



Bunbury City Council

Notice of Meeting and Agenda 4 March 2014

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CITY OF BUNBURY
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Western Australia

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GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
1:100	Ratio of 'one in one hundred'
AD	Acceptable Development
ARI	Annual Recurrence Interval
AHD	Australian Height Datum
ANEF	Australian Noise Exposure Forecast
AWARE	All West Australians Reducing Emergencies (grant funding)
BCA	Building Code of Australia
BCCI	Bunbury Chamber of Commerce & Industries
BCRAB	Bunbury Community Recreation Association Board
BEAC	Built Environment Advisory Committee
BESAC	Bunbury Environment and Sustainability Advisory Committee
BHRC	Bunbury Harvey Regional Council
BPA	Bunbury Port Authority
BRAG	Bunbury Regional Art Galleries
BRAMB	Bunbury Regional Arts Management Board
BREC	Bunbury Regional Entertainment Centre
BSSC	Big Swamp Steering Committee
BWEA	Bunbury Wellington Economic Alliance
CALM	Department of Conservation and Land Management
CBD	Central Business District
CCAFF	Community Cultural and Arts Facilities Fund
CERM	Centre of Environmental and Recreation Management
CPI	Consumer Price Index
CSRFF	Community Sport and Recreation Facilities Fund
DADAAWA	Disability in the Arts Disadvantage in the Arts Australia, Western Australia
DAP	Detailed Area Plan (required by WA Planning Commission)
DCU	Development Coordinating Unit
DEC	Department of Environment and Conservation (formerly CALM)
DEWCP	Department for Environment, Water and Catchment Protection
DLI	Department of Land Information
DoE	Department of Environment
DOLA	Department of Land Administration
DoPI	Department of Primary Industry
DoW	Department of Water
DPI	Department for Planning and Infrastructure
DSR	Department of Sport and Recreation
DUP	Dual-use Path
ECT	Enforcement Computer Technology
EDAC	Economic Development Advisory Committee
EDWA	Education Department of Western Australia
EIA	Environmental Impact Assessment
EPA	Environmental Protection Authority
ERMP	Environmental Review and Management Program
ESL	Emergency Services Levy
FESA	Fire and Emergency Services Authority
FFL	Finished Floor Level
GBPG	Greater Bunbury Progress Group
GBRP	Greater Bunbury Resource Plan report
GBRS	Greater Bunbury Region Scheme
GL	Gigalitres
GRV	Gross Rental Value
GST	Goods and Services Tax
HCWA	Heritage Council of Western Australia
ICLEI	International Council for Local Environmental Initiatives
ICT	Information and Communications Technology
IP	Internet Protocol
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, **4 March 2014** at 5.30pm.



Andrew Brien
Chief Executive Officer
(Date of Issue: 27/02/2014)

Agenda 4 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.”*

6. Public Question Time

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

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

6.1 Public Question Time

6.2 Responses to Public Questions Taken 'On Notice'

Nil.

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

7.1 Minutes

7.1.1 Minutes – Ordinary Council Meeting

The minutes of the Ordinary meeting of the Bunbury City Council held 18 February 2014 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 18 February 2014 be confirmed as a true and accurate record.

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

File Ref:	Various
Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Various
Attachments:	Appendix MTBN-1 – Roadwise Meeting Minutes 4 December 2013 Appendix MTBN-2 – Community Access Meeting Minutes 7 February 2013

Summary

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

1. Title: Minutes – Bunbury Region RoadWise Committee 4 December 2013
Author: Rachel Griffiths, Engineering Technical Officer
Appendix: MTBN-1
2. Title: Minutes – Community Access Committee 7 February 2013
Author: Isabell Evans, Community Development Officer
Appendix: MTBN-2

Council Committee Recommendation

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

1. Minutes of the Bunbury Region Roadwise Committee of 4 December 2013.
2. Minutes of the Community Access Committee of 7 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*

8.4 *Council Delegates' Reports*

8.5 *Conference Delegates' Reports*

9. Method of Dealing with Agenda Business

10. Reports

10.1 *Recommendations from Advisory Committees*

Nil.

10.2 Chief Executive Officer Reports

10.2.1 Major Projects Update Report for the period 1 July 2013 to January 2014

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

Summary

The Major Projects update report (**attached** at Appendix CEO-1) provides an overview of Councils endorsed major projects for the period 1 July 2013 to January 2014.

Executive Recommendation

That Council receives and notes the circulated Major Projects update report as per Council Resolution 323/13.

Background

The Major Projects report is a positive tool to help effectively manage and report on current year Major Projects being undertaken by the City of Bunbury, and will be submitted to Council on a six weekly interval to allow time for works to be actioned.

The list of the projects identified in this report may not include a project update due to the timing of project delivery and consultation.

Council Policy Compliance

Not applicable

Legislative Compliance

Not Applicable

Officer Comments

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

Analysis of Financial and Budget Implications

Not applicable.

Community Consultation

There is no requirement for community consultation.

10.2.2 Review of Elected Member Representation – Proposed Reduction of Councillor Numbers

Applicant/Proponent:	Internal
Author:	Greg Golinski, Manager Corporate Performance
Executive:	Andrew Brien, Chief Executive Officer
Attachments:	Nil

Summary

The purpose of this report is for Council to endorse public consultation on the proposed reduction in the number of City of Bunbury Elected Members.

Executive Recommendation

1. Council endorse the undertaking of community consultation to obtain views on the following:
 - a) Pursuant to section 2.18(3) and clause 5(b) of schedule 2.2 of the *Local Government Act 1995*, advise the Local Government Advisory Board of its intention to reduce the number of Elected Members from twelve (12) to eight (8).
 - b) Withdraw two (2) Elected Members positions at each of the 2015 and 2017 ordinary local government elections, bringing the total Elected Member representation down to 8 Councillors plus the Mayor by 2017.
 - c) The reduction be progressed as a minor matter pursuant to clause 5(b) of Schedule 2.2 of the *Local Government Act 1995*.
3. Following the consultation period of 30 days, a further report be prepared for Council consideration at the Ordinary meeting of 29 April 2014.

Background

On 5 February 2009, the then Minister for Local Government (the Minister) announced strategies for local government reform based on a voluntary reduction in the number of individual Councils. Additionally, part of the reform agenda was that Councils' also reduce their Elected Member numbers to between six and nine.

At the Ordinary Council meeting held on 29 September 2009, Council endorsed the City's submission to the Minister's local government reform agenda. Council decision 199/09 of that meeting endorsed that submission, with an amendment to include the words *"If there is no amalgamation in the greater Bunbury region, then the City of Bunbury would not agree to reduce the current number of Elected Members."*

Furthermore, at the Council Committee meeting held 9 April 2013, Cr Cook moved a motion on notice that the *"City of Bunbury advise the Minister for Local Government that it plans to reduce the number of Elected members from 13 to 9 from the date of the October 2013 local government election."* This motion was lost, 3 votes to 7.

Council Policy Compliance

Not applicable

Legislative Compliance

Schedule 2.2 of the *Local Government Act 1995* sets out the process for a review of Elected Member representation.

Officer Comments

Schedule 2.2 of the *Local Government Act 1995* (the Act) sets out the process for a review of Elected Member representation.

In principle, Council has two options in this regard:

1. Retain the status quo and not seek to reduce the number of Elected Members; or
2. Agree to a reduction in Elected Member numbers over a defined period of time (numbers and time periods to be quantified).

