power for regulating signs and advertising devices under Local Planning Schemes.

Following advice from the Joint Standing Committee on Delegated Legislation the City initiated an amendment to TPS 7 adopting provisions dealing with signage which in effect meant that all advertisements not exempted under schedule 9 of the scheme required Planning Approval. This approach means that any application would be subject to the right of appeal under the Planning and Development Act.

This committee was therefore disbanded by Council on 26 November 2013 as it no longer had any relevance, as any appeal/review of a determination by Council is controlled through the Town Planning Scheme and the Planning and Development Act and subject to review by the State Administrative Tribunal.

The change to the Register simply removes the reference of any delegation to this committee as it no longer exists.

3. Add new Delegation 8.1 to Withers Advisory Committee

At the Ordinary Council meeting held on 4 February, Council resolved to delegate authority to the Withers Advisory Committee as follows:

*Council Decision 34/14*

*That Council:*

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

The change to the Register simply reflects the above decision.

The Policy Review and Development Committee also suggested some minor changes to delegations 1.2, 1.4, 1.10, 3.3, 6.4, and 6.14. These are the subject of a separate report to Council, as the purpose of this item is for Council to ratify the review of the Register.

**Analysis of Financial and Budget Implications**

Nil

**Community Consultation**

N/A

**Councillor/Officer Consultation**

This report emanates from a recommendation by the Policy Review and Development Committee.

### 10.1.5 Amendments to Delegations

<b>Applicant/Proponent:</b>	Policy Review and Development Committee
<b>Author:</b>	Greg Golinski, Manager Corporate Performance
<b>Executive:</b>	Andrew Brien, Chief Executive Officer
<b>Attachments:</b>	Nil

#### Summary

The purpose of this report is for Council to consider amending a number of delegations that are provided to the Chief Executive Officer, as proposed by the Policy Review and Development Committee.

#### Advisory Committee Recommendation

That Council amend delegations 1.2, 1.4, 1.10, 3.3, 6.4, and 6.14 to the Chief Executive Officer to read follows:

#### 1.2 Power To Accept Tenders

Pursuant to Section 3.57 of the Local Government Act 1995 and Regulations 11 to 24 of the Local Government (Functions and General) Regulations 1996 ('the Regulations'), Council delegates its authority to the Chief Executive Officer to accept tenders received up to \$250,000 (Council Decision 266/13) and up to \$500,000 (Council Decision 186/11) where a tender for the supply of products or services is procured through the Western Australian Local Government (WALGA), State or Commonwealth Governments or any of its agencies that provide preferred supplier contracts or agreements. The Chief Executive Officer is also delegated authority to undertake negotiations pursuant to regulation 20 of the Regulations with the person who in his opinion submitted the most advantageous tender, with the purpose of variation in respect of the required works or goods.

Conditions:

- The Chief Executive Officer is to provide quarterly advice on all tenders accepted over \$250,000.
- Each delegated officer's capacity to approve an original tender and/or variation is set at according to the schedule of purchasing limits.
- *Where the goods or services so procured contain options to extend the Contract for a further period(s), the delegated amounts shall be applied per annum to a maximum value not exceeding \$750, 000 excluding gst.*

#### 1.4 Contract Price Variations

Pursuant to the provisions of Section 5.42 of the Local Government Act 1995 and part 4 of the Local Government (Functions and General) Regulations 1996 ('the Regulations') the Chief Executive Officer is Delegated Authority to approve price variations for a contract subject to sufficient funds being available within the approved expenditure budget for that project or line item.

Conditions:

- Each delegated officer's capacity to approve an original tender and/or variation is set according to the schedule of purchasing limits.
- Price variation approvals are limited to 10% of the contract price.

### **1.10 City of Bunbury Art Collection – Purchase and Disposal of Artworks**

Pursuant to the provisions of Section 5.42 of the Local Government Act 1995, the Chief Executive Officer is delegated the authority to purchase and dispose of artworks up to the value of the Annual Budgetary Line item allocation (purchases), or \$5,000 per item (disposals).

### **3.3 Development Applications**

Pursuant to the Provisions of Section 5.42 of the Local Government Act 1995 and the City of Bunbury Town Planning Scheme No. 7 the Chief Executive Officer is delegated the authority to approve development applications involving use which is classified a "P", "D", "A" and "AA" use in the scheme text, subject to relevant conditions if necessary providing they are not contentious.

### **6.4 Sale of Subdivisional Land**

Pursuant to Sections 5.42, 5.43 and 3.58(1) of the Local Government Act 1995, Council delegates its authority to the Chief Executive Officer to approve the sale of subdivisional land and appoint Real Estate Agents (who are members of REIWA) to market and sell Council land subdivisions where sale price is under \$1,000,000 per lot.

### **6.14 Authority to Sell, Lease or Dispose of Plant, Equipment and Materials**

Pursuant to the provisions of Section 5.42 of the Local Government Act 1995, the Chief Executive Officer is delegated authority to sell, lease, or otherwise dispose of, whether absolutely or not, plant, equipment and materials, which are no longer, required for the Council's purposes.

Conditions:

- Subject to the value of the asset being no greater than \$50,000. This value is hereby established in accordance with Section 5.43(d) of the Local Government Act 1995.
- A disposition that is described in Regulation 30 of the Local Government (Functions and General) Regulations 1996 as an exempt disposition is excluded from the application of Section 3.58 of the Act and Clause (i) above.

*Absolute Majority required*

### **Background**

As part of its review of the Council's Register of Delegations, the Policy Review and Development Committee has proposed a number of minor amendments to delegations 1.2, 1.4, 1.10, 3.3, 6.4, and 6.14.

### **Council Policy Compliance**

N/A

## **Legislative Compliance**

Section 5.42 of the *Local Government Act 1995* provides the statute for Council to delegate certain powers and duties to the Chief Executive Officer.

## **Officer Comments**

The proposed changes are summarised as follows:

### 1.2 Power To Accept Tenders

Amend the dollar value in the first condition from \$100,000 to \$250,000, and add a new condition that reads:

- *Where the goods or services so procured contain options to extend the Contract for a further period(s), the delegated amounts shall be applied per annum to a maximum value not exceeding \$750, 000 excluding gst.*

### 1.4 Contract Price Variations

Add a new condition that reads:

- Price variation approvals are limited to 10% of the contract price.

### 1.10 City of Bunbury Art Collection – Purchase and Disposal of Artworks

Amend to remove the reference to the Art Collection Management Committee.

### 3.3 Development Applications

Amend to include reference to “AA” use.

### 6.4 Sale of Subdivisional Land

Amend to remove any reference to the value of commission, and increase the value of the sale price from \$500,000 to \$1 million.

### 6.14 Authority to Sell, Lease or Dispose of Plant, Equipment and Materials

Increase the value of the asset in the first condition from \$30,000 to \$50,000.

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

Nil

## **Community Consultation**

N/A

## **Councillor/Officer Consultation**

The proposed amendments are sourced from the Policy Review and Development Committee.



### 10.1.6 Membership of the Audit Committee

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

#### Summary

The purpose of this report is for Council to consider appointing an additional member to the Audit Committee.

#### Advisory Committee Recommendation

That Council appoint Mr John Barratt as a community member of the Audit Committee.

*Absolute Majority required.*

#### Background

At the previous meeting of the Audit Committee held 28 January 2014, the Committee made the following recommendation which was later ratified by Council:

*That the Committee recommend that Council:*

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

Accordingly, Officers sought further information from Mr Springate, as well as receiving a subsequent Expression of Interest for membership from Mr John Barratt

#### Council Policy Compliance

N/A

#### Legislative Compliance

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

#### Officer Comments

There is currently one community membership vacancy on the City's Audit Committee. Council's options in this regard are as follows:

1. Appoint both Mr Barratt and Mr Springate as community members of the Audit Committee and expand the membership of that Committee from five (5) to six (6).

2. Appoint one of Mr Barratt or Mr Springate as a community member of the Audit Committee.
3. Appoint neither Mr Barratt nor Mr Springate as community members of the Audit Committee and readvertise the vacancy.

**Analysis of Financial and Budget Implications**

Nil

**Community Consultation**

N/A

**Councillor/Officer Consultation**

The recommendation in this report is made by the Audit Committee.

### 10.1.7 2013 Compliance Audit Return

<b>Applicant/Proponent:</b>	Audit Committee
<b>Author:</b>	Greg Golinski, Manager Corporate Performance
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-3 – Draft 2013 Compliance Audit Return

#### Summary

The purpose of this report is for Council to consider the Statutory Compliance Audit Return (the Return) for the calendar year 1 January 2013 to 31 December 2013.

#### Advisory Committee Recommendation

That Council adopt the Statutory Compliance Audit Return for the City of Bunbury for the period 1 January 2013 to 31 December 2013.

#### Background

Each year the Department of Local Government requires Councils' to conduct an annual assessment of their compliance with key components of the Local Government Act and associated regulations. The completed Return is to be provided to the Department by 31 March 2014.

Seventy eight questions are contained within the 2013 return. A copy of the reviewed Return is **attached** at Appendix DCS-3.

#### Council Policy compliance

There is no current Council Policy relevant to this item.

#### Legislative Compliance

Completion of the statutory Compliance Audit Return is a requirement under the provisions of section 7.13(1)(i) of the *Local Government Act 1995* and clauses 13 and 14 of the *Local Government (Audit) Regulations 1996*.

#### Officer Comments

The Chief Executive Officer, Directors and relevant Managers are provided with copies of relevant sections of the Return for completion. The final Return is then compiled on-line at the end of the review period using information provided.

Completion of the relevant sections of the Return effectively requires a number of ad-hoc internal audits, which assist the City to ensure that operations meet the statutory requirements of the *Local Government Act 1995* and associated Regulations.

Of the 78 questions in the 2013 Return, 4 areas of non-compliance have been identified as follows:

1. *Delegations of Authority Question 8 - were all delegations to the CEO in writing?*

This was identified as an area of non-compliance whereby Council amended the CEO's delegation in relation to awarding contracts (Delegation 1.2) on 27 August 2013, however no letter of authority was provided to the CEO, although the change was reflected in the Delegations Register.

Whilst there was no formal letter of authority provided, the delegation from Council which formed the basis of the amendment to the delegation was contained in the Council minutes. Future improvements to the process will ensure that the technicalities of the legislation will be addressed.

*2. Delegations of Authority Question 12 - were all delegations made under Division 4 of Part 5 of the Act reviewed by the delegator at least once during the 2012/2013 financial year?*

This was identified as an area of non-compliance whereby Council did not formally review the Delegations Register in 2012/13.

