



Bunbury City Council

Minutes

18 February 2014

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Western Australia

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GLOSSARY OF ABBREVIATED TERMS

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

Minutes of the Ordinary meeting of the Bunbury City Council held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street Bunbury held Tuesday 18 February 2014.

Minutes

18 February 2014

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

1. Declaration of Opening / Announcements of Visitors

The meeting was declared open by the Mayor Mr Gary Brennan at 5.31pm.

2. Disclaimer

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

3. Announcements from the Presiding Member

The Mayor announced that Councillor Betty McCleary was currently interstate however sought Elected Members support to participate via telephone, in the debate and voting on matters contained in the agenda.

The following motion was moved Cr Kelly, Seconded Cr Giles

“As Councillor McCleary is located at the Golfview Motor Inn, Cnr Sturt Hwy and McNickle Rd., Wagga Wagga, NSW 2650 Australia which is a distance of 150 km or further from the place at which the meeting is to be held, Council endorse Councillor McCleary's participation in debate and voting of matters at the Ordinary Council Meeting of 18 February 2014, via telecommunications in accordance with Section 14A of the Local Government (Administration) Regulations 1996.”

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

Council Decision 44/14

As Councillor McCleary is located at the Golfview Motor Inn, Cnr Sturt Hwy and McNickle Rd., Wagga Wagga, NSW 2650 Australia which is a distance of 150 km or further from the place at which the meeting is to be held, Council endorse Councillor McCleary's participation in debate and voting of matters at the Ordinary Council Meeting of 18 February 2014, via telecommunications in accordance with Section 14A of the Local Government (Administration) Regulations 1996.”

CARRIED

11 votes “for” / nil votes “against”

Note: Absolute Majority Vote obtained.

At 5.34pm, the Mayor phoned Cr McCleary and advised her of the above Council Decision. Cr McCleary was then involved in all debating and voting of items from this point forward.

4. Attendance

Present:

Council Members:	
Presiding Member	Mayor G Brennan
Deputy Presiding Member	Deputy Mayor Cr B Kelly
Members	Councillor D Prosser
	Councillor J Miguel
	Councillor J Hayward
	Councillor S Morris
	Councillor J Jones
	Councillor M Steck <i>(arrived at 5.36pm)</i>
	Councillor W Giles
	Councillor N McNeill
	Councillor M Cook
Councillor B McCleary <i>(via telephone)</i>	
Executive Leadership Team (Non-Voting)	
Chief Executive Officer	Mr A Brien
Director Community Development	Ms S Addison-Brown
Director Corporate Services	Mr W Wright
Director Planning and Development Services	Mr B Karazkyvick
Director Works and Services	Mr P Harris
Council Officers (Non-Voting)	
Strategic Planner/Urban Design Officer	Mrs N Albiston
Manager Corporate Performance	Mr G Golinski
Engineering Technical Officer	Mr N Tanaka
Media and Communications Officer	Ms L Gallo
Minute Taker	Ms F Quinn
Others (Non-Voting)	
Members of the Public	18 (approximately)
Members of the Press	2

4.1 Apologies

Cr Steele was an apology for the meeting.

4.2 Approved Leave of Absence

Cr Betty McCleary is on an Approved Leave of Absence from 18 February to 4 March 2014 inclusive however as per Council Decision 44/14 was granted approval to participate in discussion and voting on items containing within the agenda.

5. Declaration of Interest

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

Mayor Brennan declared a financial interest in the item 10.5.2 titled *“Proposed Change of Use application of Tenancy 3D at the Homemaker Centre, LOT: 107 DP: 47979 #42 Strickland Street, South Bunbury”* as he has a financial interest with persons who made a submission on the matter. He will vacate in the chambers for the discussion and vote on the matter.

Outcome – Council Meeting 18 February 2014

Mayor Brennan declared a financial interest for item 8.1 Petitions and in the item 10.5.2 titled *“Proposed Change of Use application of Tenancy 3D at the Homemaker Centre, LOT: 107 DP: 47979 #42 Strickland Street, South Bunbury”* as he has a financial interest with persons who made a submission on the matter. He will vacate in the chambers for the discussion and vote on the matter.

Cr Steck declared a financial interest for item 8.1 Petitions and in the item 10.5.2 titled *“Proposed Change of Use application of Tenancy 3D at the Homemaker Centre, LOT: 107 DP: 47979 #42 Strickland Street, South Bunbury”* as her partner owns the property involved with the Change of use matter. She will vacate in the chambers for the discussion and vote on the matter.

Cr Prosser declared a financial interest for item 8.1 Petitions and in the item 10.5.2 titled *“Proposed Change of Use application of Tenancy 3D at the Homemaker Centre, LOT: 107 DP: 47979 #42 Strickland Street, South Bunbury”* due to his family relationship with the owner of the Homemaker Centre. He will vacate in the chambers for the discussion and vote on the matter.

6. Public Question Time

6.1 Public Question Time

David Smith, 8 Picton Crescent, Bunbury

Mr Smith, asked the following questions to Council. The responses were provided by the Chief Executive Officer.

Question 1: I refer to the Schedule of Accounts paid, Item Number 3075.4621 to CAMMS Management Services for \$18,537.75 and ask why was such an upgrade necessary, and what is the current total paid to CAMMS since Council began dealing with them, including Cycle?

Response: The work recently undertaken by CAMMS was for a modification of the system to provide for further integration of Council data and to improve the reporting capability across different council systems.

This amount came out of the annual allocation for services which is prepaid each year and incorporated into the budget. This is the same arrangement that we have for all our major systems, for CAMMS the annual budget comprises a licence fee and pre-paid support of approximately \$140,000 which is included in the Council's budget and Corporate Business Plan adopted in 2013.