Should Council agree in principle to a reduction in representation, the issues required to be addressed in this regard relate to:

- Issue 1: Should the proposed reduction be pending the results of a review of representation under clause 5(a) of Schedule 2.2?
- Issue 2: Should the proposal be dealt with as a minor matter under clause 5(b) of Schedule 2.2?
- Issue 3: How many positions should be withdrawn, and the timeframe to implement the proposal?

Comment – Issue 1

Clause 5(a) of Schedule 2.2 of the Act enables a local government to carry out a review of whether or not an order under section 2.18 of the Act should be made.

To undertake a review will require some time. The Act requires a public submission period of not less than six weeks, after which a report must be compiled and endorsed by Council, then sent to the Local Government Advisory Board for consideration.

Given that the City no longer has Ward representation, it is suggested that a formal review is unnecessary, as the only matter of contention is the ratio of Councillors to electors, with the other matters prescribed within Schedule 2.2 being irrelevant, namely: community of interest; demographics trends; physical and topographic features, and economic factors.

The City's current ratio of Elected Members to electors (excluding the Mayor) is 1:1773. A reduction to eight (8) Councillors would see this ratio change to 1:2660

Comment – Issue 2

Clause 5(b) of Schedule 2.2 of the Act enables a local government to propose to the Local Government Advisory Board that an order under section 2.18 of the Act should be made and progressed as a minor matter where public submissions need not be invited.

This approach forms part of the Executive Recommendation, and proposes that Council inform the Local Government Advisory Board of its intention to reduce Elected Member numbers and have the matter dealt with as a minor matter in accordance with clause 5(b) of Schedule 2.2 of the Act.

This will only require an absolute majority resolution of Council, with no public consultation required. The Board will then consider the proposal and make a recommendation to the Minister.

It is also important to note that if the Board considers that the proposed reduction is not a minor matter, it will instruct the City to undertake a review as per Issue 2.

Comment – Issue 3

The Executive Recommendation proposes a total reduction of four (4) Councillors over two (2) ordinary elections (2015 and 2017). This would ensure that following the 2017 ordinary election, the Council would comprise four (4) members with two (2) year terms, and four (4) members with four (4) year terms.

In the event that Council wishes to reduce representation from twelve (12) Councillors to eight (8) at a single ordinary election (2015), then it is suggested that a complete spill of Councillor positions take place to facilitate immediate equilibrium in relation to length of terms.

It is possible that such a scenario could still be undertaken without a complete spill of positions, although equilibrium in relation to length of terms could not be obtained until 2017.

Analysis of Financial and Budget Implications

A reduction of four (4) Elected Member positions would facilitate annual operational savings of \$102,000 (sitting fees plus allowances) or in excess of \$1M over a ten (10) year period.

Community Consultation

Community consultation is proposed to seek the views on the proposed reduction in the number of Elected Members.

Whilst there is not statutory requirement, it is envisaged that a submission period of 30 days be advertised to enable a sufficient period for comments to be received prior to a further report being submitted to the Ordinary meeting of 29 April 2014.

Councillor/Officer Consultation

The issue of Elected Member representation has been raised with the previous elected Council as referenced within this report.

10.3 Director Community Development

10.3.1 Bunbury Event Coordination Group – Appointment of Council Representative

File Ref:	A04444
Applicant/Proponent:	Internal Report
Author:	Stephanie Addison-Brown, Director Community Development
Executive:	Stephanie Addison-Brown, Director Community Development
Attachments:	Nil

Summary

On 18 February 2014, Council decided to establish a Bunbury Events Coordination Group 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).

This group has broad community and industry representation but also requires a Councillor representative. This report requests that Council appoint one Councillor to the Bunbury Event Coordination Group to serve on the group until October 2015.

Executive Recommendation

That Council:

1. Appoint Councillor _____ as Council's Representative on the Bunbury Event Coordination Group to serve until October 2015.

Background

Following an event review and community consultation process, Council made the following decision:

Council Decision 55/14

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.*

CARRIED

13 votes "for" / nil votes "against"

Council Policy Compliance

Not applicable.

Legislative Compliance

Not applicable.

Officer Comments

A meeting of the Bunbury Event Coordination Group will be convened once all the representatives on the group have been appointed and/or confirmed.

Analysis of Financial and Budget Implications

Not applicable

Community Consultation

The community have been invited to submit expressions of interest for the four community places and the one tourism industry representative place. Other groups listed have been asked to confirm who their representative will be.

Councillor/Officer Consultation

Council Decision 55/14 requires one Councillor to be appointed to the Bunbury Event Coordination Group.

10.4 Director Corporate Services Reports

10.4.1 Disposal of Lot 201 Mangles Street, South Bunbury

Applicant/Proponent:	Internal Report
Author:	Massimo Andreone – Manager Contracts and Property
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Appendix DCS-1 – Submission Received

Summary

At the Council Meeting held on 6 August 2013, a recommendation to engage SDEA Nominees Pty Ltd T/a Southern Districts Estate Agency (“the Agency”) to provide a marketing and sales service for the disposal of surplus commercial and residential freehold land owned by the City of Bunbury (“the City”), including Lot 201 Mangles Street, South Bunbury (“the Property”), was endorsed by Council, under Resolution Number 253/13.

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

This resulted in submission of a written offer to purchase the Property, via the Agency, from Shane Ball (“the Purchaser”), on 23 January 2014. The offer (“the Offer and Acceptance”) was accepted by the City on 28 January 2014, subject to statutory advertisement and Council endorsement, in terms of the provisions of the *Local Government Act 1995* (“the Act”).

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

As at the date of drafting of this Agenda Item, one submission, in response to local public notice of the proposed disposition was received from Mr Alan Summers, supporting the sale.

Executive Recommendation

1. That Council endorses the disposal and transfer of the Property to the Purchaser, in terms of the Offer and Acceptance dated 28 January 2014.
2. That Council records its decision and the reasons for such decision in the minutes of the Council meeting at which the said decision is made in terms of the provisions of Section 3.58(3)(b) of the Act, in terms of which:-
 - Council agrees to the disposition of the Property as surplus to the City
 - Council confirms the consideration to be received for the disposition

Background

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

A commission of 2.64% (inclusive of GST) of the actual selling price of the Property, was agreed with, and is payable to, the Agency, together with agreed marketing costs for picture signboards, advertising, and promotional flyers. All marketing and promotional costs due to the Agency, pertaining to the three residential lots, have already been paid to the Agency by the City pursuant to the sale and transfer of a previous residential lot, being Lot 200 Mangles Street, which settled on 10 February 2014, pursuant to Council Decision 37/14, with net proceeds of \$221,947.77 having been paid to the City

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

- Lot 201 Mangles Street, being 46 Mangles Street, South Bunbury – for 902m², \$170,000 inclusive of GST.

A Caveat (No.I314887) registered over the Property (as well as over Lot 200 Mangles Street), in December of 2002, in favour of the Bunbury Water Board, has been withdrawn from both Titles.

A 5 metre wide Deed of Easement for fire management purposes was registered over the Property on 23 June 2011 (Easement Burden for Fire Management Purposes L660610), being a condition under the Western Australian Planning Commission Application approval. The City is endeavouring to expunge the Easement, although the disposal is not conditional thereon.

The Agency held a multi-lot auction, in terms of the provisions of the Memorandum of Agreement concluded with the City, incorporating the Property, together with two other residential lots for sale, on 21 November 2013, without success. The Agency had at the time proposed a reserve price for the Property at auction, in sum of \$200,000.