*3. Delegations of Authority Question 13 - did all persons exercising a delegated power or duty under the Act keep, on all occasions, a written record as required?*

This was identified as an area of non-compliance following an internal audit of processes, which highlighted deficiencies in the record keeping practices of a number of Officers with powers delegated to them.

The requirements outlined in the guidelines and advice from the Department varies in relation to the specific requirements and a new approach will be implemented to ensure effective compliance going forward.

*4. Disclosure of Interest Question 7 - was an annual return lodged by all designated employees by 31 August 2013?*

It is apparent that past practice at the City of Bunbury has been to only seek returns from the CEO and Executive Staff, whereas the *Local Government Act 1995* also requires annual returns to be completed by any staff that have been delegated a power or duty.

***Comment in response to areas of non-compliance***

The 4 areas of non-compliance identified above all relate to processes and procedures around delegations and an interpretation of the legislation as compared to the guidelines. The reviews being conducted internally will ensure both logical and statutory compliance in future.

Officers have applied greater scrutiny of processes in completing the 2013 Compliance Return than appears to have been the case in previous years, which has helped to identify these areas of non-compliance; areas where the City has previously declared itself to be compliant in completing earlier Returns.

Officers will be conducting a full review of the City's processes and procedures in relation to delegations in the first half of 2014 (with assistance from the Department of Local Government where necessary), with a particular focus on the areas of non-compliance identified above, which will address the issues identified.

On a positive note, whilst 4 areas on non-compliance have been identified, the City was compliant with the other 74 areas that were the subject of the 2013 Return.

**Analysis of Financial and Budget Implications**

Nil

**Community Consultation**

There is no requirement for community consultation on this matter.

**Councillor/Officer Consultation**

Officers have been consulted in relation to the relevant sections of the 2013 Return. The recommendation in this report is made by the Audit Committee.

## **10.2 Chief Executive Officer Reports**

### **10.2.1 Bunbury Alcohol Accord – Nomination of Elected Member Representative**

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

#### **Summary**

Advice has been received from the Chairperson of the Bunbury Alcohol Accord requesting Council consider nomination of an Elected Member representative to the group.

#### **Executive Recommendation**

1. Council endorse Cr \_\_\_\_\_ as the City of Bunbury representative on the Bunbury Alcohol Accord.
2. The Bunbury Alcohol Accord be advised of the endorsement.

#### **Background**

The Bunbury Alcohol Accord has been working as a partnership for four (4) years and since its inception has discussed developing an ongoing line of communication between the Council and its member who meet on the first Tuesday of each month.

At a recent meeting, members discussed that as a group they would like to promote a better understanding of the opportunities and challenges of the night time economy, alcohol related challenges in the community and CBD and also offer Accord membership as a reference point for communication and information.

Members of the Accord agreed that a request be forward to Council requesting consideration in appoint a representative to the Accord.

#### **Officer Comments**

The Accord has advised that the City's input to this committee would be valued and appreciated and have requested the City consider appointment of an Elected Member representative to the Accord. Minutes of the meetings would also be provided to Council for information.

It is considered important that Council continue its attempts to maintain representation on significant committees and Boards to maintain a presence and awareness of current and future projects and initiatives.

### **10.3 Director Community Development**

#### **10.3.1 Appointment of Additional Community Member to Bunbury Event Coordination Group**

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Stephanie Addison-Brown, Director Community Development
<b>Executive:</b>	Stephanie Addison-Brown, Director Community Development
<b>Attachments:</b>	Nil.

#### **Summary**

On 18 February 2014, Council decided to establish a Bunbury Events Coordination Group (BECG) to coordinate the attraction and development of events and activities in Bunbury (excluding Australia Day and the Christmas Carnivale which will continue to be run in house).

The BECG has broad community and industry representation from a range of stakeholder organisations and community representatives. Since the decision to establish this group, the South West Development Commission has advised it cannot commit resources and will not be taking a place on the group, especially given the fact they provide grant funding to events in Bunbury. However, the SWDC indicated it could still be involved to support initiatives with events as appropriate.

This report requests that Council appoint an additional community member to the Bunbury Event Coordination Group.

#### **Executive Recommendation**

That Council:

1. Offer the South West Development Commission an ex officio (non-voting) place on the Bunbury Event Coordination Group.
2. Increase the number of community representatives from four (4) to five (5).

#### **Background**

Following an event review and community consultation process, Council resolved (Decision 55/14) the following:

*That Council:*

1. *Notes the Events Review Report.*
2. *Conducts the annual Christmas Carnival and Australia Day celebrations in-house.*
3. *Endorse the establishment of a Bunbury Event Coordination Group with the following membership to coordinate the attraction and development of all other events and activities in Bunbury:*
  - a. *One Councillor*
  - b. *Two City of Bunbury staff (Director Community Development + relevant officer as executive support)*
  - c. *One South West Development Commission representative*

- d. *One tourism industry representative*
  - e. *One BCCI representative*
  - f. *One X2Y representative*
  - g. *Director BRAG or delegate*
  - h. *Manager BREC or delegate*
  - i. *Four community members (by application)*
4. *Establishes a Bunbury Events Grants Program to enable Bunbury to actively attract quality events with an allocation to be determined as part of the City's annual budget process. Applications for funding through this program to be assessed by the Bunbury Event Coordination Group and Council authorises the CEO to approve recommendations made by this group.*
5. *Increases its role as a facilitator and promoter of events in Bunbury in collaboration with the Bunbury Event Coordination Group as outlined in the recommendations contained in the Events Review Report.*
6. *Where entertainment is included in events, paid performers be sourced from within the Bunbury, Greater Bunbury or South West community.*

#### **Council Policy Compliance**

Not applicable.

#### **Legislative Compliance**

Not applicable.

#### **Officer Comments**

Four community representatives and one tourism industry representative have already been selected to join the BECG.

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

Not applicable

#### **Community Consultation**

The community were invited to submit expressions of interest for the four community places and the one tourism industry representative place as advertised prior to the closing date of Friday 28 February 2014. Other stakeholder groups listed have been asked to confirm who their representative will be.

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

Council Decision 55/14 required one Councillor to be appointed to the Bunbury Event Coordination Group. At the subsequent Council Meeting held Tuesday 4 March, Councillor Morris was appointed as the representative to the BECG.



## **10.4 Director Corporate Services Reports**

### **10.4.1 Proposed Deed of Lease – Bunbury City Kart Club over portion of Reserve 670 South Western Highway, Davenport.**

<b>File Ref:</b>	L36
<b>Applicant/Proponent:</b>	Bunbury City Kart Club
<b>Author:</b>	Jane Porter, Senior Property Officer
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-1 – Location Plan Appendix DCS-2 – Adjusted lease area and revegetation Plan

#### **Summary**

An application has been received from the Bunbury City Kart Club (“applicant”) seeking Council’s consent to grant a new Deed of Lease over portion of Reserve 670, Lot 500 South Western Highway, Davenport. A location plan is **attached** at Appendix DCS-1.

The Bunbury City Kart Club have been in Holding Over, on a month by month basis since the expiry of their lease in October 2007, this was due to the clearing of native vegetation by the Club and issues arising from this. Negotiations have been ongoing between the City and the Club in relation to the Clubs responsibilities over the leased premises.

Conditions will be put in place on any proposed new lease, clearly identifying areas which are currently vegetated, the revegetation of a portion of the leased area and fencing which is to be installed at the Clubs cost clearly defining the lease boundaries.

#### **Executive Recommendation**

Council grants a new Deed of Lease to the Bunbury City Kart Club over portion of Reserve 670, Lot 500 South Western Highway, Davenport for a term of five (5) years with a further option of five (5) years subject to the following terms and conditions:

1. The applicant to pay all costs associated with the lease application including document preparation.
2. Advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995.
3. The Approval of the Minister for Lands.
4. The development and implementation of a vegetation rehabilitation plan and the installation of fencing along the entire property boundary adjoining native bushland to the satisfaction of Council Officers by 31 March 2014.

## Background

### Current Lease Details

Commencement:	1 November 1983
Term:	Five (5) years
Expiry Date:	31 October 2007
Rental:	\$2,218.92 + GST annually
Rent Review:	CPI annually, market every third anniversary.
Outgoings:	Responsibility of the applicant.
Insurance:	The Lessee to maintain Public Risk and General Insurance policies over the premises with Public Liability to be set at \$10(M).

### Proposed New Deed of Lease Details

Commencement:	1 April 2014
Term:	Five (5) years plus a further five (5) year option
Expiry Date:	31 March 2019
Rental:	\$9,800.00 + GST annually
Rent Review:	CPI annually, market every fifth anniversary.
Outgoings:	Responsibility of the Lessee
Insurance:	The Lessee to maintain Public Risk and General Insurance Policies over the premises with Public liability to be set at \$10(M)
Special Conditions:	<p>(a) Lessee responsible for maintaining and upkeep of the demised premises.</p> <p>(b) The Lessee to revegetate cleared areas where possible and install fencing to the revised lease area boundary as discussed with City staff.</p> <p>(c) <b>THE LESSEE IS NOT TO INTERFERE WITH OR IMPOSE ON EXISTING VEGETATION</b></p> <p>The Lessee shall preserve and protect all vegetation (such as trees, shrubs, and grass) on or adjacent to the leased area. The Lessee shall not perform any clearing of the current vegetation unless specifically authorised to do so by the Lessor and other authorised Government bodies.</p>
Document Preparation:	The applicant to pay full cost of document preparation and registration.

The City's Executive and the applicant have mutually agreed on the proposed terms and conditions of the Lease.

The applicant has occupied its current lease site since 1984. The land is comprised within Reserve 670, (Lot 500 South Western Highway on Deposited Plan 62343) and is held by the City of Bunbury under Management Order, Crown Land Record Volume LR3157 Folio 2 for the purpose of "Endowment" with the power to lease for a term not exceeding twenty-one (21) years. The current lease area is 60,000m<sup>2</sup>.

The applicant has agreed to surrender 4600m<sup>2</sup> approximately of native vegetation to the northern side of the site as this portion is not used by the Club. The lease area will be reduced to 48,000m<sup>2</sup> approximately which allows the Club to keep a portion of the blue metal carpark not previously in the lease area (this area not being an area easily revegetated due to the blue metal). A plan showing the adjusted lease area and area to be revegetated is **attached** at Appendix DCS-2.

Pursuant to Section 18 of the Land Administration Act 1997, the Office of the Minister for Lands has provided “in principle” approval for the proposal subject to formal approval being granted on receipt of the Lease document.