The total costs for CAMMS since it was introduced by Council are in accordance with Council's adopted budget which is available for review by members of the public at any time and currently is \$770,175 as at 11 February 2014.

Question 2: I refer to the Schedule of Accounts paid, Item Numbers 3075.1485, 3075.1892, 3095.1615 and 3047.3681 which all appear to be Labour Hire firms and total \$64,072 or the equivalent of \$804.880 per annum and ask why is so much recourse to Labour Hire Firms proving necessary?

Response: The use of labour hire firms has been an approach used by Council for many years to assist in the delivery of both capital and operating projects. The use of labour hire firms is also used when staff are off work on workers compensation, long service leave or on other extended periods of leave where it is not practical to employ casual or temporary staff. The use of these companies means that Council does not have to carry all of the associated costs of permanent employees. This approach is consistent with the strategies contained within the Council's workforce plan. In 2011/12 the Council spent \$634,907, in 2012/13 spent \$267,258 and to 31 January have spent \$471,003. As can be seen the amount is not consistent across years and is based on the programmed works and how they are to be delivered on an annual basis. It is not appropriate to simply extrapolate the figures to give an annual cost as the work is project and seasonal based.

Question 3: I refer to Schedule of Accounts paid, Item Number 3086.5164 which shows as repairs to the Glen Iris Skate Park and ask when it is so new, what necessitated these repairs?

Response: Payment 3086.5164 in the Schedule of Accounts Paid was for the connection and installation of a new drinking fountain at the Glen Iris Skate Park. The word “repair” should not have appeared in the description.

The Hon. Adele Farina of 4/31 Victoria Street, Bunbury

The Hon. Adele Farina asked the following questions to Council. The responses were provided by the Mayor.

Question 1: Mr Mayor, I refer to your letter addressed to me dated 31 January 2014 (being post October 2013) and enclosed document concerning CAMMS and I ask why did you stat that since the initial purchase of CAMMS the City of Bunbury has spent approximately \$327,000 to year ending 30 June 2013 where in fact \$790,007.50 has been spent on CAMMS during the stated period?

Response: The question that was specifically asked of me was how much has been spent since the original purchase. The \$327,810 does not include the original purchase and does not include the licencing.

Question 2: Mr Mayor, in view of the fact that the City continued to incur costs in relation to CAMMS post October 2013, on what basis do you think it is reasonable for you to refuse to answer questions on CAMMS when you are the elected head of the City, accountable to the people of Bunbury and have a statutory duty to speak on behalf of the City?

Response: My refusal to comment has been relating only to the decision of the Council made by the on the 21 August 2011 to purchase the CAMMS system and the subsequent enquiries undertaken by the CCC and Department of Local Government and both agencies have since advised that there is no action that will result from those enquiries. So I refuse to deal with matters concerning a decision of Council made two (2) and a half years ago.

6.2 Responses to Public Questions Taken ‘On Notice’

At the Council Meeting held 4 February, three (3) questions were asked during Public Question Time that could not be answered during the meeting. A copy of the questions and the written responses provided by the Director Planning and Development Services, forwarded to the questioner following the meeting is provided below for public information:

Mrs Glenys McDonald, 3 Sabina Way, Pelican Point Bunbury

Mrs McDonald asked three question in relation to the item 10.4.4 Proposed Serviced Apartments - Lot: 517 DP: 54092 (No.4) Epacris Elbow Pelican Point SAT Appeal DR 258/2013.

Question 1: Why is council suggesting there is no need to advertise the significant change from 11 multiple dwellings on Lot 517 Epacris Elbow Pelican Point for private ownership to 11 serviced apartments for short stay accommodation?

With 32 submission received against the size of the previous application I can assure council that there would be many more submissions against the scale of this short stay accommodation.

My notice arrived on the day of the Committee meeting. The proposal needs to be readvertised in its modified form.

Response: It was not considered that there was any need for further advertising in that the proposal to utilise the use-class “multiple dwellings” had previously been fully canvassed to the general public, and in that the use-class “Serviced Apartments” is a “P” (permitted) use (which does not require advertising) in the Residential zone. It was on that basis considered that there would be no sound reason for further advertising. Furthermore, all prior submitters were further notified of the matter being further considered by Council as a result of the SAT process.

It is also noted that the current proposed development format (to include “serviced apartments”) is compliant (from a land-use perspective) with the provisions of the current Town Planning Scheme (TPS 7) and the Grand Canals North Development Guide Plan. This is in contrast to the previous development format (which was solely for “multiple dwellings”) and not compliant with Scheme requirements.

Question 2: *I note in the officers comments on my submission in relation to Lot 517 Epacris Elbow regarding my concerns over rubbish bins that the applicant had not taken on board consideration for bulk bin storage.*

Can you tell me where 33 Bins (3 x 11 apartments) will be stored and where in the 15 meter width of off the back access into Realto Close will 22 Bins be placed on Collection Day? Rialto Close will become a “bin Alley” blocking the access path to Taylor Reserve and the front gate to 5 Rialto Close.

Response: Rubbish requirements are relative to the size of the residence. Typical waste audit data shows that multiple dwelling and short-term unit accommodation produce less garbage and recyclable materials per week. Therefore, fewer bins can be accommodated and accessible, as well as, a wash down area with organic waste accommodated within the bin store.

Question 3: *Do Councillors seriously consider that after initially refusing the application for 11 units on what is a site equivalent in size to the two homes beside it – that by changing the proposal to “serviced apartments” it suddenly does not still present and issue. As council previously stated of “Inappropriate Bulk and Scale” not in keeping with the detached building form of the area?*

I can see little difference in the modified plans, in fact they look worse to me and I imagine there are still 2 of the 11 apartments less than 54sq.meter. 4 to 5 units on this block would be acceptable but I feel 11 is obscene.