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

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

- A purchase price for the Property in sum of \$205,000
- A deposit of \$1,000 to be paid within two (2) days of acceptance to be held by the Agency
- The balance of the purchase price to be paid on settlement date
- Settlement within thirty (30) days of the offer becoming unconditional
- Finance approval of 50% within thirty (30) days of acceptance
- The offer is specifically subject to Council approval to dispose of the lot within forty five (45) days from date of acceptance (by no later than 14 March 2014)

There is no Mortgage affecting the Property.

The deposit has been paid to the Agency, and the requisite finance approval is due by the Purchaser by no later than 27 February 2014.

Settlement is anticipated to take place prior to the end of March 2014.

Local public notice (“the Notice”) of the proposed disposition, in terms of the provisions of Section 3.58(3)(a) of the Act, was effected by advertisement in the Bunbury South Western Times newspaper issue dated 6 February 2014.

The Notice describes the Property; gives details of the proposed disposition, including the names of all parties concerned and the consideration to be received; confirms the fair market value of the disposition; and invites submissions to be made by members of the public, to the City, by no later than 4pm on 21 February 2014, being a date not less than two (2) weeks after the Notice was first given.

As outlined above, one submission has to date been received from Mr Summers, of 14 Mansfield Street, Bunbury, dated 10 February 2014, generally supporting the sale. A copy of the submission is **attached** at Appendix DCS-1.

Council Policy Compliance

There is no Council Policy applicable to this item

Legislative Compliance

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

Officer Comments

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

Council will need to consider all submissions received pursuant to publication of the Notice at the Council Briefing Session on 25 February 2014, and reach final determination at the Ordinary Council Meeting on 4 March 2014, prior to settlement.

Analysis of Financial and Budget Implications

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

- Southern Districts Estate Agency – Agents Commission:- \$5,412
- Slee Anderson and Pidgeon Trust Account – Costs and disbursements, \$612.55 plus GST.

A provisional amount of approximately \$1,000 would also be held by Slee Anderson and Pidgeon in trust pending possible adjustment of rates and taxes, leaving a net amount to be paid to the City in sum of approximately \$197,900

Community Consultation

Council did not require any community consultation; however, the submission from Alan Summers will be taken in consideration by Council, together with all further submissions that may be received by 21 February 2014.

Councillor/Officer Consultation

N/A

10.4.2 2014/15 Fees and Charges

Applicant/Proponent:	Internal Report
Author:	David Ransom, Manager Finance
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Appendix DSC-2 – Draft 2014/15 Fees and Charges Report Appendix DSC-3 – Advertisement

Summary

The fees and charges imposed by Council form part of the annual budget which is required by the *Local Government Act 1995* to be adopted between 1 June and 31 August each year for the coming financial year ending 30 June.

In developing the draft 2014/15 Annual Budget the amount of income that will be generated from fees and charges needs to be determined. A draft 2014/15 Fees and Charges report has been prepared (refer **attached** Appendix DSC-2) which lists all fees and charges and the estimated income that will be received. Council is requested to consider this report and give in-principal support to the 2014/15 fees and charges.

Council will still be able to amend any of the fees and charges under its control prior to the adoption of the budget in July 2014, but an indication of Council's acceptance now will assist in the preparation of next year annual budget.

It is proposed that the draft 2014/15 Fees and Charges report be made available for public comment. A copy of the advertisement that will appear in the local newspaper is **attached** at Appendix DSC-3.

Executive Recommendation

1. Council gives in-principal support to the 2014/15 fees and charges to assist in the preparation of the 2014/15 draft budget.
2. The proposed 2014/15 fees and charges are advertised for public comment.

Background

A draft 2014/15 Fees and Charges report has prepared for Council consideration. Council have discussed this document at a number of briefing sessions and feedback from Councillors has been included.

Council Policy Compliance

Not applicable.

Legislative Compliance

Legislation compliance is not required at this stage as the recommendation is only for 'in-principle' support for the proposed fees and charges in the 2014/15 draft budget.

Officer Comments

The draft 2014/15 Fees and Charges report lists all fees and charges, the estimated income that will be received and the increase from the previous year. All fees and charges have been reviewed and increased where possible to reflect the cost of providing each service/product or as determined by competing markets e.g. gym memberships. In some cases the fee or charge is determined by regulation and not by Council and therefore is unable to be amended.

Analysis of Financial and Budget Implications

There are no financial or budget implications as only in-principle support is requested from Council. Council will adopt the fees and charges as part of the annual budget in July 2014.

Community Consultation

The Executive Recommendation is to seek Council approval to engage in community consultation.

Councillor/Officer Consultation

The proposed 2014/15 fees and charges has been prepared by Executives and Managers. The draft 2014/15 Fees and Charges report was provided to Councillors at the Council Briefing Session on 28 January 2014 and reviewed at the Council Briefing Sessions on 25 February 2014.

10.4.3 Community Consultation on the Discussion Paper – ‘A Review of our Basis of Rating’

Applicant/Proponent:	Internal Report
Author:	David Ransom, Manager Finance
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Appendix DCS-3 – Advertisement Appendix DCS-4 – Discussion Paper

Summary

A discussion paper has been prepared on the basis of rating for the City of Bunbury (refer **attached** Appendix DCS-4). The document outlines the current rating strategy and also outlines various options for potential changes to Council’s current rating practices. These options include:

- Creation of a new rates category through the amalgamation of Residential Vacant Land and Non-Residential Vacant Land;
- Amalgamation of Mixed Business, Industrial, City Centre and Special Use rating categories;
- All differential rating categories set at 90% of the General Rate category ;
- No differential rates and all properties are rated on the same rate in dollar and minimum rate;
- Two differential rates – General and Vacant Land rating categories; and
- Two differential rates – General and Non Residential categories

It is proposed that the discussion paper be advertised seeking community feedback. The outcome of this public consultation will assist Council to determine an appropriate approach to its rating strategy for the 2014/15 Budget. A copy of the advertisement that will appear in the local newspaper is **attached** at Appendix DCS-3.

Executive Recommendation

1. The discussion paper ‘Review of our Basis of Rating’ is advertised for public consultation.
2. A report is prepared for Council on the feedback received from the above public consultation.

Background

Part of the process of preparing the Long Term Financial Plan and 2014/15 Budget is to review and possibly update the current rating strategy. The discussion paper, ‘Review of our Basis of Rating’ has now been prepared for Council consideration. Council have discussed this document at a number of briefing sessions and feedback from Councillors has been included.

Council Policy Compliance

There is no council policy requiring a review of the basis of rating, or public consultation of this review.

Legislative Compliance

There is no legislative requirement for Council to review its basis of rating.

Officer Comments

There is no single rating system that best suits or is preferred by all ratepayers. Which rating tools to use and the extent and details of their use is a choice that council needs to make having regard to a wide range of factors. It needs to be mindful of historic arrangements and the current and likely future circumstances and character of its community. Trade-off judgements inevitably need to be made. Consideration of the relative merits of various alternative options can help make this decision more objective and better able to be defended.

Modelling undertaken as part of this review suggests that it would be possible to make changes to improve Council's rating system without excessive volatility in rates paid by most ratepayers.

Analysis of Financial and Budget Implications

There are no financial or budget implications in seeking public consultation on the review of the basis of rating.

Community Consultation

The Executive Recommendation is to seek Council approval to engage in community consultation.

Councillor/Officer Consultation

The discussion paper, 'City of Bunbury Review of our Basis of Rating' was provided to Councillors at the Council Briefing Session on 28 January 2014 and further discussed at the Council Briefing Sessions on 11 and 25 February 2014. This document has been updated to include feedback provided from Councillors.