The issue of clearing of vegetation has recently been investigated by the City and presented to ELT on 29 July 2013 by the Team Leader Sustainability and the recommendations from this meeting are as follows;

1. Endorses, in principle, the inclusion of conditions in the new draft lease agreement for the Bunbury City Kart Club to mitigate the impacts caused by vegetation clearing onsite.
2. Endorses the creation of a new project in Sytle at an appropriate time under the City’s Ten Year Financial Plan to provide for the forward planning of the motorsport precinct in order to identify future needs/growth requirements, integrate user group activities, identify synergies and opportunities for resource sharing etc., formally define its perimeter boundary and investigate potential funding sources for fencing.
3. Endorses the inclusion of stringent conditions regarding the clearing of native vegetation within all new lease agreements/renewals.

The applicant has been ordered to carry out revegetation works under the direction of the City and to install fencing along the boundaries of the lease area to provide clear delineation and a barrier fence of pine posts and wire between the kart track to protect existing vegetation.

A clause will be inserted into the new lease advising that any clearing of vegetation is not permitted and any evidence of further damage or clearing will result in the termination of the lease.

The applicant has agreed to comply with all legal provisions of the new lease.

### **Council Policy Compliance**

There is no Council Policy applicable to this proposal.

### **Legislative Compliance**

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

### **Officer Comments**

The applicants current deed of Lease expired on 31 October 2007 and the Club has been in Holding Over since this date. The Applicant has requested a new Deed of Lease and agreed to the revegetation and fencing conditions presented to the Club.

A clause has been inserted into the new lease advising that any clearing of vegetation is not permitted and any evidence of further damage or clearing will result in the termination of the lease.

Indications from the Club Representatives are that native plants have already been ordered to undertake the revegetation component and that the required fencing can be completed well within the requested time frame. This will be reviewed by City Officers.

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

The applicant will be responsible for all costs associated with the revegetation, fencing, preparation of documentation and advertising.

### **Community Consultation**

The intention to grant a Lease over portion of Reserve 670, Lot 500 South Western Highway, Davenport will be advertised in the South Western Times newspaper, the City of Bunbury's website and public noticeboards, inviting submissions in accordance with Section 3.58 *Disposing of Property*, of the Local Government Act 1995, for a period not less than two (2) weeks.

### **Councillor/Officer Consultation**

Environmental Officer, Team Leader Sustainability, Compliance Officer, Manager Contracts and Property and Executive Leadership Team.

#### 10.4.2 Internal Audit Program Update

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

##### Summary

The purpose of this report is for Council to receive an update in relation to the internal audit program that will be implemented at the City of Bunbury during 2013/14.

##### Executive Recommendation

That Council revise the scope of the 2013/14 Internal Audit program (PR-3389) to only include the Human Resources and Information Technology modules.

##### Background

At the Audit Committee Meeting held on 12 March 2013, the Committee endorsed a recommendation for Officers to prepare a project budget bid for the provision of internal audit services with a view to identifying improvements to processes and procedures within the City's operations.

Council has since approved project PR-3389 which provides funds to undertake the audit work referred to above, and specifically in the areas of Human Resources, Information Technology, and Project Management. Based on preliminary estimates, this project was approved with a budget of \$14,000.

##### Council Policy Compliance

N/A

##### Legislative Compliance

N/A

##### Officer Comments

The primary objective of the internal audit review is to assess the adequacy, appropriateness and effectiveness of internal controls in place in respect to areas under review and to ensure the City has complied with stated procedures, operates in accordance with best practice and to ensure adequate procedures for effective risk management.

Since the approval of PR-3389 in the 2013/14 budget, Officers met with Mr Tim Partridge and Ms Maria Cavallo from AMD Chartered Accountants (AMD) to discuss the final scope and logistics of delivering the internal audit program for 2013/14.

The following areas were to be audited during 2013/14 as part of the original estimate:

1. Human Resources

Completion of a Human Resources Review, encompassing:

- Identification of HR requirements;
- Recruitment procedures and processes including identification of new positions, advertising; interviewing and related procedures, communication to existing staff and setting up of new employees;
- Basis of remuneration;
- Staff induction procedures and processes;
- Procedures and assessment of staff feedback; performance management and pay reviews;
- Payroll recording and payment procedures, including timesheet authorisation, timesheet data entry; payroll processing and payment authorisation procedures;
- Leave accruals, including use of leave forms, authorisation of leave forms, processing and reconciliation of employee provisions on a regular basis;
- Payroll deductions, including employee authorisation and documentation;
- Superannuation and group tax deduction payments; and
- Termination payments, including use of termination checklist and review and authorisation prior to termination payment.

2. Information Technology

Completion of Internal Audit Information Technology Review encompassing:

- Planning the IT environment;
- Development and delivery services;
- Operation of the IT environment;
- Organising and monitoring IT processes;
- Ensure appropriateness of internal control policies and procedures and ensure these are adhered to in respect to IT systems, including access controls, backup procedures and recovery procedures;
- Review system security ensuring access restricted based on level of personnel;
- Assess identification and risk in respect to IT planning;
- Document procedures in respect to identifying IT needs and related procurement procedures;
- Review system support and ensure appropriate back-up personnel trained and available;
- Review of virus detection procedures; and
- Review procedures and plans for determining the needs for changes / improvements to existing IT systems and processes in place to implement such changes.

3. Project Management

- Review the mechanism in place at Management Level and at Council level to facilitate the decision making/review process relating to major projects;
- Ascertain and review council's decision making process relative to the amount of risk associated with a project, and assess how risks are communicated and managed by Management throughout the duration of the project;
- Ensure that documentation provided to Council for decision making purposes is adequate and timely;

- Ensure that communications between Council and Management are effective;
- Ensure feedback is communicated to relevant parties in respect to project progression;
- Ensure any variations to projects are identified and authorized appropriately; and
- Select a sample of recent projects from inception to contractor selection to ensure adequately managed in accordance with stated policies and procedures, including:
  - Council approval;
  - Allocation of management responsibility;
  - Compliance with legislation;
  - Tendering process and compliance with Council internal policy;
  - Contractor selection;
  - Contract documentation;
  - Budget and Financial approval;
  - Completion and hand over procedures;
  - Post contract review; and
  - Risk Management Procedures.

As the scope has been further refined since the original estimate was provided, AMD have advised that the cost breakdown for the three modules would now be as follows:

Human Resources:	\$7,100 ex GST
Project Management:	\$7,600 ex GST
Information Technology:	\$4,600 ex GST

As the updated pricing exceeds the budgeted amount for PR-3389, it is suggested that the Project Management module be removed from the scope of the Internal Audit Program for 2013/14, which will enable the project to be completed within budget.

Work will commence in March 2014 and a subsequent report will be provided to the Audit Committee detailing the outcomes of this audit.

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

PR-3389 has an approved budget of \$14,000 for the provision of internal audit services for 2013/14.

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

This report was originally presented to the Audit Committee, but no recommendation could be made due to a loss of quorum as a result of a financial interest declaration.

#### 10.4.3 Proposed Crown Sites for Compensation (Under Management) – Compensation Land – College Grove Joint Venture – Incorporating Lot 497 Ocean Drive

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Massimo Andreone, Manager Contracts and Property
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-4 – Exclusion Zone Location Plan

##### Summary

Council had, on 12 November 2013, under Council Decision 310/13, resolved to conduct detailed investigations into the possible acquisition of various properties as part of the proposed 'College Grove' land swap, specifically in light of the fact that Lot 881 Koombana Drive had been determined as generally unviable for compensation purposes as a result of the Maritime Archaeological Development Exclusive Zone ("the Development Exclusive Zone"), which extends over Lots 881, 882 and 883 Koombana Drive. A site location plan of the lots reflecting the Development Exclusive Zone is **attached** at Appendix DCS-4.

The following properties had been identified as possible suitable alternatives as part of the proposed 'land swap':-

- Lot 616 Dalhousie Street, Carey Park
- Lot 891 Clifton Street, Bunbury
- Lot 497 Ocean Drive, Bunbury
- Lot 886 Ocean Drive, Bunbury
- Lot 4968 Cornell Crescent, South Bunbury
- Lot 5157 Hamersley Drive, Carey Park
- Lot 1059 Beddingfield Street, Davenport

On 10 December 2013 Council resolved further, under Council Decision 371/13, to remove Lot 4968 Cornell Crescent from further consideration, this consistent with Council Decision 52/11, in terms of which Council had agreed with the Land Rationalisation and Acquisition Committee meeting resolution of 10 February 2011, not to proceed with disposal of Reserve 27551 (Lot 4968 Cornell Crescent), Bunbury, and the property is not addresses further under this matter.

An internal evaluation and analysis of the various proposed sites has been conducted by the City of Bunbury ("the City") in accordance with the resolutions.

Based on all relevant information collated, Lot 497 Ocean Drive has been identified as a suitable site for transfer from the Crown in freehold to the City, in consideration of lost compensation incurred by the City in respect of Lot 881 Koombana Drive.

In terms of the New Joint Venture Agreement concluded between the State of Western Australia and the City in October 2013 ("the Agreement"), Lot 881 Koombana drive falls to be transferred to the City in freehold for nominal consideration in settlement of all claims that the City may have had against the State and the Western Australian Land Authority under the previous Joint Venture Agreement.

The City is, in terms of the Agreement, also entitled to procure the transfer of, or to have placed under its care, control and management, Lots 882 and 883 Koombana Drive.



### Executive Recommendation

1. That Council authorise the Chief Executive Officer to investigate the transfer by the Minister for Lands (“the Minister”), in freehold to the City, of Lot 497 Ocean Drive.
2. That, subject to the satisfactory acquisition of Lot 497 Ocean Drive under Executive Recommendation 1, Council request the simultaneous transfer by the Minister of Lot 881 Koombana Drive to the City in freehold, for nominal consideration, which the City accepts, together with the transfer of Lot 497 Ocean Drive, in full and final settlement of all claims that the City may have had against the State and /or the Western Australian Land Authority under the Second Joint Venture Agreement.
3. That, pursuant to the provisions of section 75 of the *Land Administration Act* 1997, Council requests the simultaneous transfer by the Minister to the City of Lots 882 and 883 Koombana Drive, on a conditional freehold basis, and subject to such conditions concerning the land as the Minister determines.

### Background

Lot 881 Koombana Drive, which measures 14,895m<sup>2</sup>, had been previously considered by Council for possible compensation under the College Grove ‘land swap’; however, advice received from the Western Australian Museum (“the Museum”) confirmed that the coordinates for the proposed Maritime Archaeological Development Exclusive Zone, extend well over Lot 881. The land area thus constrained is 4,457m<sup>2</sup>

The Museum had further advised that there were also areas outside the Development Exclusive Zone that were not subject to geophysical survey, excavated or water probed, which could result in further sites being included in this exclusive zone.