Response: The current design is improved from a design perspective and generally meets the requirements of Clause 3 of Special Use zone 23 in TPS 7 in that “such developments being compatible with the residential scale, form and character of the Grand Canals locality”.

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 February 2014 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 4 February 2014 be confirmed as a true and accurate record.

Outcome – Council Meeting 18 February 2014

The recommendation (as printed) was moved Cr McNeill seconded Cr Giles

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

Council Decision 45/14

The minutes of the Ordinary meeting of the Bunbury City Council held 4 February 2014 be confirmed as a true and accurate record.

CARRIED

12 votes "for" / nil votes "against"

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

Nil.

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

Outcome – Council Meeting 18 February 2014

Councillor Murray Cook tabled a petition containing 262 signatures which stated:

“We the undersigned, being electors of the City of Bunbury respectfully request that the City support the application for a change of use of Tenancy 3D, Homemaker Centre, 42 Strickland Street Bunbury, allowing the Rusticana to grow their business and improve the service to the Community. Your petitioners therefore respectfully request the Council of the City of Bunbury approve the proposed “Use Not Listed” application under Local Planning Scheme No.7”

As the Mayor and Councillors Steck and Prosser had declared an interest in relation to this matter (see section 5). They vacated the chamber at 5.42pm for the duration of discussion and vote on the matter as well as vote on the acceptance of deputations under section 8.

Deputy Mayor Cr Kelly, assumed the chair.

Cr Cook foreshadowed the motion *“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.”*

The motion was moved Cr Cook, Seconded Cr Morris. The Deputy Mayor put the motion to the vote and was adopted to become the Council’s decision on the matter.

Council Decision 46/14

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.

CARRIED

9 votes “for” / nil votes “against”

8.2 Presentations

Nil.

8.3 Deputations

In accordance with section 6.9 (2)(b) of Councils Standing Orders, the CEO referred the following deputation requests to Council to decide by simple majority, whether or not to receive the deputation.

As the Mayor and Councillors Steck and Prosser had declared an interest in relation to this matter (see section 5), they vacated the chamber at 5.42pm for the duration of discussion and vote on the matter.

Deputy Mayor Cr Kelly assumed the chair and advised that he would take all three (3) requests for deputation as one item.

Cr Hayward Moved, Cr Morris Seconded the following motion:

“Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves the deputations by Mr Ben Doyle, Mrs Kellie Piacentini and Mr John Saunders relating to item 10.5.2 titled “Proposed Change of Use application of Tenancy 3D at the Homemaker Centre, LOT: 107 DP: 47979 #42 Strickland Street, South Bunbury and allows a period of up to 10 minutes each to present to Council.”

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

Council Decision 47/14

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves the deputations by Mr Ben Doyle, Mrs Kellie Piacentini and Mr John Saunders relating to item 10.5.2 titled “Proposed Change of Use application of Tenancy 3D at the Homemaker Centre, LOT: 107 DP: 47979 #42 Strickland Street, South Bunbury and allows a period of up to 10 minutes each to present to Council.

CARRIED

9 votes “for” / nil votes “against”

The Mayor and Councillors Steck and Prosser returned to the chamber at 5.45pm.

8.4 Council Delegates’ Reports

Nil.

8.5 Conference Delegates’ Reports

Nil.

9. Method of Dealing with Agenda Business

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

Pursuant to Standing Order 5.5, the Council “*adopted by exception*” (i.e. without discussion) those recommendations listed for items 10.2.2, 10.4.1, 10.4.2, 10.5.1, 10.6.1 and 10.6.2

Items 10.2.1, 10.3.1 and 10.5.2 of the meeting agenda were then discussed and voted on separately and in the order that they appeared on the agenda. The items have been renumbered with the items voted “by exception” listed first.

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

10. Reports

10.1 Australian Local Government Association – National General Assembly of Local Government Conference – Canberra 15 to 18 June 2014 Inclusive (*was listed as item 10.2.2 of the Council Agenda*)

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

Summary

The Australian Local Government Association (ALGA) has advised of the Annual National General Assembly of Local Government Conference (NGA), to be held in Canberra from Sunday 15 to Wednesday 18 June 2014 inclusive.

Executive Recommendation

Council identify any issues/motions that they wish to see included on the agenda for the Australian Local Government Association National General Assembly of Local Government Conference to be held in Canberra from Sunday 15 June to Wednesday 18 June 2014 inclusive, to enable background reports and draft motions to be prepared and considered by Council.

Background

All Mayors, Shire Presidents and Chief Executive Officers from Australian Local Governments have been invited to the Annual Australian Local Government Association National General Assembly to be held in Canberra from Sunday 15 June to Wednesday 18 June 2014.

Previous conference programs have explored issues relevant to the City of Bunbury including Financing Local Government, Financial Assistance Grants, Expenditure Priorities and Constitutional Recognition of Local Government.

The NGA attracts in excess of 900 mayors and councillors from across Australia and has been running almost 20 years

Council Policy Compliance

Attendance at this conference will be facilitated through the provisions and conditions of Council Policy CEO1 *“Conferences, Seminars, Training and Induction Courses – Attendance by Elected Members.”*

Legislative Compliance

The endorsement of this proposal will ensure that compliance has been met with all legislative matters including policy.

Officer Comments

It is expected that Council's attendance at this national conference will contribute to the development of policy and future planning processes to assist the City's strategic capacity to provide good governance, service and facilities for its greater community.