10.4.4 Financial Management Report for the Period Ending 31 January 2014

Applicant/Proponent:	Internal Report
Author:	David Ransom, Manager Finance
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Appendix DCS-5 - Statement of Comprehensive Income Appendix DCS-6 - Statement of Financial Activity Appendix DCS-7 - Statement of Net Current Assets Appendix DCS-8 - Balance Sheet Appendix DCS-9 - Capital Works Expenditure Summary

Summary

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

1. Statement of Comprehensive Income (**attached** at Appendix DCS-5)
 Actual Financial Performance to 31 January 2014
 - Actual operating income of \$43.16M is \$333K more than the year-to-date budgeted income of \$42.83M (refer explanation on next page).
 - Actual operating expenditure of \$24.08M is \$1.99M less than the year-to-date budgeted expenditure of \$26.07M (refer explanation on next page).
 - Actual operating surplus of \$19.08M is \$2.32M more than the year-to-date budgeted operating surplus of \$16.76M (refer explanation on next page).

2. Balance Sheet (**attached** at Appendix DCS-8)

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

	Year-to-date	Forecast
• Current Assets of \$32.03M includes:		
- Cash and Investments	\$23.98M	\$11.43M
- Rates	\$ 6.32M	\$0.25M
- Other Current Assets	\$1.73M	\$2.17M
• Current Liabilities of \$7.36M includes:		
- Trade and Other Payables	\$2.94M	\$5.40M
- Annual Leave and LSL Provisions	\$3.00M	\$3.46M
• Working Capital (Current Assets less Current Liabilities)	\$24.67M	\$3.04M
• Equity (Total Assets less Total Liabilities)	\$437.47M	\$414.78M

3. Capital Works (**attached** at Appendix DCS-9)
 - Actual capital works of \$12.12M is \$6.19M less than the year-to-date budgeted capital works of \$18.31M (refer explanation on next page).

Executive Recommendation

The Financial Management Report for the period ending 31 January 2014 be received.

Background

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

- Statement of Comprehensive Income (**attached** at Appendix DCS-5)
- Statement of Financial Activity (**attached** at Appendix DCS-6)
- Statement of Net Current Assets (**attached** at Appendix DCS-7)
- Balance Sheet (**attached** at Appendix DCS-8)
- Capital Works Expenditure Summary (**attached** at Appendix DCS-9)

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

Council Policy Compliance

Not applicable.

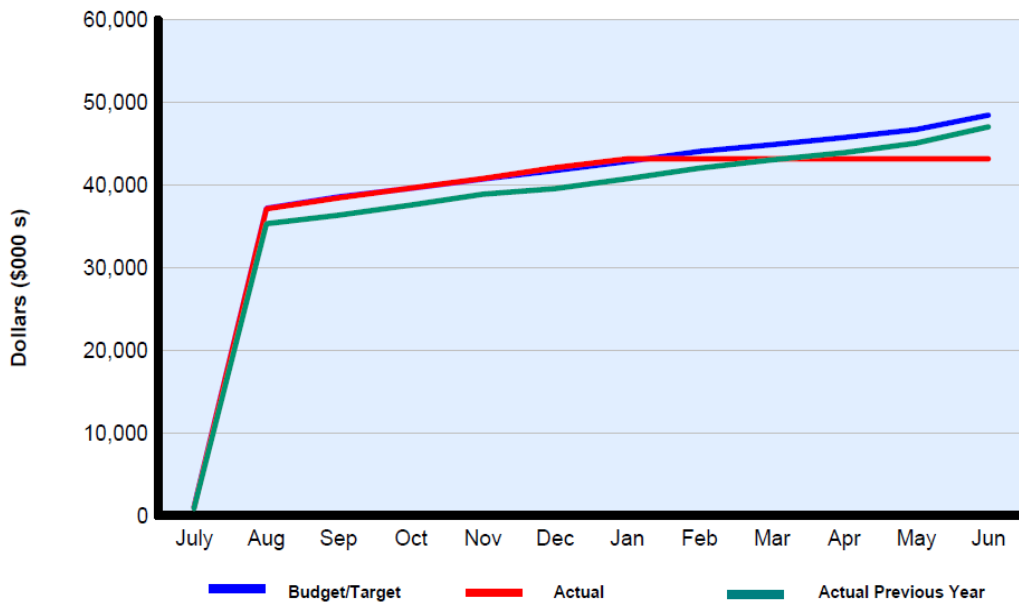
Legislative Compliance

In accordance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996, a Local Government is to prepare each month a Statement of Financial Activity (**attached** at Appendix DCS-6) reporting on the revenue and expenditure as set out in the annual budget under Regulations 22 (1) (d) for this month.

Officer Comments

The Operating Income, Operating Expenditure and Capital Expenditure graphs provide an overview on how actual income/expenditure is tracking to budget and the previous financial year. Comments are provided on each graph regarding the current financial position.

Operating income (\$'000's)

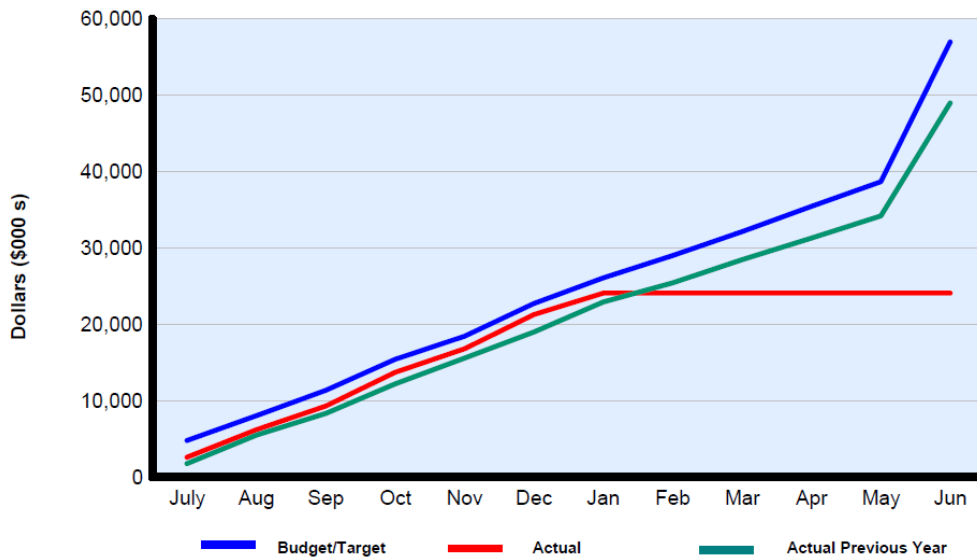


Note: Operating income includes: rates, fees and charges,

There is a favourable actual to budget-to-date variance of \$333K mainly due to \$103K Reimbursement Income, Fines and Penalties up \$73K, and \$126K Miscellaneous Fees and Charges income.

The draft February 2014 Budget Review forecast includes additional income of \$89K.