The City’s Planning and Development Services Directorate have confirmed that the “intruding” portion on Lot 881 is constrained and excluded from any development other than a car park and landscaping.

It is concluded that Lot 881 on its own would not be viable for full compensation purposes as a result of the constraints.

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

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

Loss in compensation to the City would calculate as follows:-

Hypothetical unconstrained value of the lot in its entirety => \$2,606,635  
Less value of the actual unconstrained portion of the lot => \$1,826,650  
Shortfall in compensation => \$779,985

Accordingly, alternate compensation to the City is required and the City recommends that Lot 497 Ocean Drive represent equitable compensation.

A market valuation was also procured from Landgate for Lots 882 and 883 Koombana Drive, dated 11 September 2013, which measures 30,900m<sup>2</sup>, with an area of 7,460m<sup>2</sup> determined as being affected by the Development Exclusive Zone. A restricted use conservation value of \$20/m<sup>2</sup> is considered appropriate for the Development Exclusive Zone.

The valuation concludes as follows:-

Future Tourism or similar: 23,440m<sup>2</sup> @ \$50/m<sup>2</sup> => \$1,172,000  
Exclusive Zone: 7,460m<sup>2</sup> @ \$20/m<sup>2</sup> => \$149,200  
Total: 30,900m<sup>2</sup> => \$1,321,200  
Adopt \$1,300,000 (Inclusive of GST)

#### **Lot 497 Ocean Drive**

A fair market valuation of Lot 497 Ocean Drive was conducted by Landgate on 26 July 2013. The lot measures 4472m<sup>2</sup> with reserve purpose of 'Public Recreation'.

The lot's zoning, under the City of Bunbury TPS No. 7, is reserved as 'Parks and Recreation'.

The valuation concludes as follows:-

Market Value: Current Reservation – Restrictive Use Value => 4472m<sup>2</sup> @ \$275/m<sup>2</sup> = \$1,229,800. Adopt \$1,200,000 inclusive of GST.

Market Value: Hypothetical 'As If' Tourist Zone Value => 4472m<sup>2</sup> @ \$560/m<sup>2</sup> = \$2,504,320. Adopt \$2,500,000 inclusive of GST.

The property affords adequate compensation to the City, even on the current reservation – restrictive use market valuation of \$1,200,000.

From an Aboriginal Heritage Site perspective, the Department of Aboriginal Affairs in Perth has advised having reviewed the Register of Aboriginal Sites, and confirmed that Lot 497 is located within the boundary of 'Other Heritage Place' DAA 21371 (Back Beach 03), but that the place is not recognised as a place to which the *Aboriginal Heritage Act* (1972) applies. The City, prior to progressing with any planned works, would advise Local Traditional Owners of the proposed works.

No other significant constraints have been identified with the site.

#### **Council Policy Compliance**

Not applicable.

#### **Legislative Compliance**

Not applicable.

#### **Officer Comments**

The recommendations under the Agenda Item accords with the terms of the Agreement, and ensures that adequate compensation is obtained by the City.

**Analysis of Financial and Budget Implications**

Clause 8.1 of the Agreement stipulates that the Minister shall transfer Lot 881 Koombana Drive to the City in freehold for nominal consideration. Clause 8.3 of the Agreement further stipulates that the Minister will also transfer to (or place under the care control and management of) the City Lot 882 and Lot 883. In terms of the provisions of the Agreement, all attendant costs associated with the transfers would be borne by the Minister.

**Community Consultation**

Not Applicable.

**Councillor/Officer Consultation**

The recommendation to propose Lot 497 Ocean Drive as suitable compensation has been arrived at pursuant to detailed investigation, and attendant advice furnished by the City's Works and Services, Planning and Development Services, and Corporate Services Departments.

#### 10.4.4 Proposed Deed of License over a portion of Jubilee Road to Erinom Pty Ltd t/as Bunbury Farmers Market

<b>File Ref:</b>	Bunbury Farmers Market, Jubilee Road
<b>Applicant/Proponent:</b>	Erinom Pty Ltd t/as Bunbury Farmers Market – Deed of License over a portion of Jubilee Road
<b>Author:</b>	Kristen Anderson, Administration Officer Property and Procurement
<b>Executive:</b>	Wayne Wright, Director Corporate Services
<b>Attachments:</b>	Appendix DCS-5 – Location Plan

##### Summary

The City of Bunbury (hereinafter referred to as “the City”) has received a formal application made by TME Town Planning Management Engineering (hereinafter referred to as “TME”) on behalf of Erinom Pty Ltd trading as the Bunbury Farmers Market (hereinafter referred to as “Erinom Pty Ltd”) to License a portion of Jubilee Road (hereinafter referred to as “the Site”) for the use of overflow car parking.

The request has stemmed from the recent development and upgrade of the Bunbury Farmers Market in which, the popularity from the general public, coupled with a lack of onsite parking, has resulted in congestion in and around the surrounding road network with additional parking now needed.

To accommodate a longer term parking arrangement, the City must first formally close the thoroughfare. A location plan is **attached** at Appendix DCS-5.

##### Executive Recommendation

Council agrees to formally close the portion of Jubilee Road and grant a Deed of License to the Bunbury Farmers Market, subject to the terms and conditions as specified in the report, and that:

1. The Deed of License be advertised in accordance with the provisions of Section 3.58 of the *Local Government Act 1995*.
2. The closure of a portion of Jubilee Road to be actioned in accordance with Section 3.50(4) of the *Local Government Act 1995*.

##### Background

Erinom Pty Ltd is the owner of Lot 1 Vittoria Road, in Glen Iris, Bunbury and is the proprietor of the Bunbury Farmers Market. The operation of this business provides an important economic and employment benefit to the City.

Erinom Pty Ltd commenced operations at their premises on the 29th November 2013, and the popularity of the enterprise with the general public and the volume and frequency of patronage to their premises, coupled with a shortage of car parking facilities onsite, has resulted in serious traffic congestion and has adversely impacted on the surrounding road network.

The City and TME held discussions in order to address the inadequacy of car park space, and issues around vehicle manoeuvrability, pedestrian safety and general neighbourhood amenity at the

Bunbury Farmers Market premises. The City and Erinom Pty Ltd (hereinafter collectively referred to as "the/both Parties"), had explored various other options but both Parties agreed that in order to relieve these issues quickly, a short term measure would be to enter in to an agreement to allow Erinom Pty Ltd to utilise a portion of Jubilee Road itself, as overflow car parking.

The Parties concluded an interim agreement under cover of a Memorandum of Understanding. This was instigated by giving public notice to temporarily close the portion of Jubilee Road in order to allow for consideration of a longer term solution. The road was to be temporarily closed for a period not exceeding four weeks and commencing 11<sup>th</sup> December 2013. The Deed of License is dated to reflect the expiry of the temporary four week closure of the road and the effective date of the Deed is recorded as such.

Although the Deed of License alleviates the immediate parking and congestion issue, the Parties are continuing to look at various other solutions to accommodate future parking needs in the immediate area.

The below table briefly addresses the key components of the Deed of License:

<b>Commencement:</b>	Effective from 8 <sup>th</sup> January 2014
<b>Term:</b>	Ten (10) years plus a further five (5) year option
<b>Expiry Date:</b>	7 <sup>th</sup> January 2024
<b>Rental:</b>	\$15,300.00 + GST annually
<b>Rent Review:</b>	CPI annually, market rent review every three (3) years
<b>Outgoings:</b>	Responsibility of the Licensee
<b>Insurance:</b>	The Licensee to maintain Public Risk and General Insurance Policies over the premises with Public liability to be set at \$10(M)
<b>Permitted Use:</b>	The Licensed Premises shall be used to accommodate the Licensee's staff and customer car parking to meet the Licensee's operational needs. The Licensee will ensure that all staff vehicles are not allowed to be parked in or on a Public Place, Carriageway, Footpath, Street, Thoroughfare or Verge.
<b>Special Conditions:</b>	<p><b>Access to Licensed Premises by Public and/or Utility Providers:</b>                      The Licensee shall grant continued public access to and continued use of the shared path that is situated within the Licensed Premises. The Licensee shall allow not only the Licensor and/or its representatives but Main Roads Western Australia ("MRWA"), Aqwest and all ancillary utility providers thereon reasonable access to and ingress and egress from the Licensed Premises for the installation and/or maintenance of various assets belonging to the Licensor MRWA and said utility providers.</p> <p><b>Compliance with Development Application and Conditions</b>                      The Licensee shall comply with all conditions as set out in the Development Application and any subsequent approvals issued thereunder. The Licensee undertakes to make all suitable arrangements with Aqwest in order to ensure that water supply located within the Licensed Premises remains fit for purpose. All works, arrangements and provisions to ensure the water supply remains fit for purpose shall be to the satisfaction of Aqwest.</p>

### **Legislative Compliance**

Sections 3.50(4) and 3.58 of the Local Government Act 1995

### **Officer Comments**

Adherence to the legislative requirements for both the Deed of License and the Road Closure have been met in accordance with the Local Government Act 1995, every effort has been made by Council Officer's to engage the communities advice and opinion, not only regarding the License and road closure, but also in respect of the development of the land.

The City's internal departments have worked closely with each other to ensure all pertinent issues are addressed and lengthy negotiations between the Parties has resulted in the resolution of all current issues. However, discussions continue to take place between the parties to ensure future needs can be met by alternative options.

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

A market rent review was procured through Landgate Valuation Services, the assessment was made at a value of \$7.50 per square metre.

The parties have agreed to the full market rental valuation being charged at FIFTEEN THOUSAND THREE HUNDRED DOLLARS \$15,300.00 plus GST payable annually.

### **Community Consultation**

In addition to advertising in accordance with the provisions of Section 3.58 of the Local Government Act 1995, the City undertook consultation with service providers and residents within the immediate area.

The City received a total of 15 submissions from service providers, the general public and residents within close proximity to the affected area. All those who made a submission were in favour of the proposed License and development of the area with one issue raised by Aqwest.

Aqwest was concerned with the assets below the surface of the license area and the affect the traffic generated by the car park would pose on the assets. Several meetings have been held between the Parties and Aqwest in order to address this. A clause in the License has addressed the need for the developer, in this case being Bunbury Farmers Market, undertaking to work in conjunction with Aqwest and to make all necessary arrangements with Aqwest in this regard.

### **Councillor/Officer Consultation**

The License has been discussed at length between the City's Development Coordination Unit (DCU) due to its association with the development application submitted for the construction of the car park itself. All relevant departments have consulted to ensure all issues are addressed satisfactorily in terms of the License conditions.