The conference coincides with sitting dates for the federal parliament and this provides an opportunity to meet with Federal Government Ministers whilst in Canberra. This is an opportunity that should not be missed and preliminary arrangements may be made to meet with relevant Ministers to put Bunbury's position on the Federal stage in relation to major projects and funding requirements.

Council has approved the attendance of the Mayor and Chief Executive Officer to this conference in past years.

In the past, Council has elected to send an alternative Elected Member should the Mayor not be able to attend.

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

Analysis of Financial and Budget Implications

Council's 2013/2014 Budget contains sufficient funding allocations to accommodate attendance at the NGA and meetings with relevant Ministers whilst in Canberra.

Community Consultation

Community consultation on this proposal is not required.

Councillor/Officer Consultation

The Mayor and Chief Executive Officer are aware of this proposal. This report serves to bring the matter to the attention of all elected members.

Outcome – Council Meeting 18 February 2014

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

Council Decision 48/14

Council identify any issues/motions that they wish to see included on the agenda for the Australian Local Government Association National General Assembly of Local Government Conference to be held in Canberra from Sunday 15 June to Wednesday 18 June 2014 inclusive, to enable background reports and draft motions to be prepared and considered by Council.

CARRIED

12 votes "for" / nil votes "against"

10.2 Replace pool lining of 50m competition pool with tiles at South West Sports Centre PR-1431 (*was listed as item 10.4.1 of the Council Agenda*)

Applicant/Proponent:	Internal Report
Author:	Richard Duke, Aquatic Operations Manager
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Appendix DCPS-1 – PR-1431 Project Report Appendix DCPS-2 – Status Report Appendix DCPS-3 – Condition Report Appendix DCPS-4 – Consultants Comments

Summary

The 50m pool vinyl liner at the South West Sports Centre has reached the end of its useful life and is required to be replaced as soon as practical.

Ballooning of the floor and continued splitting of the welded seams continues to pose a safety issue. An attempt to repair the vinyl liner in 2010 proved unsuccessful and replacement of the vinyl liner is required.

Replacing the pool lining of the 50m competition pool with tiles (PR1431 - Sycle Project Report contained at appendix DCPS-1) has been identified in the long term financial 10 year plan and has been scheduled for 2014/2015.

In order to minimise disruption, the required works are to be carried out between July and September 2014.

To achieve this timeline Council needs to consider the importance of a commitment to early approval for tenders.

Executive Recommendation

That Council:

1. Endorses the replacement of the South West Sports Centre 50m vinyl pool liner with tiles as outlined in project number PR-1431.
2. Authorise the Chief Executive Officer to seek tenders for the replacement of the pool vinyl liner to enable this tender to be considered as part of finalising the draft 2014/15 budget.

Background

The South West Sports Centre 50m Competition pool was constructed in 2001, using a vinyl liner in lieu of tiling due to funding constraints.

In 2007 an inspection report identified a section of the vinyl **attached** to the wall and a number of lane markings on the floor had separated and required remedial work. Temporary gluing of the wall and removal of a number of lane markings was carried out again in 2008 by lowering the water level in the pool and repairing the damaged section.

This approach to repairing the liner subsequently resulted in the vinyl separating from the wall effectively ruining the integrity of the liner.

By 2009 large sections of the liner on the floor and walls had filled with water making the pool surface unsafe.

In February 2010 consultants recommended tiling as the preferred option to repair the pool however it was considered cost prohibitive at the time. A copy of the status report is **attached** as Appendix DCPS-2)

A decision was made to drain the pool and repair the walls with no work undertaken on the floor. This work was subsequently conducted over a 2 week period in the July 2010 school holidays.

As the work was classed as a repair no comprehensive warranty was able to be obtained from the company (AVP). Within months it became apparent that the repair was unsuccessful and that water continued to affect the adhesive properties of the vinyl to the floor and wall resulting in large sections of the lining bulging and lifting. (Refer to condition report **attached** as Appendix DCPS-3)

In August 2010 further remedial work was undertaken to drain water from beneath the liner by coring the floor to the balance tank, and at this time the Consultant recommended the fix be a temporary measure until the pool could be tiled in 4-5 years. **Attached** at Appendix DCPS-4 is a copy of the consultants comments.

A project was created (PR-1431) proposing replacement of the vinyl liner with tiles in 2014/15.

It will be necessary to commence a tender process in the coming months in order to undertake replacement of the liner in July to September 2014.

Policy Compliance

The proposal will be in compliance with Councils purchasing policy.

Legislative Compliance

Department of Water approvals are required for discharge of de-chlorinated water to the 5 Mile Brook drainage systems.

Refilling the pool will require testing and approval from The Department of Health.

Officer Comments

The initial vinyl installation had been given a 10 year manufacturers guarantee. It has since required substantial repair work resulting in loss of income and disruption to services. Previous repairs have proved unsuccessful and the liner has continued to deteriorate.

Tiling will extend the life of the competition pool to at least 30 years and the ability to incorporate additional lane markings will improve 50m pool utilisation opportunities at the South West Sports Centre.

Inclusion of appropriate features and additional lane markings will also allow clubs representing underwater hockey, water polo and swimming to benefit from an improved playing floor and wall surface.

A 12 week timeline is required to complete the works. This period will enable the pool to be drained, the vinyl liner to be removed and the concrete surface cleaned and prepared for tiling. Following the tiling a period of 4 weeks will be required to refill the pool using mains water supply, have the water chemically treated and obtain approval to re-open the pool from the Department of Health.

Previous experience refilling the pool, suggests that the period July to September would have the least impact on pool use and Pool income.