Operating expenditure (\$'000's)

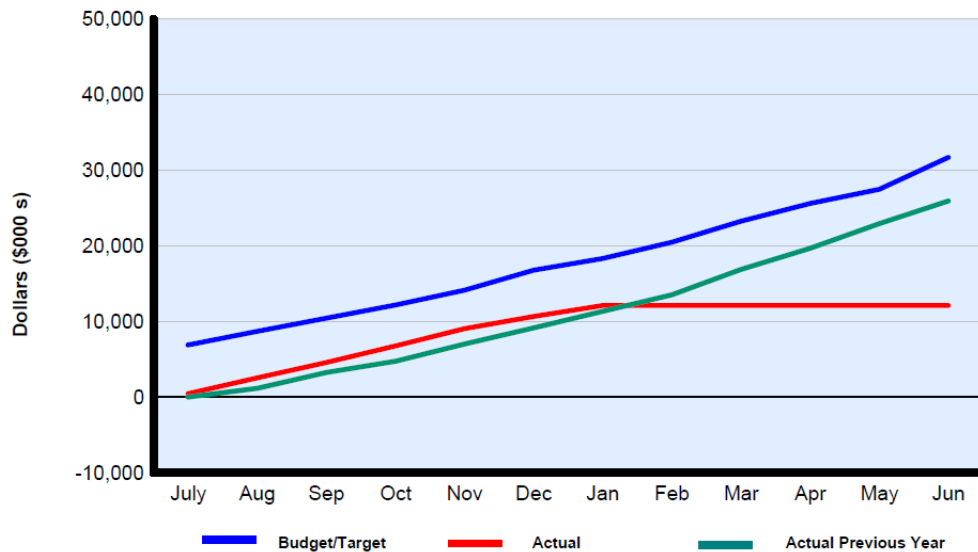


Note: Actual operating expenditure \$2M under the year-to-date budget due to the following:

Materials and Contracts \$1.7M
 Employee Costs \$110K

The February Budget Review is currently forecasting a reduction in expenditure of \$682K.

Capital Expenditure (\$ 000's)



Note: The capital expenditure variance to the end of January 2014 of \$6.2M is due to the delay in commencement or progress of various projects as reported in the monthly Capital Works Expenditure Summary Report to Council.

The draft February 2014 Budget Review proposes to decrease capital expenditure in 2013/14 by \$4.34M of which \$4.30M is deferring PR-1021 'Construct Hay Park South multi sports pavilion' to 2014/15.

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

Statement of Comprehensive Income	YTD Actual to YTD Budget Variance
Operating Expenditure	
Material and Contracts (Contract Employment Expense) – Contract employment expenses are higher than year-to-date budget estimates due to staff vacancies, workers compensation, employee leave, and using temporary agency staff in-lieu of contractors. The increase in contract employment expenses has been offset by savings in salaries and wages and contract labour and materials budgets.	(\$303,055) (756%)
Utilities (Gas Expense) – Cost of gas at the South West Sports Centre is currently \$17,789 greater than the year-to-date budget estimate. An end of year estimate has been calculated that will increase the current budget estimate by \$25,000. This revised estimate will be included in the February budget review for Council consideration.	(\$18,148) (14%)
Non Operating Income and Expenditure	
Grants and Contributions for the Development of Assets – Year-to-date budgeted grant income for the following projects have not yet been received: PR-1444 Implement the Hands Oval Master Plan Stage 1 (\$335,001) – Grant funds will be received following acquittal of project works. The acquittal has been delayed pending receipt of Western Power’s final claim for payment. It is anticipated that the acquittal will be finalised in February 2014.	(\$676,025) (18%)

<p>PR-1952 Renew Sykes boat ramp and jetty (\$140,389) – 50% of grant funds have been received. The balance is able to be claimed on completion of the project. The project is nearing completion.</p> <p>PR-3146 Obtain and install an electrical generator for the Administration building to provide emergency power (\$130,000) – Project not commenced.</p> <p>PR-1115 Reseal roads projects for Roads to Recovery 2013/14 (\$100,000) – The next Roads to Recovery quarterly report is currently due for submission. Payment will be received in March for works performed to date totalling \$98,184.</p>	
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Statement of Financial Activity	YTD Actual to YTD Budget Variance
Operating Revenues	
<p>Contributions, Reimbursements and Donation – Increase in current year actual income is reflective of the following reimbursements being received in excess of the current year-to-date budget amount:</p> <p>Maintain Bores (\$28,826) – Reimbursement has been received from Main Roads WA for the Eelup Rotary Bunbury bore upgrade. A new income estimate will be included in the February 2014 Budget Review that will be offset by an increase in associated expenditure.</p> <p>Insurance (\$44,478) – Insurance claim reimbursement income for 2013/14 is now forecast to be \$410K, an increase of \$25K on the current budget estimate. This new estimate will be included in the February 2014 Budget Review.</p> <p>Workers Compensation (\$36,934) – Reimbursement of wages associated with workers compensation claims is currently in excess of year-to-date budget. This account will be reviewed as part of the February 2014 Budget Review.</p>	<p>\$104,613 12%</p>
Operating Expenses	
<p>Material and Contracts – Actual expenditure is down on year-to-date budgeted expenditure as of 31 January 2014 over both base operating and operating project accounts. Ongoing review of base operating and project budgets has identified possible savings of \$685K that will be included in the February 2014 Budget Review for Council consideration. Remaining variance relates to works that will be completed during 2013/14.</p>	<p>\$1,719,703 19%</p>
Capital Revenues	
<p>Grants and Contributions for the Development of Assets – See explanation above included in the Statement of Comprehensive Income variances.</p>	<p>(\$676,025) (18%)</p>
Capital Expenses	
<p>Acquisition of Assets – Variance due to delay in commencement or progress of various projects. This variance includes projects carried</p>	<p>\$6,189,919 34%</p>

<p>forward from 2012/13 (\$2.02M) that are yet to be completed and the expansion of the Bunbury Regional Entertainment Centre (\$1.14M).</p> <p>The Capital Expenditure Report included at Appendix DCS-9 provides details of all projects and the expenditure progress versus year-to-date estimates for the project. All projects will be reviewed during February and any estimated changes to expenditure requirements will be included in the February 2014 Budget Review.</p>	
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Analysis of Financial and Budget Implications

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

Community Consultation

There is no requirement for community consultation on this report.

Councillor/Officer Consultation

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

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

10.5 Director Planning and Development Services Reports

10.5.1 Request to Initiate Scheme Amendment 73 – Proposed Rezoning of Lots 6, 7, 57, 58, 59 and 60 Strickland Street from “Residential Zone” to “Special Use Zone No. 58 – Commercial Mixed Use”

File Ref:	A00398
Applicant/Proponent:	City of Bunbury / Town Planning Management Engineering Pty Ltd (TME) on behalf of landowners of Lots 6, 7, 57 and 58 Strickland Street
Author:	Nicola Tagiston, Senior Strategic Planning & Urban Design Officer Kelvin Storey, Team Leader Integrated Land Use Planning
Executive:	Bob Karaszekwych, Director Planning and Development Services
Attachments:	Appendix DPDS-1 – Draft Scheme Amendment report

Summary

A submission has been received from Town Planning Management Engineering Pty Ltd (TME) seeking the rezoning of Lots 6, 7, 57, 58, 59 and 60 Strickland Street from “Residential Zone” with a residential density code of “R20/40” to a Special Use Zone in order to facilitate the redevelopment of the subject properties as a commercial mixed use precinct.

The subject land encompasses six (6) residential properties positioned on the north side of Strickland Street as identified within the draft Scheme Amendment report attached at Appendix DPDS-1. Situated directly east of the existing boundary of the Mixed Business Zone, the Special Use Zone as proposed would facilitate the development of a mixture of residential and non-residential uses including small to medium sized offices, shops and showrooms and a range of other commercial, medical or community uses as outlined in the proposed Scheme Amendment provisions. Typically this may take the form of predominantly ground floor commercial uses such as showrooms, with offices and dwellings on the first and second floors.