## 10.5 Director Planning and Development Services Reports

### 10.5.1 Proposed Car Parking on a portion of Jubilee Road Reserve immediately adjoining LOT 1 DP: 20227 #2-6 Vittoria Road, GLEN IRIS (Bunbury Farmers Market)

<b>File Ref:</b>	P10211-04
<b>Applicant/Proponent:</b>	Town Planning Management Engineering Pty Ltd (TME)
<b>Author:</b>	T Tadesse – Senior Planning Officer
<b>Executive:</b>	Bob Karaszekwych, Director Planning and Development Services
<b>Attachments:</b>	Appendix DPDS-1 – Location Plan Appendix DPDS-2 – Photo of Temporary Parking Appendix DPDS-3 – Parking Proposal Appendix DPDS-4 – Extract of Scheme Map showing road reserve Appendix DPDS-5 – Submissions received

#### Summary

Council determination is required to allow a permanent car parking arrangement within a portion of Jubilee Road reserve for the Bunbury Farmers Market. It is considered that this portion of the road reserve is a suitable location to alleviate the car parking issue relating to the Bunbury Farmers Market. The Executive Recommendation is for Council to grant formal planning approval in respect of the proposed development.

#### Executive Recommendation

That Council resolves to:

1. Approve the proposed car parking on a portion of the Jubilee Road reserve (as depicted on plan marked 08015P-MP-05G dated 05.12.2013) immediately adjoining Lot 1 Vittoria Road, Glen Iris as submitted by Town Planning Management Engineering Pty Ltd (TME) - reference DA/2013/384/1 in accordance with Town Planning Scheme No.7 (TPS 7) and pursuant to the provisions of the *Planning and Development Act 2005* subject to the following conditions:
  - 1.1 All development shall be in accordance with the approved development plan (attached) which form part of this planning approval.
  - 1.2. A suitable lease agreement shall be prepared and signed between the City and the owner prior to the use of the portion of the Jubilee Road reserve for car parking as proposed.
  - 1.3 This planning approval will expire if the approved development has not substantially commenced within two (2) years from the date of issue of the approval, or, within any extended period of time for which the City of Bunbury has granted prior written consent.
  - 1.4 All works required to satisfy a condition of this approval are required to be installed/constructed and maintained in accordance with the approved plans and conditions of approval for the life of the development.

- 1.5 Vegetation along Jubilee Road in the vicinity of the proposed car parking area to be protected and not be removed, as it serves as a noise reduction and landscape buffer to the Australind Bypass.
- 1.6 Fencing shall be provided around the boundary of the proposed car parking area to avoid potential for vehicle access through to the Australind Bypass Road reserve and such fencing to be to the satisfaction of the City.
- 1.7 The car parking area shall be kept in a neat and tidy condition (free of litter) at all times by the owner/occupier to the satisfaction of the City of Bunbury.
- 1.8 The owner/occupier must protect and allow unrestricted access to all facility providers including access to the Aqwest assets (water mains) in the road reserve in accordance with relevant standards.
- 1.9 Before the development is commenced, detailed design plans shall be prepared in accordance with relevant Australian Standards, Ausroad Guidelines, and City of Bunbury requirements, for all access, carparking and pedestrian movement requirements, to the satisfaction of the City of Bunbury. Once plans are approved by the City of Bunbury, construction is to be in accordance with the approved plans and be completed before the development is occupied.
- 1.10 Before the development is occupied, any alterations, relocation or damage of existing infrastructure within the road reserve must be completed and reinstated to the specification and satisfaction of the City of Bunbury.
- 1.11 Before the development is occupied, linemarking and parking signage must be installed in accordance with the approved plans.
- 1.12 Before the development is occupied, lighting must be provided on site for the access way(s), parking area(s) and turning area(s) to the satisfaction of the City of Bunbury. Plans are to be submitted to the City of Bunbury for approval prior to construction commencing.
- 1.13 Before the development is occupied, the following infrastructure must be upgraded to the satisfaction of the City of Bunbury. Detailed design plans of the infrastructure upgrade must be submitted to the City of Bunbury for approval prior to construction commencing.
  - (a) Dual Use Path as shown and to the satisfaction of the City.
  - (b) End treatment of Jubilee Road to the satisfaction of the City.
- 1.14 Before the development commences, a Traffic Management Plan prepared in accordance with Main Roads Western Australia's Code of Practice must be submitted and approved by the City of Bunbury.
- 1.15 Detailed design plans of the proposed stormwater management must be submitted for approval and implementation to the satisfaction of the City Engineer.



- 1.16 Before the development commences, a damage bond to the value of \$5000 must be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy "Bonds".
- 1.17 Existing trees located within the verge area are a City of Bunbury Asset and as such must be retained except where otherwise approved for removal by the City of Bunbury.
- 1.18 All existing trees and vegetation within the reserve are to be retained and protected during the construction phase.
- 1.19 Only a qualified professional is permitted to perform works on the City's existing trees and vegetation.

**Advice Notes:**

1. The applicant is to be aware that the subject land is located in a high groundwater table area. Treatments such as subsoil drainage may be required to prevent any increase to groundwater table levels on adjoining properties.
2. It is the applicant's responsibility to ensure that all required approvals are obtained prior to the works commencing. Works such as de-watering, native vegetation clearing or working near existing infrastructure may require separate approvals from relevant private or government agencies.
3. Prior to works commencing, the applicant is required to obtain a works and thoroughfare permit for any works within Council land other than a crossover.

A permit application form can be obtained from the City's website [www.bunbury.wa.gov.au](http://www.bunbury.wa.gov.au)

4. The City of Bunbury advises that the development, the subject of this planning approval, must comply with the *Environmental Protection Act 1986* and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.
2. Advise the applicant and the submitter of its decision.

**Background**

Council at its Ordinary Meeting of 10 December 2013 resolved (Decision 383/13) as follows:

- "1. That Council authorise the CEO to implement a temporary arrangement to utilise portion of the Jubilee Road reserve to accommodate overflow car parking associated with the Bunbury Farmers Markets;
2. That the CEO be authorised to advertise the proposal and take all administrative action required to effect the temporary solution; and
3. That a further report to Council be provided in January 2014 outlining a more permanent solution."

Subsequent to Council Decision 383/13 mentioned above, the City and the Erinom Pty Ltd t/a Bunbury Farmers Market entered into an agreement (Memorandum of Understanding) on 11 December 2013 in relation to a temporary use of Jubilee Road reserve and Closure of Thoroughfare - portion of Jubilee Road, Glen Iris to facilitate for overflow car parking at the site (the location plan is **attached** at Appendix DPDS-1).

The temporary car parking has been established and operational on the portion of Jubilee Road immediately adjoining to Lot 1 Vittoria Road (Bunbury Farmers Market) – refer to **attached** photo at Appendix DPDS-2.

TME, acting on behalf of the landowner, has submitted a formal development proposal for the construction of car parking on a portion of Jubilee Road immediately adjoining Lot 1 Vittoria Road (the parking proposal is **attached** at Appendix DPDS-4). The proposal includes the following specific works on site:

1. The provision of 54 angled car parking bays;
2. A 4.3m wide one way access to the car parking site;
3. A 2m wide dual use path (north);
4. Fence around the proposed car parking area;
5. Landscape screening; and
6. Bollards and a hazard board to prevent direct vehicular access to the site from Jubilee Road.

In addition, the applicant has also submitted a proposal for the Closure of Thoroughfare – Jubilee Road reserve. This report specifically deals with the proposed Development Application for car parking (DA/2013/384/1). The road closure proposal will be dealt with City’s property section as required.

### **Council Policy Compliance**

The City’s Local Planning Policy (LPP) – *Access & Parking for Pedestrians, Bicycles and Vehicles* is the relevant Policy in this case. Clause 8.14.1 of the Policy specifies that Council may grant planning approval for car parking bays within a road reserve subject to certain conditions. It is considered that the proposal is generally in line with the Policy. The practical approach to resolve the parking issue near and around Bunbury Farmers Market has led to the use of the road reserve as an alternative i.e. initially as a temporary arrangement with a view to formalise it with a formal planning application process in the future. The current proposal is for a permanent car parking arrangement within a portion of Jubilee Road reserve through a lease agreement between the City and the owner.

### **Legislative Compliance**

Clause 3.4.1 of TPS 7 provides as follows:

*“A person must not –*

- (a) use a Local Reserve; or*
- (b) commence or carry out development of a Local Reserve,*

*Without first having obtained planning approval under Part 9 of the Scheme.”*

TME, on behalf of the landowner, has submitted a planning application for proposed car parking on a Local Reserve – Access Road (on a portion of Jubilee Road) in accordance with the Scheme requirements.

The proposal was advertised for public comment in accordance with Part 9 of the Scheme, and therefore satisfies the statutory process as required.

### **Officer Comments**

The western portion of Jubilee Road terminates in a dead end in front of the newly opened Bunbury Farmers Market – Lot 1 Vittoria Road. The use of this portion of the road reserve for car parking is an ideal alternative compared to other possible sites to alleviate the car parking issue relating to Bunbury Farmers Market.

The current Scheme (Scheme Map) shows the subject site as a Local Reserve (Access Road). The use of a Local Reserve as car parking can be considered for approval by Council in a similar fashion as on-street vehicle parking for the purpose of the Scheme (an extract of the Scheme Map showing the road reserve is **attached** at Appendix DPDS-4).

A total of 15 submissions were received during the advertisement period (**attached** at Appendix DPDS-5) out of which 11 (73.33%) support the proposal, 3 (20%) of the submitters support the proposal with changes while 1 (6.67%) object to the proposal. Some of the proposed changes have been incorporated as development conditions.

Aqwest has requested that the water mains be relocated outside of the works area in the utilities corridor. It is considered that the Aqwest request is onerous given that that this portion of land still remains under City's control (only lease agreement with the owner). Access to Aqwest facilities within the road reserve will be maintained as required be it as a dedicated road or a car parking site. Having said this however, the owner/occupier will be required to allow unrestricted access to Aqwest water mains at all times within the proposed car parking area (condition added).

The amenity of the surrounding residents will be protected by traffic restriction measures that will be in place under the proposal. The development plan shows the erection of a hazard board, series of bollards, landscaping strip and fence. It is considered that the proposed traffic preventive structures at the eastern end of the proposed car parking site and the landscape strip will prevent direct vehicular access to the site, and therefore protect the surrounding residents in terms traffic related issues. In general, it is considered that the surrounding residents are satisfied with the proposed car parking arrangement on site and the vehicular restriction measures that will be installed to prevent through traffic.