Aqwest has confirmed that the July to September period is the ideal time for remedial work to proceed due to low ground water table levels.

Analysis of Financial and Budget Implications

- The months July, August, September are the quietest months for aquatic programming and represent the least impact on sporting groups and the Sports Centre operation including the Café and Swim School.
- Estimated capital project cost is \$700,000
- Estimated Loss of operating income due to closure would be in the order of \$228,000
- During construction, some savings will come in the form of: reduced salary wages, reduced gas usage, and chemical use totalling approximately \$45,000
- It is estimated that this project will increase our annual depreciation expense by \$21,000 but will provide a future saving of \$150,000 every 8 years due to removing the requirement to replace the vinyl liner.
- Once tiled the surface has a 30-40 year lifespan.
- Maintenance required to replace any missing tiles is able to be completed with water in the pool using a waterproof adhesive by contractors. Therefore draining of the pool is not required, saving the loss of revenue associated with draining and refilling the pool.

Community Consultation

Initial consultation has taken place verbally with relevant user groups including;

- Bunbury Swimming Club – Don Bennett (President)
- Bunbury Surf Club – Denise Duncan (Coach)
- Bunbury Underwater Hockey – Shane Blackham (President)
- Education Department WA – Les Lazarakis (Manager)
- Bunbury Water polo Club – Nathan Jarvis (President)

Further information sessions are required for South West Sports Centre members and general public and other user groups and schools in order for these groups to re-programme the schedule for the period of closure

Strategic Relevance

- 1.5.2 Implement asset management plans for building assets

Life-cycle Maintenance Costs (Capital Works Projects Only)

At 30-40 years retiling may be necessary at which time the South West Sports Centre would be in need of upgrade.

Relevant Precedents

The 50m pool has been drained once previously in 2010, with no adverse environmental or operational effects.

Refilling the pool in 2010 was supplemented with an additional 300,000 litre tankered in by Bunbury Plumbing Services at a full cost of \$4,470

Ongoing repairs and maintenance to the 50m vinyl pool liner to August 2010 a period of 9 years since construction and a 3 year period from 2007 have totalled \$100,000 not including lost revenue.

Outcome – Council Meeting 18 February 2014

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

Council Decision 49/14

That Council:

- 1. *Endorses the replacement of the South West Sports Centre 50m vinyl pool liner with tiles as outlined in project number PR-1431.***
- 2. *Authorise the Chief Executive Officer to seek tenders for the replacement of the pool vinyl liner to enable this tender to be considered as part of finalising the draft 2014/15 budget.***

CARRIED

12 votes "for" / nil votes "against"

10.3 Schedule of Accounts Paid for the Period 1 January 2014 to 31 January 2014 (was listed as item 10.4.2 of the Council Agenda)

Applicant/Proponent:	Internal Report
Author:	David Ransom, Manager Finance
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Appendix DCPS-5 – January Schedule of Accounts Paid

The City of Bunbury "*Schedule of Accounts Paid*" covering the period 1 January 2014 to 31 January 2014 is **attached** at Appendix DCPS-5.

The schedule contains details of the following transactions:

1. Municipal Account – payments totalling 9,036,059.54
2. Advance Account – payments totalling \$6,995,121.25
3. Trust Account – payments totalling \$14,940.20
4. Visitor Information Centre Trust Account – payments totalling \$20,504.55
5. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$350,722.85
6. Bunbury-Harvey Regional Council Advance Account – payments totalling \$314,632.12

Executive Recommendation

The Schedule of Accounts Paid for the period 1 January 2014 to 31 January 2014 be received.

Outcome – Council Meeting 18 February 2014

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

Council Decision 50/14

The Schedule of Accounts Paid for the period 1 January 2014 to 31 January 2014 be received..

CARRIED

12 votes "for" / nil votes "against"

10.4 Request to Initiate Scheme Amendment 66 – Proposed Rezoning of Lots 76, 66, 497, 1 and 2 Ocean Drive to “Special Use Zone No. 1 – Back Beach Tourism Mixed Use”; and approval to advertise “General Structure Plan – Back Beach Tourism” (draft) and “Detailed Structure Plan – Northern and Southern Precincts” (draft) (was listed as item 10.5.1 of the Council Agenda)

File Ref:	A05712
Applicant/Proponent:	City of Bunbury / EG Funds Management Pty Ltd
Author:	Nicola Tagiston, Senior Strategic Planning & Urban Design Officer Thor Farnworth, Manager Sustainability and Integrated Land Use Planning
Executive:	Bob Karaszekwych, Director Planning and Development Services
Attachments:	Appendix DPDS-1 – Proposed Scheme Amendment Report Appendix DPDS-2 – Draft General Structure Plan Appendix DPDS-3 – Detailed Structure Plan (excluding technical appendices) Appendix DPDS-4 – Consultation leaflet

Summary

Associated with the implementation of the Back Beach Tourism Precinct Plan adopted by Council in 2012, this item encompasses three planning documents:

- Proposed “Scheme Amendment 66 – Back Beach Tourism Mixed Use” (Scheme Amendment 66);
- Draft “General Structure Plan – Back Beach Tourism” (GSP); and
- Draft “Detailed Structure Plan – Northern & Southern Precincts” (DSP).

The City of Bunbury has prepared documentation for the proposed Scheme Amendment 66 encompassing Lots 76, 66, 497, 1 and 2 Ocean Drive on behalf of, and with assistance from landowner’s EG Funds Management Pty Ltd and their consultants, The Planning Group WA Pty Ltd (TPG). The proposed Scheme Amendment Report is **attached** at Appendix DPDS-1.