In preparing this Scheme Amendment proposal, care has been taken to ensure that Special Use Zone provisions to be included under Schedule 2 of the Scheme will establish land use requirements and development standards that are consistent with the objectives and provisions anticipated for the proposed mixed use zone(s) in advance of the formal introduction of a revised Scheme and draft Local Planning Strategy.

Executive Recommendation

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

1. Initiate proposed Scheme Amendment 73 to the City of Bunbury Town Planning Scheme by:
 - a) Inserting “single bedroom dwelling” as a new land use definition within Schedule 1 – Dictionary of Defined Words and Expressions;
 - b) Inserting additional text in the table under Schedule 2 – Special Use Zones at No. 58 with associated provisions included in the “Special Use(s)” and “Conditions” columns of the table;
 - c) Amending the Scheme Map by rezoning Lots 6, 7, 57, 58, 59 and 60 Strickland Street from “Residential Zone” to “Special Use Zone No. 58 – Commercial Mixed Use”.

as detailed in the Local Planning Scheme Amendment Report.

2. Notify the Western Australian Planning Commission (WAPC) of Council's decision to initiate proposed Scheme Amendment 73, and furnish the Commission with a copy of the scheme amending documentation prior to proceeding to public advertising.
3. Refer a copy of the proposed scheme amendment 73 documentation to the Environmental Protection Authority (EPA) and any other relevant public authority, for consideration and comment.
4. Subject to formal assessment not being required by the EPA and no objection received from the WAPC, proceed to advertise proposed Scheme Amendment 73 for public comment with a submission period of not less than forty two (42) days.
5. Following public advertising, the proposals and any public submissions lodged with the City during the advertising period are to be returned to Council for further consideration.

Background

In March 2012, a request for a Scheme Amendment was lodged by TME on behalf of the owners of Lots 6, 7, 57 and 58 Strickland Street, seeking an amendment across eight (8) landholdings extending east from the service laneway at Lot 33 Skewes Street, through to Lot 9 Strickland Street (corner Allen Street), to allow a range of commercial and mixed business uses. Following assessment by the City the applicant was informed that the Scheme Amendment could not be supported in its current form and that modification to the proposed mix and intensity of development would be necessary.

Since that time, as part of the Scheme review process the City has continued to refine approaches to the intended introduction of mixed use zoning (within the new Scheme) and has been informed by experience gained from detailed area planning that has occurred over Lots 73-81 Ward Street (Special Use Zone No.53 – Mixed Use). Benefitting from this additional information, the City provided updated planning advice to TME in June 2013 indicating that, subject to the application of appropriate development standards a commercially orientated mixed use outcome may be considered favourably on Lots 57-60 (inclusive) and 6-7 Strickland Street. A revised Scheme Amendment report was submitted by TME on 23 October 2013.

Strategic Relevance

The Special Use Zone and accompanying conditions have been prepared in a form that is expected to facilitate its seamless transition into a dedicated future Mixed Use Zone. Accordingly, the proposal not only has implications for how the subject site is developed and used, but also for how the City facilitates the development of mixed use outcomes under a revised Scheme.

Council Policy Compliance

The proposed Scheme Amendment is consistent with the City's Local Planning Strategy for Activity Centres & Neighbourhoods (LPS-ACN) which recommends mixed use outcomes as a transition between commercial and residential zones in key activity centres, activity corridors and existing residential 'Frame Areas'.

Local Planning Policy (LPP): Non-Residential Development within or adjoining Residential Areas identifies the subject lots within a 'Frame Area'. Facilitating certain forms of non-residential land use and development in this location is supported in principle where potential impacts upon local residential amenity can be appropriately managed.

Legislative Compliance

Proposals to amend a Local Planning Scheme are required to be undertaken in accordance with the *Planning and Development Act 2005* and associated *Town Planning Regulations 1967*. The proposed Scheme Amendment 73 report will need to be referred to the Environmental Protection Authority (EPA) and WAPC for their review prior to any formal public advertising period.

Once public advertising is concluded, should Council then resolve to adopt the Scheme Amendment, documentation together with the schedule of submissions and Council's resolution is to be referred to the WAPC for its endorsement and to the Minister for Planning for final approval and gazettal.

Officer Comments

The residential lots that comprise the scheme amendment proposal are:

- located within a current frame area
- adjacent to / opposite Mixed Business Zoning
- front a busy local distributor road

Existing 'Frame Areas' that act as an area of transition between commercial zones and residential zones are seen as primary candidates for the consideration of mixed use zoning. Within the confines of the current Scheme, where strong justification exists, designating 'Special Use Zones' can be seen as an interim step to achieving desirable mixed use outcomes. A commercially oriented mixed use Special Use Zone in this locality is considered appropriate in advance of the formal introduction of a dedicated mixed use zoning within the revised Local Planning Scheme.

Development standards proposed in conjunction with the Special Use Zone aim to establish appropriately scaled and compatible activities, encourage a quality streetscape, and protect the amenity of neighbouring residential properties to the rear and east of the site. A Local Development Plan (LDP) will be required to be adopted by Council prior to subdivision or development. A desired outcome of the LDP will be to encourage lot amalgamation and reciprocal access arrangements. The LDP is to include information or detail on development layout and arrangement of uses, building envelopes, development setbacks, traffic management, access and car parking, pedestrian movement, signage, landscaping and passive surveillance.

The draft Scheme Amendment Report has been prepared by the City, which addresses the technical matters arising from the proponents submission (incorporated into the amending document **attached** at Appendix DPDS-1).

Analysis of Financial and Budget Implications.

The Scheme Amendment procedure has no associated budgetary impact other than advertising.

Should the Scheme Amendment ultimately receive approval in its current form, an Infrastructure Implementation Plan would be required to be submitted prior to subdivision and/or development. This plan will identify required infrastructure improvements, allocation of responsibility for infrastructure provision and timing for provision of the required works.

Community Consultation

The proposed Scheme Amendment will be required to be advertised for public comment in accordance with the requirements of the *Planning and Development Act 2005* and associated *Town Planning Regulations 1967* for a minimum period of 42 days.

Landowner expression of interest correspondence was provided by the applicant within the original Scheme Amendment submission dating back to April 2011. The submitted Scheme Amendment proposal has substantively changed from the original submission, and the applicant has been advised to update landowners accordingly.

10.5.2 Crown Reserve R31823: Birch Street Beach Access to Ocean Drive and Playground

Applicant/Proponent:	Internal Officers Report
Author:	Director Planning and Development Services
Executive:	Bob Karaszekewych, Director Planning and Development Services
Attachments:	Appendix DPDS-2 – Aerial of Pedestrian Access Appendix DPDS-3 – Letter to Households Appendix DPDS-4 – Submissions Received

Summary

At the Council Meeting of 10 December 2013, Cr James Hayward submitted a Motion on Notice to consult with the local community adjacent to the Seaview Apartments (colloquially known as Fawltly Towers) on a proposal for a beach access walk and playground. Council resolved to consult with local community to gauge the level of community support for the proposal.

Executive Recommendation

That Council:

1. Not proceed to consider the proposal to construct a walkway and playground on part Crown Reserve R31823.
2. Consider the upgrade of the existing pedestrian path and handrail between the head of Joel Crescent thru to Ocean Drive as part of the 2014-15 draft budget review.
3. Authorise the CEO to approach Eternal Life Pty Ltd (the developer) requesting a monetary or in-kind contribution to the renewal of the existing Joel Crescent to Ocean Drive pedestrian access way.