The City and the owner have been working cooperatively to alleviate the car parking issue on site. It is considered that the temporary car parking arrangement on the Jubilee Road reserve has contributed to some extent to alleviate the car parking issue on site and in the immediate locality. However, the magnitude of the parking problem experienced on site necessitates a more permanent solution, and therefore dedication of the portion of Jubilee Road for car parking as proposed is considered appropriate.

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

It should be noted that there will be a financial gain to the City from the lease arrangement with the owner.

### **Community Consultation**

The proposal was advertised from 15 January 2014 to 28 January 2014. At the end of the public consultation period, 15 submissions were received with only one objection to the road closure.

A summary of the major issues highlighted during the advertisement period include the following:

- Object road closure on grounds that limited information supplied – *not a valid reason, as sufficient information provided for public comment.*
- Litter to be prevented – *condition added*
- Raise and widen footpath - *dual use path will be constructed in accordance with City's requirements*
- The need for relocation of Aqwest water main – *it is considered that this request by Aqwest is onerous given that the land tenure will not be changed as a result of the current proposal. It is also considered that the construction of car-parking on the road reserve will not restrict Aqwest to access water mains - condition added in this regard.*

### **Councillor/Officer Consultation**

The proposal has been discussed divisional staff.

### **Delegation of Authority**

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

### **Relevant Precedents**

Previously, the City allowed car parking bays on road reserves e.g. Plaza Shopping Centre, Citygate and on Plaza Street. In addition, most recently Council has supported a temporary car parking area on a portion of Jubilee Road reserve for Bunbury Farmers Market, which is now the subject this planning application for a permanent car parking arrangement (through a lease arrangement).

### **Conclusion**

The car parking issue regarding the Bunbury Farmers Market development site and in the immediate locality requires a practical and permanent solution. The current proposal facilitates the provision of 54 car parking bays on a portion of Jubilee Road reserve. It is considered that the additional car parking bays will contribute to alleviation of the car parking issue, and therefore Council support is recommended.

### 10.5.2 Leschenault Inlet Masterplan

<b>File Ref:</b>	A05205
<b>Applicant/Proponent:</b>	Internal
<b>Author:</b>	Bob Karaszekwych, Director Planning and Development Services
<b>Executive:</b>	Bob Karaszekwych, Director Planning and Development Services
<b>Attachments:</b>	Nil.

#### Summary

The purpose of this report is to seek Council support to amend the Leschenault Inlet Masterplan (LIMP) adopted by Council on 11 June 2013, to incorporate a floating pontoon Heliport in Precinct 3 Bicentennial Square to accommodate emergency services; business visitation and tourism.

At the Council Meeting of 11 June 2013, Council resolved (Decision 165/13) to adopt the Leschenault Inlet Masterplan.

#### *Council Decision 165/13*

*That Council resolves:*

1. *To adopt the Leschenault Inlet Masterplan subject to:  
(a) Recommendations as at Appendix CEO-1 being endorsed; and  
(b) Actions as at Appendix CEO-1 being undertaken.*
2. *That a further report be provided to Council specifically focused on potential options and strategies for funding of any of the works identified on or before 30 July 2013.*
3. *A briefing package on the Masterplan be prepared to lobby both State and Federal Government for funds to help progress various stages of the Masterplan on or before 30 July 2013.*
4. *That submitters be advised.*

#### Executive Recommendation

That Council:

1. Supports an amendment to the Leschenault Inlet Masterplan, Precinct 3 - Bicentennial Square to incorporate a Heliport.
2. Publicly advertise the proposal and seek comment from appropriate aviation; safety; environmental; and maritime authorities, prior to any further consideration of the proposal.
3. Requests a report on any submissions received for the further consideration of Council.
4. Supports the Heliport as a project in the 2014/15 draft budget, for discussion purposes.

#### Background

The current practice of periodic helicopter joy flights at Luciana Park is potentially short-lived given Council approval to establish a Water playground at Luciana Park commencing with landscape improvements, in the near future; and the latent development potential for land opposite the Dolphin Discovery Centre.

### **Council Policy Compliance**

The Leschenault Inlet Masterplan is consistent with the following Council policies:

- A. Council Policy DWS-4 Provide Diverse Range of Activities and Facilities for Residents and Visitors states:

“To enhance the quality of life for visitors and residents of Bunbury through the provision of a diverse range of high quality and cost effective recreational; activities and or facilities.”

- B. Council Policy DCS-4 Integrated Planning states:

“Council is committed to achieving best practice and legislative compliance in its Integrated Planning Performance in which activities and services delivered by the City of Bunbury are aligned with community expectations and objectives”.

- C. Council Policy CEO-5 Economic Development states:

“To promote Greater Bunbury’s regional advantage and support the necessary conditions for sustained investment, growth and employment generation.”

### **Legislative Compliance**

Under the *Planning and Development Act 2005* the Western Australian Planning Commission (WAPC) has responsibility for the administration of the Greater Bunbury Region Scheme (GBRS). As the majority of the Inlet is reserved for Regional Open Space under the GBRS, the WAPC through the Department of Planning has both endorsed the preparation of the Masterplan and participated in the planning process. In addition, the Ministerial Taskforce for the Waterfront project had endorsed the preparation of the Masterplan.

### **Officer Comments**

The Masterplan has been designed to be implemented in manageable components over time, and this is expressed as Precincts. Precinct 3 – Bicentennial Square is partly zoned Regional Centre, and partly reserved Regional Open Space and Other Regional Roads, and abuts the Waterways reservation. The proposed location of the proposed floating pontoon Heliport is upon Regional Open Space. Given that changes to the LIMP are on Regional Open Space and if Council wants it endorsed by the WAPC, then it would need to demonstrate that appropriate consultation has been undertaken.

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

The financial and budgetary impact of implementation of this proposal is estimated to be between \$35,000 - \$50,000 depending on the actual design and fittings associated with the floating pontoon Heliport. A Heliport suitable to accommodate the larger emergency services helicopter requires a landing platform of 6 metres by 6 metres square and is reflected in the above cost. The floating pontoon is adaptable for a range of other social and cultural activities.

Council could choose to receive revenue from landing and other uses on the basis of user pays.

**Community Consultation**

It is intended to prepare a consultation strategy should Council support the proposal.

**Councillor/Officer Consultation**

The Executive Leadership Team is aware and supports of the proposal.

**10.5.3 Petition Report - Proposed Change of Use application of Tenancy 3D at the Homemaker Centre - LOT: 107 DP: 47979 #42 Strickland Street, South Bunbury**

<b>File Ref:</b>	P09230-22
<b>Applicant/Proponent:</b>	Kellie Piacentini - Rusticana
<b>Author:</b>	Laura Sabitzer, Planning Officer
<b>Executive:</b>	Bob Karaszekwych, Director Planning and Development Services
<b>Attachments:</b>	Nil.

**Summary**

The proprietor of Rusticana submitted a Petition containing 262 signatures for Council’s consideration that requested that Council support of the development application for the proposed Change of Use of Tenancy 3D, Homemaker Centre, Lot 107 #42 Strickland Street, South Bunbury and approve the application as a ‘Use Not Listed’ under the City of Bunbury Town Planning Scheme No. 7 (the Scheme).

At the Ordinary Council meeting on 18 February 2014, Council resolved to refuse the development application. The applicant, landowner and submitters have been advised by letter of Council’s decision.

The applicant has since submitted a proposal to the City for preliminary comments which proposes the relocation of the Rusticana business to an alternate location in Bunbury.

**Executive Recommendation**

That Council resolves to advise the applicant that the petition containing 262 signatures in support of the application for a Change of Use of Tenancy 3D, Homemaker Centre, Lot 107 #42 Strickland Street, South Bunbury was received by Council, and that the Council decision (56/14) resolved at the Ordinary Council meeting on 18 February 2014 remains.

**Background**

A development application for the Change of Use of Tenancy 3D at the Homemakers Centre was received in November 2013. The purpose of the application was to enable the relocation of Rusticana from its current premises on Victoria Street to the Homemaker Centre.

This application was assessed by the City’s officers and was advertised for public comment for 14 days. In total nineteen (19) submissions were received; six (6) comments of support, three (3) submissions of no comment/no objection and ten (10) comments of objection. At the Ordinary Council meeting on 18 February 2014 Council resolved to refuse the development application. The Council resolution (Decision 56/14) was as follows;

*That Council resolves to:*

1. *Refuse a development application for the proposed Change of Use of Tenancy 3D – Homemaker Centre at Lot 107, #42 Strickland Street, South Bunbury (application reference DA/2013/289/1) in accordance with City of Bunbury’s Town Planning Scheme No. 7, for the following reasons:*



- a. *The proposal falls within the definition of ‘Shop’ as contained in Schedule 1 of the City of Bunbury’s Town Planning Scheme No. 7. The use-class of ‘Shop’ is listed in Table No.1 – Zoning Table of the City of Bunbury’s Town Planning Scheme No. 7, as an ‘X’ (Not Permitted) use in the Mixed Business Zone (refer to Advice Note a).*
- b. *The proposed development is contrary to the City of Bunbury Local Planning Strategy for Activity Centres and Neighbourhoods.*
- c. *The proposed development is contrary to the objectives Western Australian Planning Commission’s Activity Centres for Greater Bunbury Policy and as such is not in accordance with Clause 10.2.1(e) of the City of Bunbury’s Town Planning Scheme No. 7.*
- d. *The proposed development does not represent orderly and proper planning and as such is not in accordance with Clause 10.2.1(b) of the City of Bunbury’s Town Planning Scheme No. 7.*

*Advice note:*

- a. *The City of Bunbury Town Planning Scheme No. 7 states, “The local government must refuse to approve any ‘X’ use of land. Approval to an ‘X’ use of land may only proceed by way of an amendment to the Scheme”.*
2. *Advise the applicant of Council’s decision.*

The applicant, landowner and submitters have been advised by letter of Council’s decision.

Further to Council determining the application, at the Ordinary Council meeting on 18 February 2014 Council also tabled the petition in support of the development application. Council’s decision (46/14) was as follows:

*Pursuant to Clause 6.10(2) 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.*

As per the above decision, the City’s officers have prepared this report in response to the submitted petition.

### **Legislative Compliance**

The petition was tabled by Council in accordance with the City of Bunbury Standing Orders 2012.

The development proposal was required to be in accordance with the provisions of the City of Bunbury Town Planning Scheme No. 7 and relevant policies.