A prerequisite of proposed Scheme Amendment 66 is that a General Structure Plan (GSP) be prepared and adopted in accordance with Clause 6.2 of Town Planning Scheme No.7 (TPS7). The draft GSP, prepared by the City of Bunbury, takes a precinct-based approach to establish permitted land use activities, standards and planning requirements over three development precincts – northern, central and southern. The draft GSP Report is **attached** at Appendix DPDS-2.

The draft GSP facilitates the preparation of Detailed Structure Plan (DSP) by landowners, prior to subdivision and/or development. As such, a draft DSP for the northern and southern precincts has been submitted by TPG which is **attached** at Appendix DPDS-3 (excluding technical appendices). Consequently the preceding documents are presented to Council for consideration to initiate concurrent release for public advertising.

Executive Recommendation

That Council:

1. In accordance with the *Planning and Development Act 2005*, resolves to initiate proposed Scheme Amendment 66 to the City of Bunbury Town Planning Scheme No. 7 by:
 - (a) inserting “small bar” as a new land use definition within Schedule 1 – Dictionary of Defined Words and Expressions;
 - (b) replacing the existing text in the Table under Schedule 2 – Special Use Zones at No. 1;
 - (c) deleting all references and text in the table under Schedule 2 associated with Special Use Zones No. 31 and No. 52; and
 - (d) amending the Scheme Map by rezoning land included within the subject site to “Special Use Zone No. 1 – Back Beach Tourism Mixed Use”;

As detailed in the Local Planning Scheme Amendment Report.

2. Advise the Western Australian Planning Commission (WAPC) of Council’s decision to initiate proposed Scheme Amendment 66, and furnish the Commission with a copy of scheme amending documentation prior to proceeding to public advertising.
3. Refer a copy of the proposed Scheme Amendment 66 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 raised by the WAPC, proceed to advertise proposed Scheme Amendment 66 for public comment with a submission period of not less than 42 days in accordance with the *Planning and Development Act 2005* and Town Planning Regulations 1967.
5. Advertise the General Structure Plan – Back Beach Tourism (draft), and Detailed Structure Plan – Northern and Southern Precincts (draft) concurrently with proposed Scheme Amendment 66, with a submission period of not less than 42 days, and in accordance with Clause 6.2.5.5 of the Scheme.
6. Forward a copy of the General Structure Plan – Back Beach Tourism (draft) and Detailed Structure Plan – Northern and Southern Precincts (draft) to the WAPC in accordance with Clause 6.2.5.7 of the Scheme.
7. Further consider each of the proposals and any public submissions lodged with the City of Bunbury following the conclusion of the public advertising period.

Background

In January 2013, landowners EG Funds Management Pty Ltd (EG Funds) and their consultants, The Planning Group WA Pty Ltd (TPG), requested that Council initiate a Scheme amendment to rezone Lots 76, 1 and 2 Ocean Drive under TPS7. Scheme Amendment 66 prepared by the City of Bunbury, builds on and is consistent with the Back Beach Tourism Precinct Plan adopted by Council on 11 December 2012.

Scheme Amendment 66 proposes a Special Use Zone over five lots at Back Beach – Lots 76, 66, 497, 1 and 2 Ocean Drive. The land, approximately 3.51 hectares in area, is currently designated as “Special Use No. 1 – Hotel”, “Special Use No. 52 – Tourism and Residential”, “Parks and Recreation Reserve”, and “Special Use No. 31 – Restaurant and Motel”. Aside from the Welcome Inn Motel on Lots 1 and 2, the other properties have remained vacant and undeveloped.

In conjunction with creating a single Special Use Zone, the proposed Scheme Amendment seeks to:

- identify the range of appropriate land uses that may be permitted within the zone;
- establish a head of power that requires a General Structure Plan (GSP) and Detailed Structure Plan(s) (DPS) to be prepared; and
- establish the fundamental development standards.

Minor changes to the Scheme Text are also included as part of this amendment proposal and these are detailed within the Scheme Amendment Report.

The draft GSP has been prepared by the City of Bunbury to assist and guide the implementation of the precinct plan and establishes information and details that will need to be adhered to and/or satisfactorily addressed at, or prior to, subdivision and development application stages in the planning process. The draft GSP provides the planning framework to support the implementation of proposed Special Use Zone No. 1 provisions of the Scheme by prescribing:

- permitted land use activities within each development precinct; and
- standards and planning requirements for the site as a whole and by sub-precinct.

The draft DSP has been prepared by EG Funds and their consultants TPG and in a form that is in keeping with the WAPC guidelines, and comprises:

- Part 1 – Statutory section;
- Part 2 – Non-statutory (Explanatory) section; and
- Technical appendices.

Whilst a preliminary review of the draft DPS has been undertaken, more detailed assessment and review will continue over the public advertising period.

Strategic Relevance

The proposed Special Use Zone and accompanying draft structure plans are expected to have a direct positive effect on the achievement of strategic tourism and mixed use outcomes within the Ocean Drive Back Beach area. Amending TPS7 in the manner proposed maintains consistency with the State and Local Planning Policy Framework.

Council Policy Compliance

Conditions included within Scheme Amendment 66 draw upon elements of adopted Local Planning Strategies (LPS's) and Local Planning Policies (LPP's). These will continue to guide planning, design and decision making through subsequent stages of the planning process.

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 66 Report will need to be referred to the EPA and WAPC for their review prior to any formal public advertising period. Once public advertising is concluded, should Council then

resolve to adopt Scheme Amendment 66, the documentation together with the schedule of submissions and Council's resolution, is to be referred to the WAPC for its endorsement then referral to the Minister for Planning for final approval and gazettal.