Background

Council previously resolved (Decision 382/13):

That Council:

- a) Requests the CEO to consult with the local community to determine their specific aspirations for a small parcel of land area directly south of 'Fawltly Towers Development' to be utilised for the construction of an access way from Birch Street to Ocean Drive and for the development of an area for a small park with the remaining part of the Reserve R31823 being set aside as an environmental reserve with no further development.*
- b) Request the CEO to prepare costing's for the construction and maintenance of the proposed access way and small park.*
- c) Requests that the developers of the Fawltly Towers development be approached to contribute to the cost of the construction of the proposed access way and small park.*
- d) Request the CEO to submit a report to Council on these matters no later than end of March 2014;*
- e) Further consider these proposals as part of the 2014-15 annual budget deliberations.*

In support of Cr Hayward's motion:

"The intent of this motion is to allow council officers the ability to be able to commence works and negotiate with the developers of the Fawltly Towers Development in terms of a possible contribution to the cost of establishment.

The desire for the open space development came from a number of meetings with residents who shared concerns about the 'Fawltly Towers' rezoning application. During that process it became clear local residents had felt significantly aggrieved by the process.

Many concerns were raised some were immediately remedied, others are still a work in progress and some were not able to be resolved other than improved communication between the parties.

One project which the community clearly communicated was a request that an improvement to the amenity of the area, the reestablishment of a walkway from Birch Street and a possible park or recreational area was requested."

Council Policy Compliance/ Legislative Compliance

Not Applicable

Officer Comments

There is an existing bitumen walkway including hand rail between the head of Joel Crescent and Ocean Drive, albeit in need of renewal. This point of pedestrian access provides for good north-south sightline distance to safely cross Ocean Drive to the existing beach access walk (**attached** at Appendix DPDS-2), whereas the proposed location of the pedestrian access through the dune to Ocean Drive conflicts with vehicles leaving the Seaview Apartment development.

The proposal to construct a walkway access between Birch Street and Ocean Drive is estimated to cost \$35K-\$38K (not including ongoing maintenance) and will attract further costs towards the provision for and ongoing maintenance of vehicle parking bays in the Birch Street road reserve.

A playground with associated facilities on Birch Street is estimated to cost \$80K-\$100K.

Rehabilitation (dried brush placement on the local residents foot worn track through the dune; barricade material; signage and planting) is estimated to cost \$25,000 (\$5000 each year) over five (5) years.

The builder had earlier indicated his willingness to assist with the reinstatement of the former dune (closest to the development) that had been disturbed some years earlier by the previous builder, and a recent concerted effort has been made.

The development approval is not conditional upon the developer to make a monetary contribution for any capital works south of the development site, hence the developer cannot be compelled to make any monetary or in-kind contribution other than volunteering to contribute.

The draft new City of Bunbury Town Planning Scheme 8 has a preference for the entire Reserve as an environmental asset to the wider Bunbury community.

Accordingly to a local resident's submission, local resident foot traffic has worn a one (1) metre wide sandy track through the dune choosing the shortest and most direct route through the dune to Ocean Drive. This, resulting in the need for costly restoration works over five (5) years. Those residents could have chosen the existing bituminised access (incorporating a handrail) located between the head of Joel Crescent and Ocean Drive.

Analysis of Financial and Budget Implications

The above proposed works have not been included as Projects in the draft 2014-15 budget.

Community Consultation

On the 18 December 2013, a *To the Householder* letter was hand delivered to 73 households in Birch Street; Joel Crescent; and Ashford Place, **attached** at Appendix DPDS-3. The letter advised that submissions would be received until 31 January 2014, however this report includes all submissions received up to the preparation of this report on 18 February 2014.

Submissions (**attached** at Appendix DPDS-4) were received from:

1. Mrs Kim Fildes, 12 Birch Street South Bunbury

Summary of comments:

- Ask the owners of the Seaview Apartments to beautify the land as a way of "giving back" to the community surrounding the development.
- It is not the intention of residents to have the City foot the bill for this path/park; it was the intention for the developers to pay for it.
- No support for proposal if it meant an increase in rates.
- Residents have paved a path through the dune system and a proper path needs to be constructed to protect the dune.
- The developers ruined a portion of the dune system during the early days of construction.
- There needs to be accountability for damage to dunes and dumping of rubbish.
- A minimum of a safe path from Ocean Drive to Birch Street and rehabilitation of the dunes.
- There isn't a desperate need, but it would be greatly appreciated including its irrigation.

2. J & C Kemp, 4 Joel Crescent Bunbury

Summary of comments:

- It was never intended that the park/access path be a burden for the City but rather "compensation" by the developers for the mess they have made of this piece of land.
- The developers have the obligation to repair their damage at their expense; they could install a better path than previously existed and replant the natural vegetation that has been run over by heavy equipment.
- Anything more than this would be gratefully accepted and enjoyed by the neighbourhood.
- The council could think more carefully before they agree to put an aberration like this hotel development in the middle of a residential area.

3. Eternal Life Pty Ltd 470 Scarborough Beach Road Osborne Park Perth

Summary of comments:

- Eternal Life (developer) has stated “as confirmed in the Council meeting with residents (pre-Christmas) we support and will contribute to whatever is agreed upon for the immediate area south of our development”

Councillor/Officer Consultation

Council considered the Motion on Notice on 10 December 2013. Councillors had previously received representation from both objectors and the developer, in addition to undertaking site inspections for familiarisation with issues pertaining to both the original development approval and the more recent proposal to amend the planning scheme to reflect the intended use of the development for tourism and unrestricted residential accommodation and an incidental shop premises.

10.6 Director Works and Services Reports

10.6.1 Main Roads WA Support for Dedication of Road for Road Train Assembly

File Ref:	R00804
Applicant/Proponent:	Main Roads Western Australia
Author:	Jason Gick, Manager Engineering
Executive:	Phil Harris, Director Works and Services
Attachments:	Appendix DWS-1 – Main Roads WA General Layout Plan 201302-0375 Appendix DWS-2 – Land Dealings Plan 201302-0125

Summary

On 16 December 2013 the City of Bunbury received correspondence from Main Roads Western Australia (Main Roads WA) requesting Council support their request for dedication of land as road under Section 56 of the *Land Administration Act 1997*.

Executive Recommendation

Under Section 56 of the *Land Administration Act 1997* the Council concurs to the dedication of land as contained in Main Roads WA General Layout Plan 201302-0375 and Land Dealings Plan 201302-0125.

Background

Council is required to consider the dedication of land as contained in Main Roads WA General Layout Plan 201302-0375, **attached** at Appendix DWS-1 and Land Dealings Plan 201302-0125 (**attached** at Appendix DWS-2).

Main Roads WA is providing the area shaded grey as shown on Land Dealings Plan 201302-0125 (**attached** at Appendix DWS-2) for truck parking and road train assembly on Willinge Drive. The area is to be dedicated as road and will become part of Willinge Drive.

The proposed site is strategically located near the Bunbury Outer Ring Road and will allow road trains to break down on the outskirts of the City. Main Roads WA will manage and maintain the road train assembly area.

Council Policy Compliance

There are no Council Policies applicable to this report.

Legislative Compliance

The *Land Administration Act 1997* requires Council to formally consider support for the Main Roads WA request.

Officer Comments

MRWA is completing the legal actions for the purchase of the whole of the land comprised in Certificated of Title Volume 2784 Folio 504.