### **Officer Comments**

The petition submitted by the proprietor of Rusticana requested that Council support the application for the proposed Change of Use of Tenancy 3D, Homemaker Centre, Lot 107 #42

Strickland Street, South Bunbury to, “*allow for the Rusticana to grow their business and improve the service to the community*”. It was requested that Council approve the application as a ‘Use Not Listed’ under the Scheme. The purpose of this petition was to demonstrate the support for the proposal and to request that Council approve the development application.

The petition was received by the City on 05 February 2014, prior to the Briefing Committee and Council meetings where this application was discussed and determined. The proprietor of Rusticana and the applicant, Planning Solutions addressed Council at these meetings and spoke in support of the proposed change of use.

Council determined the application at the Ordinary Council meeting on 18 February 2014 and resolved to refuse the development application. Council’s resolution was in accordance with the City’s recommendation on the development application.

If the applicant was aggrieved by Council’s decision, there is the avenue of applying for a review of the decision through the State Administrative Tribunal (SAT). Such application is to be submitted to the SAT within 28 days of Council’s decision.

At the point of time of writing this report, the applicant had submitted a proposal to the City’s officers for preliminary comment. It proposes the relocation of the Rusticana business to an alternate location in Bunbury. The City is currently reviewing this proposal.

### **Community Consultation**

The development application was advertised for public comment from 22 January to 05 February 2014 prior to the application being referred to Council for determination. In total, nineteen (19) submissions were received during the consultation period; six (6) comments of support, three (3) comments of No Comments/No Objections and ten (10) comments of objection. The main issues raised were in relation to the land use classification, supporting local business, the primacy of the CBD and factors influencing retailers moving from the CBD.

#### 10.5.4 Epacris Elbow Bunbury – State Administrative Tribunal

<b>File Ref:</b>	P13432
<b>Applicant/Proponent:</b>	Mainsail Properties Pty Ltd (Owner)
<b>Author:</b>	Bob Karaszewych, Director Planning and Development Services
<b>Executive:</b>	Bob Karaszewych, Director Planning and Development Services
<b>Attachments:</b>	Appendix DPDS-6 – Draft Policy Town Planning Appeal Applications for Review

#### Summary

The State Administrative Tribunal (the SAT) has issued directions that Council is required to consider if it wishes to defend its decision; appoint an independent planner; and locality witnesses (Councillors and residents) to defend Council's decision of 4 February 2014, wherein Council upheld its decision to refuse planning approval for construction of eleven (11) serviced apartments at Lot 517 Epacris Elbow, Bunbury.

The SAT directions require the City to furnish it with a Statement of Issues, Facts and Contentions and associated documents at the Directions Hearing, by 14 March 2014. Officers are seeking a deferment of the hearing to enable the Council to determine this matter on 18 March 2014.

#### Executive Recommendation

That Council:

- 1 Resolves to formally defend its decision by way of using an independent planning consultant; and continue to use the services of its legal adviser (McLeod and Associates) to finalise the matter through the State Administrative Tribunal.
- 2 Appoints Cr \_\_\_\_\_ and Cr \_\_\_\_\_ to the SAT hearing(s) at 11.00am on Friday 9 May 2014, Ocean Room City of Bunbury Civic Centre to represent the Council relating to issues, facts and contentions and associated evidence in respect of the matter.
- 3 Adopts Policy #: Town Planning Appeal Applications for Review procedures.

#### Background

Council considered this matter at its meeting on 2 July 2013 (Item 10.8 refers) to refuse to grant planning approval to Dynamic Planning and Developments Pty Ltd (Applicant) for 11 Multiple Dwellings at Lot 517 (No.4) Epacris Elbow, Bunbury. The applicant sought leave to appeal the decision to the State Administrative Tribunal (SAT) and a SAT mediation process was initiated.

Pursuant to section 31 Order of the State Administrative Tribunal Act 2004(WA), the SAT invited Council to re-consider its original decision, based on the fact that the appellant (had submitted revised plans with a view to satisfying Council's original concerns when Council had refused to grant planning approval.

On that basis, Council re-considered the matter on 4 February 2014 (Item 10.18 refers) wherein it resolved (Council Decision 41/14)

*Council resolves not to grant planning approval to Dynamic Planning and Developments for the proposed 11 serviced apartments at lot 517 (No. 4) Epacris Elbow, Bunbury for the reasons that the development application is:*

- 1. Contrary to the amenity of the matured residential community.*
- 2. Concerns relating traffic generation; waste collection and onsite parking for staff and visitors.*
- 3. Concerns surrounding matters of privacy of adjoining properties.”*

On 14 February 2014, the SAT re-considered the matter at a Directions Hearing. The appellant advised the SAT that they would proceed with a SAT review of Councils decision on the modified proposal submitted to Council on 4 February 2014.

The SAT issued Orders, requiring the provision of documentation along with the representation of expert witnesses.

Council’s legal advisor (who represented Council in the SAT Mediation process) has recommended:

- 1. “An independent planner will need to be appointed....”*
- 2. “The Mayor and Councillors should be aware of the fact that the matter is to go to a hearing in Bunbury on 9 May, and that it would be appropriate if at least one or two Council members was to be available to give evidence....”*
- 3. I suggest that it may be worthwhile in this case also to seek locality witnesses. Perhaps two witnesses from the locality, particularly people who made objections to the proposal could be enlisted....”*

#### **Officer Comments**

Officers consider that the most appropriate course of action would be for Council to appoint an independent planner, for the following reasons:

- To ensure that Council is seen to have fully defended its decision to those of public who objected to the proposed development and the public generally.
- To ensure that the position of planners employed by Council is not compromised from a professional perspective.
- To ensure that Council’s position is able to be fully supported, and to present the greatest chance of success at appeal.

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

To date, costs are \$15,000.

Further costs to defend Council’s decision (should Council determine to continue to engage its legal advisor (McLeod and Associates) and to appoint an independent consultant planner) are likely to be in the region of \$25,000.

Should Council determine to require Officers to represent its decision at the SAT hearing, costs would be absorbed within operational expenditure.

Should the SAT determine that the Council's actions are vexatious it may award the applicant's legal; expert witness; and consultants costs against the City, the actual costs are unknown, but would probably be costly.

### **Community Consultation**

There may be an expectation by submitters opposed to the development that Council should rigorously defend its decision - that may mean for it to engage an independent consultant planner and legal adviser to counter professional officer's recommendation contrary to Council's decision.

### **Councillor/Officer Consultation**

Officers have researched other Councils methods dealing with such circumstances.

The draft policy (**attached** at Appendix DPDS-6) articulates the approach the Council may choose to adopt in relation to matters referred to the SAT for decision.

The procedures deal with categories of decisions relating to SAT appeals:

- Decisions made under delegation.
- Decision made by Council aligned with the Executive Recommendation.
- Decisions made by Council which are contrary to the Executive Recommendation.

The latter category is representative of Council's decision.

The suggest procedures are:

- Both the Mover and Seconder of the Motion to attend the SAT hearing(s).
- Where this is not possible, the CEO would appoint a planning consultant or advocate acting on Council's behalf.
- Council officers to supply all necessary information to the nominated Member of Council consultant or advocate.

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

### **10.6.1 Withers Advisory Committee – Terms of Reference**

<b>File Ref:</b>	A05937
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Phil Harris, Director Works and Services
<b>Executive:</b>	Phil Harris, Director Works and Services
<b>Attachments:</b>	Nil

#### **Summary**

The adopted Terms of Reference for the Withers Advisory Committee requires amendment to reflect that a Withers Community Reference Group does not exist.

#### **Executive Recommendation**

That Council approve the modified Terms of Reference for the Withers Advisory Committee:

1. To review and progress the Withers Action Plan.
2. Make priority recommendations to Council.
3. Receive information from Council and the Withers community to assist decision making.
4. To provide stronger community relations in Withers

#### **Background**

The Terms of Reference for the Withers Advisory Committee was originally endorsed by Council as part of Council Decision 350/13 as follows:

1. To review and progress the Withers Action Plan.
2. Make priority recommendations to Council.
3. Receive information from Council and the Withers Community Reference Group to assist decision making.
4. To provide stronger community relations in Withers

A Withers Community Reference Group was originally proposed as part of the Withers Urban Renewal Strategy and considered during the development of the original Terms of Reference for the Withers Advisory Committee. With the formation of the Withers Advisory Committee, the composition of the Committee has representation from Withers Action Group, Withers Community members and Elected Members.

At its inaugural meeting, the Withers Advisory Committee endorsed the following Terms of Reference

1. To review and progress the Withers Action Plan.
2. Make priority recommendations to Council.
3. Receive information from Council and the Withers Community to assist decision making.
4. To provide stronger community relations in Withers.

The error was noted by a committee member at the 14 February 2014 Withers Action Committee meeting.

**Council Policy Compliance**

Not Applicable

**Legislative Compliance**

Subdivision 2 of Division 2 of Part 5 of the Local Government Act 1995 deals with the establishment of committees.

**Officer Comments**

Council Decision 34/14 provides the Withers Advisory Committee with delegated Authority and as such the City of Bunbury Standing Orders are applicable.

The meetings are open to the public with provision for public question time and access to the agenda and minutes available on the City website.

**Analysis of Financial and Budget Implications**

Not Applicable

**Community Consultation**

Not Applicable

**Councillor/Officer Consultation**

The requirement to amend the Terms of Reference have been discussed with Cr Haywood and senior City officers.

### 10.6.2 Decisions from Withers Advisory Committee Meeting 14.02.14

<b>File Ref:</b>	A05937
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Phil Harris, Director Works and Services
<b>Executive:</b>	Phil Harris, Director Works and Services
<b>Attachments:</b>	Nil.

#### Summary

This report details the decisions made at the Withers Advisory Committee Meeting 14 February 2014 and request for approval to transfer \$129,000 from the Withers Reserve to complete the projects endorsed by the Withers Advisory Committee.

#### Executive Recommendation

1. That Council note the following decisions made under delegation at the Withers Advisory Committee Meeting 14 February 2014.