In accordance with the provisions of TPS7, upon receiving a proposed structure plan, the local government is to either:

- (a) determine that the proposed structure is satisfactory for advertising; or
- (b) determine that the proposed structure plan is not to be advertised until further details have been provided or modifications undertaken; or
- (c) determine that the proposed structure plan is not satisfactory for advertising and give reasons for this to the proponent.

If it is decided that (b) or (c) should apply, the proponent, if aggrieved may request that the matter is passed to the WAPC for a determination on advertising. Once advertised, in accordance with Clause 6.2.5.7 local government is to consider all submissions received and then either:

- (a) adopt the proposed structure plan with or without modification(s); or
- (b) refuse to adopt the proposed structure plan and give reasons to the proponent.

The matter then passes to the WAPC for a final determination.

The draft GSP and draft DSP for northern and southern precincts may be formally endorsed following confirmation of the final approval of Scheme Amendment 66 by the Minister for Planning.

Officer Comments

The amendment to TPS7 to rezone the subject site to "Special Use Zone No. 1 – Back Beach Tourism Mixed Use" ensures co-ordinated and integrated development of the precinct within the Back Beach coastal strip. Proposed Scheme Amendment 66 and subsequent draft structure plans are intended to facilitate the development of a vibrant, mixed-use activity node along Ocean Drive that contributes to tourism prosperity and improves the overall level of amenity and servicing for the local community.

The Scheme Amendment seeks to ensure that a quality and economically viable tourism product can result, in keeping with the desired strategic direction. The mixed use and residential development has already been acknowledged within the City's Local Planning Strategy for Tourism and WAPC's Planning for Tourism Bulletin (83/2013), on the premise that it facilitates a complementary, innovative, quality tourism accommodation product.

The draft DSP for EG Funds owned land has been prepared collaboratively between the City of Bunbury and the proponent and its consultants. The documentation submitted is fully compliant with provisions proposed as part of Special Use Zone No. 1 and is considered to be sufficient in scope and content to be allowed to proceed to public advertising.

Parts 1, 2 and technical appendices of the structure plan submissions will continue to be reviewed in conjunction with referral advice received from other government agencies over the course of the public advertising period.

Analysis of Financial and Budget Implications

Direct financial or budgetary implications to the City of Bunbury are considered to be limited to advertising costs, noting however that acquisition of Crown Reserve 29637 on Lot 497 Ocean Drive by Council is currently being investigated.

The development of land in accordance with the structure plans – should they be endorsed – may require some form of infrastructure cost share arrangement between developers. Notwithstanding, under the *Planning and Development Act 2005*, the necessary infrastructure works (e.g. roads and drainage) to permit the development of private land will be provided by landowners at their own cost through the normal land subdivision and planning approval processes.

Land for public purposes or open space and recreation will be vested in the Crown according to the standard contribution of 10% of the gross subdivisible area under Section 152 of the *Planning and Development Act 2005*.

The further enhancement of public open spaces and road upgrades (e.g. Ocean Drive) over and above development contributions will be in accordance with the City of Bunbury's capital works program, which will be phased in a manner that is consistent with identified priorities, funding opportunities and staging of development on the subject site.

Using the development yields expected for the northern and southern precincts as detailed in the DSP, the rates income for short stay and residential units has been estimated by the Valuer General's Office (Landgate) as \$683,000.

Community Consultation

If Council agrees to proceed with the concurrent public advertising of the three draft planning documents, this would be carried out over a period of not less than 42 days following consent to advertise Scheme Amendment 66 being confirmed by the EPA.

The draft documents will be advertised through public notices being placed in local newspapers, a sign erected on the lots, and by a letter sent to surrounding landowners. In addition, an explanatory leaflet (**attached** at Appendix DPDS-4) will also be sent to surrounding landowners, made available online, and from the City of Bunbury's customer services front desk.

On completion of advertising, submissions will be assessed and documentation submitted back to Council, for adoption with or without modification(s).

Conducting those formal consultation procedures are assisted by the fact that a significant level of public consultation previously occurred leading to Council's adoption of the Back Beach Tourism Precinct Plan.

Outcome – Council Meeting 18 February 2014

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

Council Decision 51/14

That Council:

- 1. In accordance with the Planning and Development Act 2005, resolves to initiate proposed Scheme Amendment 66 to the City of Bunbury Town Planning Scheme No. 7 by:***
 - (a) inserting "small bar" as a new land use definition within Schedule 1 – Dictionary of Defined Words and Expressions;***
 - (b) replacing the existing text in the Table under Schedule 2 – Special Use Zones at No. 1;***
 - (c) deleting all references and text in the table under Schedule 2 associated with Special Use Zones No. 31 and No. 52; and***
 - (d) amending the Scheme Map by rezoning land included within the subject site to "Special Use Zone No. 1 – Back Beach Tourism Mixed Use";***

As detailed in the Local Planning Scheme Amendment Report.