Analysis of Financial and Budget Implications

Main Roads WA will bear all costs in relation to the road dedication and will manage and maintain the road train assembly area.

Community Consultation

No community consultation is required for action taken under Section 56 of the Land Administration Act 1997.

Councillor/Officer Consultation

The Executive Team have considered the proposal and have no objections.

Relevant Precedents

Council has previously resolved similar dedication of land requests in compliance with Section 56 of the Land Administration Act 1997.

11. Applications for Leave of Absence

12. Motions on Notice

13. Questions on Notice

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

13.2 *Questions from Members*

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

The landowner of Lot 100 (#9) Edward Street Bunbury has requested a further two (2) year extension to Planning Approval (DA/2011/50) which is due to expire on 17 March 2014, hence the requirement to deal with the matter as urgent business.

Recommendation

That Council pursuant to section 5.4 of Councils Standing Orders, agree to receive the item entitled *“Proposed Extension of Time to Planning Approval (DA/2011/50) – Proposed Mixed Use Development (Residential – Multiple Dwelling, Office, Commercial, Retail, Café and Gymnasium) LOT: 100 DP: 38215 #9 Edward Street, Bunbury”* as a matter of urgent business.

**14.1 Proposed Extension of Time to Planning Approval (DA/2011/50) – Proposed Mixed Use Development (Residential – Multiple Dwelling, Office, Commercial, Retail, Café and Gymnasium)
LOT: 100 DP: 38215 #9 Edward Street, Bunbury**

File Ref:	P02797-09
Applicant/Proponent:	Bunbury City Apartments Pty Ltd
Author:	Laura Sabitzer, Planning Officer
Executive:	Bob Karaszewych, Director Planning and Development Services
Attachments:	Appendix DPDS-5 – Request for Extension Appendix DPDS-6 – Notice of Planning Approval (2011) Appendix DPDS-7 – Location Plan Appendix DPDS-8 – Council Resolution 78/12

Summary

The landowner of Lot 100 (#9) Edward Street Bunbury has requested a further two (2) year extension to Planning Approval (DA/2011/50) originally approved in May 2011. Should the request be approved, the Planning Approval shall remain valid until 17 March 2016. A copy of the request dated 20 February 2014 is **attached** at Appendix DPDS-5.

The development site is bounded by Edward, Spencer and Parkfield Streets in Bunbury, and was the former location of the St John of God hospital.

The progression of the approved plans have been impeded by the demolition process of the existing structures on the site, which has been subject to extended geotechnical investigation in order to determine the best course of action for the clearing and stabilisation works.

It is recommended that Council supports the request for the two (2) year extension to the Planning Approval.

Executive Recommendation

That Council resolves to:

1. Grant an extension of time in respect of Planning Approval (DA/2011/50) for the proposed Mixed Use Development (Residential – Multiple Dwelling, Office, Commercial, Retail, Café and Gymnasium) subject to:
 - a. Condition 3 being amended to read as follows:
“This Planning Approval shall expire if the approved development has not substantially commenced within two (2) years from 17 March 2014. Should this approval lapse, no further extensions to the Planning Approval term will be approved and a new Development Application will be required to be submitted and approved.”
 - b. Condition 4 being deleted, and subsequent conditions being renumbered.
 - c. The references in the conditions and advice notes to the *Department of Environment and Conservation (DEC)* being replaced with *Department of Environment Regulation (DER)*.

- d. All other conditions and advice notes remaining applicable.
2. Advise the Applicant of Council's decision.

Background

In 2006, Council granted approval for proposed Mixed Use Development on the subject site. The Planning Approval lapsed and the applicant lodged a new Development Application for the proposal in 2011.

A Development Application for the proposed Mixed Use Development (Residential – Multiple Dwelling, Office, Commercial, Retail, Café and Gymnasium) at Lot 100, #9 Edward Street, Bunbury was approved by Council in May 2011. The built form approved was for three (3) separate buildings up to eight storeys in height from street level.

A copy of the Notice of Planning Approval dated 25 May 2011, is **attached** at Appendix DPDS-6.

A copy of the location plans showing the subject site and its surrounds are **attached** at Appendix DPDS-7.

The Planning Approval issued in 2011, was time-limited to six (6) calendar months from the date of Council's approval, subject to the demolition of the existing old hospital building substantially commencing. The purpose of this was to facilitate the demolition of the old hospital building. As outlined below, issues arose during the demolition process which required extended geotechnical investigation. Subsequently, Council in December 2011, and later in March 2012 granted time extensions to the Planning Approval issued in 2011. A copy of the most recent Council Decision 78/12 is **attached** at Appendix DPDS-8.

The Planning Approval is currently valid until 17 March 2014. On 20 February 2014, the landowner emailed the City requesting a two (2) year extension to the Planning Approval issued in May 2011.

Council Policy Compliance

Local Planning Policy: Extensions of Time for Planning Approvals (LPP) is applicable to this request, as it sets out the process for considering requests for extensions of time for Planning Approvals.

It is also noted that the property falls within the *Former St John of God Hospital Site Design Guideline area*.

Legislative Compliance

The City of Bunbury's Town Planning Scheme No. 7 (Scheme) at clause 10.5.2 allows for the extension of the term of Planning Approval, providing that a written request is received by the local government, prior to the expiry of the Approval period.

Officer Comments

This is the third request for a time extension to the Planning Approval issued in May 2011. The initial Planning Approval restricted the Planning Approval term to six (6) months. The purpose of this was to facilitate the demolition of the old hospital building. In December 2011, Council extended the Planning Approval term by four (4) months to March 2012. Due to the demolition

issues, the Applicant in March 2012 requested and received approval for a further two (2) year extension until 17 March 2014. To consider the extension prior to the expiration date of 17 March 2014, the item should be considered at this meeting otherwise the approval lapses and a new application would be required to be lodged for assessment.

The LPP has a provision which allows for one extension of time being granted to Planning Approval. The provision states that:

“An extension of time shall only be granted once unless development has substantially commenced. Should an extension of time expire a new application for Planning Approval will be required”.

It is understood that the request does not comply with the above provision, as it is the third request for a time extension to the Planning Approval. However, it is noted that the provision in the Local Planning Policy is a guideline and Council is not bound to this requirement.

Due to the mitigating circumstances regarding this development project, it is considered that in this particular case it is appropriate for Council to approve a further extension to time for the Planning Approval. However, it is recommended that if the subject time extension is approved then a condition is imposed stipulating that no further time extensions will be granted.

The Applicant has advised the City, that the proposed development progressing with the Applicant currently in the process of appointing a building firm for the project.

It is considered that the request for a two (2) year extension to the Planning Approval is appropriate and it is recommended that Council approves the requested extension to Planning Approval, on the provision that no further extensions to Planning Approval will be granted. Should the Planning Approval term lapse, a new Development Application will be required to be submitted and approved.

Analysis of Financial and Budget Implications

The proposal is to be located on private property, therefore poses no direct financial implications for the City.

Delegation of Authority

The application is referred to Council for determination. Council at its Ordinary Meeting on 27 March 2012 granted an extension to the Planning Approval period until 17 March 2014, with a condition explicitly requiring Council to grant written consent for any further extensions to the Planning Approval period. Additionally, other requests for time extensions to Planning Approval have been granted by Council.

15. Meeting Closed to Public

15.1 Matters for which the Meeting may be Closed

15.2 Public Reading of Resolutions that may be made Public

16. Closure