#### WAC Decision 2/14

1. *The location of new Bus Shelters at the following location in order of priority:-*
  - (A) # 71903 Ocean Drive to Nampup Street
  - (B) # 71936 Davenport Way after Hooper Place
  - (C) # 71960 Rendell Elbow after Lockwood Crescent
  - (D) # 79161 Sweeting Way after Rendell Elbow
  - Remove # 71953 Davenport Way before Hooper Place from the list*A report to be provided reviewing the status of the bus shelters listed for upgrade and review the usage.*
2. *The location of the Public Access Way Lighting as per the following in order of priority:-*
  - (A) Jacaranda Court and Hudson Road
  - (B) Jacaranda Close and Davenport Way (A)
  - (C) Plowers Place to Moriarty Park (B)
  - (D) Craven Court to Lockwood Crescent (I)
  - (E) Whatman Way to Littlefair Drive (J)*Remove Whitley Place and Hudson Road as laneway has light and is next due for closure process*

#### WAC Decision 4/14

*That the committee approves the construction of the following paths:-*

- Construct New Path Devonshire Street \$170,000
- Construct New Path Littlefair Drive \$105,000
- Construct Path connecting PAW (F) to
  - Jacaranda Place to Hudson Road path \$9,000

#### WAC Decision 5/14

*That the committee not fund the Graffiti wall at this point*



WAC Decision 8/14

1. *That the committee approve the upgrade of Moriarty Park (\$40,000) and DC Foster Park (\$35,000) as Withers Action Plan projects*
2. *The City provide a proposed expenditure list for review, comment and direction to the Withers Advisory Committee*

WAC 9/14

*That the committee endorse the closure of the Public Access Way that links Whitley Place to Hudson Road (E) subject to the following*

1. *Council approve the expenditure of \$10,000 to terminate the existing gas main within the Public Access Way*
  2. *Lighting and CCTV coverage of the Public Access Way (F) that links Whitley Place to the reserve behind the Withers Library*
  3. *The construction of a path complaint with Access provision linking the Public Access Way between Whitley Place (F) and the reserve behind the library*
  4. *A fence preventing access to the rear of the Withers library be construction*
  5. *A further letter drop to nearby residents detailing the proposal to close this Public Access Way occurs.*
2. That Council approve the transfer of \$129,000 from the Withers Reserve to fund Withers Action Plan projects in 2013/2014.

(Absolute majority required)

**Background**

Council Decision 34/14 gave delegated authority to the Withers Advisory Committee. The delegation was restricted in part by

- a. Any actions which require an absolute majority of Council cannot be actioned by the Committee.
- c. A report is to be provided to Council outlining any decision made under delegation

This report details the decisions made under delegation.

Any expenditure from the Withers Reserve is required to be endorsed by Council. The total value of projects endorsed by the Withers Advisory Committee at the meeting on 14 February 2014 is \$429,000. The Withers Action Plan has an annual allocation of \$300,000. This report requests that Council approve the transfer of \$129,000 from the Withers Reserve.

**Council Policy Compliance**

Not applicable

**Legislative Compliance**

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

### **Officer Comments**

The Withers Advisory Committee has approved projects that can be delivered this financial year with procurement of works well progressed. It is anticipated that onsite works on the construction of the approved paths and solar lighting will commence in March with other projects commencing as soon as materials are available.

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

The projects approved under delegation are from the Withers priorities.

PR-3258 Construct Paths	\$284,000
PR-3619 Upgrade Moriarty and DC Forster Parks	\$ 75,000
PR-3257 Install Bus Stops/ Shelters	\$ 25,000
PR-3254 Install PAW Lighting	\$ 25,000
PR-3435 Close 10 Public Access Ways in Withers	\$ 20,000
Total	\$429,000

This will require a transfer of \$129,000 from the Withers Reserve.

### **Community Consultation**

The Withers Advisory Committee plays an active role in the community consultation. In addition the City has undertaken letter drops and provided information and feedback opportunities on our website and Facebook page.

### **Councillor/Officer Consultation**

Not Applicable

### 10.6.3 Naming of Point Parker

<b>File Ref:</b>	R00561-12
<b>Applicant/Proponent:</b>	Lloyd Parker
<b>Author:</b>	Alison Baker Executive Assistant Works and Services
<b>Executive:</b>	Phil Harris, Director Works and Services
<b>Attachments:</b>	Appendix DWS-1 – Location Plan Appendix DWS-2 and DWS-3 – Letters from Mr Parker

#### Summary

Mr Lloyd Parker has requested that Council consider naming the area on the south east corner of 'Lucianna Park' as Point Parker.

#### Executive Recommendation

That Council endorse

1. The naming of the area on the south east corner 'Lucianna Park' as 'Point Parker'
2. Request Geographic Names Committee (Landgate) approve the name 'Point Parker'

#### Background

Mr Lloyd Parker on behalf of the Parker family requested a street be named 'Parker' in honour of the family's long standing connection to Bunbury. The original request is based on the Parker family residing in Bunbury for over 110 years. Kenneth Parker was a State champion cyclist and owner Parker Bike Shop in Bunbury for more than 40 years. Other members of the family have been volunteer firemen, sportsmen (cycling and football) including captain/coach and life member of South Bunbury Football Club.

Council considered the request at the 22 January 2013 Meeting – Council Decision 20/13:-  
*Council endorse the addition of the name 'Parker' to the City of Bunbury Reserve and Street Name Register.*

Part of the procedure to have the name registered on the City of Bunbury Reserve and Street Name approval is sought from Geographic Names Committee (Landgate). The Geographic Names Committee (GNC) rejected the name 'Parker' for a street name in Bunbury as there were at the time fifty-one (51) roads in Western Australia and the Geographic Names and Policies and Standards allow of a maximum of fifteen (15) duplicated names.

Former Mayor Smith offered the family the alternative to have a park or reserve named in honour of the Parker family. GNC advised that names for reserves or parks are only considered when an area is identified.

Mr Parker requested that Council consider any unnamed reserves or parks surrounding the Leschenault Inlet be named in honour of the family.

Coincidentally a request was received to supply the history on the name of 'Lucianna Park' along Koombana Drive. A location map is **attached** at Appendix DWS-1. GNC was contacted and advised that 'Lucianna Park' is not an approved name for the area. Council officers have not been able to find any history on the name, despite it appearing in several State Government reports. To have

the name approved by GNC the history and reason of the name would need to be provided. As Council does not have this information 'Lucianna Park' cannot be officially named.

Given that the area known as Lucianna Park is the site identified in the Leschenault Inlet Master Plan for potential future Water Park development officers considered naming Lucianna Park may be premature at this stage.

Mr Parker has provided two letters **attached** at Appendices DWS-2 and DWS-3 that detail the connection that the Parker family have to the land surrounding the Leschenault Inlet.

#### **Council Policy Compliance**

The proposal does not contravene any Council policies or work procedures. All applications are to be resolved by Council for addition to Council's Reserve and Street Name Register.

#### **Legislative Compliance**

Nil

#### **Officer Comments**

Mr Parker has specifically requested an area surrounding Leschenault Inlet and prior to discovering 'Lucianna Park' was not an approved name there was no unnamed reserve or park that could be named in the Parker family's honour. Mr Parker has confirmed that naming the south east corner of Lucianna Park would be suitable.

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

The cost of a sign for the point would be in the vicinity of \$200.

#### **Community Consultation**

There has been no community consultation on this item.

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

Staff from Planning and Development and Contracts and Property have been consulted regarding the history of the name 'Lucianna Park'. Councillor Judy Jones was also consulted upon the history of the name.

#### 10.6.4 Turkey Point Toilet Block

<b>File Ref:</b>	F00098
<b>Applicant/Proponent:</b>	Internal
<b>Author:</b>	Phil Harris, Director Works & Services
<b>Executive:</b>	Phil Harris, Director Works & Services
<b>Attachments:</b>	Nil.

##### **Summary**

The toilet block at Turkey Point is the most vandalised and problematic public convenience in the City. The facilities are in such poor condition that the option of removing the infrastructure needs to be considered.

##### **Executive Recommendation**

That Council approve the demolition and removal of the toilet facilities at Turkey Point

##### **Background**

The Turkey Point toilet facilities comprising two waterless composting toilets and water tank, internal and security lighting were constructed in 2007 by Landmark Engineering at a tendered price of \$52,930. Unfortunately the project was never completed due to the imminent decommissioning of the Port Authority houses, associated Western Power Infrastructure and high cost to have a dedicated supply to the toilet block

As part of the construction a separate tender was let to Swispec for \$32,759 for the supply of 370 metres of overhead and underground reticulated power and associated works at the site. An allowance was also made as part of the tender to provide internal and external lighting and a 6 metre lighting tower. Due to the infrastructure changes at the time these works were not completed and have since been vandalised. The design proposal allowed for water to be harvested from the roof for storage into a 1000 litre tank during the winter months with a nearby bore providing water when the tank was empty. The water services were never connected.

The fenced off area at the rear of the building housing the water tank and access to the waste composting tanks was demolished and the tank stolen within a month of commissioning. A replacement tank was installed and locked in the second toilet cubical which had been extensively damaged by vandalism requiring decommissioning.

The remaining toilet has had all fittings replaced on numerous occasions and in one instance in 2009 repairs cost approximately \$5,500.

##### **Council Policy Compliance**

Not Applicable

##### **Legislative Compliance**

Not Applicable

**Officer Comments**

The Turkey Point area is a popular fishing and recreational area that because of its remoteness attracts a considerable amount of anti-social behaviour by a minority. This has been recognised by both the City staff and the Bunbury Port Authority during discussions on future land use planning for the Turkey Point area.

Replacement options have been considered with emphasis on a vandal proof concrete structure utilising the existing composting tank subject to refurbishment. Solar lighting could be provided however given past experiences at the site the likelihood of the solar panel remaining in place is not good. Water for hygiene purposes and cleaning would need to be transported to the site at least weekly, the small size of the roof and run off over winter could not be relied upon to fill the tank. Even with these measures in place an act as simple as leaving the tap on can empty the tank, past experience is that the tap is more likely to be stolen, as it is now. Personal hygiene for people using this facility will always be an issue.

**Analysis of Financial and Budget Implications**

The cost to construct a very basic four walled concrete structure is in the vicinity of \$70,000. Replenishing of the water tank, cleaning and special maintenance, this would be in the vicinity \$17,500.

The cost to demolish and remove the existing infrastructure is estimated to be in the vicinity of \$2,000.

**Community Consultation**

While no community consultation has taken place relating to the potential to remove the toilet block there are regular complaints about the condition of the facilities.

**Councillor/Officer Consultation**

Consultation at this stage has been confined to officer level.

## 11. Applications for Leave of Absence

### 11.1 Request for Leave of Absence – Councillor McNeill

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

#### **Summary/Background**

Councillor McNeill requests leave of absence from all Council-related business from 1 April 2014 to 6 April 2014 inclusive.

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

#### **Executive Recommendation**

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor McNeill is granted leave of absence from all Council-related business from 1 April 2014 to 6 April 2014 inclusive.

## **12. Motions on Notice**

At the time of printing, no Motions on Notice had been submitted.

## **13. Questions on Notice**

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

Nil.

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

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

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

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

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

## **16. Closure**