- 2. Advise the Western Australian Planning Commission (WAPC) of Council's decision to initiate proposed Scheme Amendment 66, and furnish the Commission with a copy of scheme amending documentation prior to proceeding to public advertising.***
- 3. Refer a copy of the proposed Scheme Amendment 66 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 raised by the WAPC, proceed to advertise proposed Scheme Amendment 66 for public comment with a submission period of not less than 42 days in accordance with the Planning and Development Act 2005 and Town Planning Regulations 1967.***
- 5. Advertise the General Structure Plan – Back Beach Tourism (draft), and Detailed Structure Plan – Northern and Southern Precincts (draft) concurrently with proposed Scheme Amendment 66, with a submission period of not less than 42 days, and in accordance with Clause 6.2.5.5 of the Scheme.***
- 6. Forward a copy of the General Structure Plan – Back Beach Tourism (draft) and Detailed Structure Plan – Northern and Southern Precincts (draft) to the WAPC in accordance with Clause 6.2.5.7 of the Scheme.***
- 7. Further consider each of the proposals and any public submissions lodged with the City of Bunbury following the conclusion of the public advertising period.***

CARRIED

12 votes "for" / nil votes "against"

10.5 Airport Clearing Offsets (was listed as item 10.6.1 of the Council Agenda)

File Ref:	A05906
Applicant/Proponent:	Internal Report
Author:	Nigel Archibald, Team Leader Airport & Design
Executive:	Phil Harris, Director Works & Services
Attachments:	Appendix DWS-1 – Airport Aerial Map

Summary

The City of Bunbury is required to provide an environmental offset area to compensate for clearing associated with the proposed development of a rescue helicopter base and additional hangars on the former Clay Target Gun Club site.

This report outlines two options for the environmental offset area for Council's consideration

Executive Recommendation

That:

1. Council endorses the use of 11.83ha of Crown Reserve 40664, without any ongoing maintenance, as an environmental offset for the airport expansion project.
2. In the event that Option 1 is deemed unacceptable by the State or Federal Governments, Council endorses the use of 8.58ha of Crown reserve 40664, with ongoing maintenance, as an alternative environmental offset for the project
3. Endorses the conservation of the environmental offset area in perpetuity and requests the Western Australian Planning Commission to initiate an amendment to the Greater Bunbury Region Scheme in order to designate the area as Regional Open Space.

Background

At the Council Meeting held on the 28 February 2012, Council Decision 48/12 supported the amalgamation of the former Clay Target Gun Club site into the airport to cater for the development of a rescue helicopter base and additional aircraft hangars.

The project involves the clearing of 1.43 hectares of native vegetation and 0.7ha of exotic pine trees and consequently requires Ministerial approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) on account of its likely impacts on the protected Western Ringtail Possum, Forest Red-tailed Black Cockatoo and Carnaby Cockatoo.

The Federal Government requires the City to undertake a range of actions in order to mitigate and compensate for the project's likely environmental impacts, including the protection of an area of native vegetation as an environmental offset. This land is to be conserved in perpetuity.

Two options are presented below for Council consideration:

Option 1

Option 1 involves the offset of an 11.83 hectare portion of Crown Reserve 40664, which is vested in the City for management (see **attached** at Appendix DWS-1).

Crown Reserve 40664 is zoned Rural under both the Greater Bunbury Region Scheme and the City's Town Planning Scheme No.7 and at the Council Meeting held on the 12th July 2012, Council Resolution 229/12 agreed to offset an area of 18.6ha of Crown Reserve 40664 as offset for the Somerville Drive extension project. The proposed offset will adjoin the area set aside as part of the Somerville Drive project.

Option 2

Option 2 involves the offset of an 8.58 hectare portion of Crown Reserve 40664, which is vested in the City for management.

Unlike Option 1, this option would require the City to commit to undertake management works within the site for a period of 5 years. The management works would involve dieback control, weed control and rubbish removal. It is estimated the management works would ultimately cost the City \$40,000 - \$50,000.

Council Policy Compliance

The Executive Recommendation is understood to comply with all applicable Council policies.

Legislative Compliance

The Executive Recommendation is consistent with the statutory assessment process under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

Relevant Precedents

Council Resolution 229/12 agreed to offset an area of 18.6ha of Crown Reserve 40664 as offset for the Somerville Drive extension project.

Officer Comments

Option1 is preferred option.

The Department of Fire & Emergency Services have confirmed their commitment to develop a rescue helicopter base at Bunbury Airport and have expressed a desire to have the rescue helicopter base operational by late 2015. Council Officers are providing every assistance to achieve this outcome.

Analysis of Financial and Budget Implications

Option 1 has no ongoing financial implications for the City.

Option 2 will require the City to undertake management works within the site for a period of 5 years. The management works would involve dieback control, weed control and rubbish removal. It is estimated the management works would ultimately cost the City \$40,000 - \$50,000.

Community Consultation

Public advertising of Council's proposal to clear the former Clay Target Gun Club site has been undertaken. No comments were received.

Councillor/Officer Consultation

This issue has been discussed with the Chief Executive Officer, the Director Works & Services and the Team Leader Sustainability, with all expressing a preference for Option 1.

Outcome – Council Meeting 18 February 2014

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

Council Decision 52/14

That:

- 1. Council endorses the use of 11.83ha of Crown Reserve 40664, without any ongoing maintenance, as an environmental offset for the airport expansion project.***
- 2. In the event that Option 1 is deemed unacceptable by the State or Federal Governments, Council endorses the use of 8.58ha of Crown reserve 40664, with ongoing maintenance, as an alternative environmental offset for the project***
- 3. Endorses the conservation of the environmental offset area in perpetuity and requests the Western Australian Planning Commission to initiate an amendment to the Greater Bunbury Region Scheme in order to designate the area as Regional Open Space.***

CARRIED

12 votes "for" / nil votes "against"

10.6 Installation of Traffic Control Signals – Blair and Mangles Street (was listed as item 10.6.2 of the Council Agenda)

File Ref:	A05430
Applicant/Proponent:	Internal
Author:	Jason Gick, Manager Engineering
Executive:	Phil Harris, Director Works & Services
Attachments:	Appendix DWS-2 – Diagram Locality Map

Summary

The City has secured Federal Blackspot funding to install Traffic Control Signals (TCS) at the intersection of Blair Street and Mangles Street to address the high number of right turn crashes. Public consultation with nearby residents has resulted in both positive and negative comments being received.

Executive Recommendation

That the Council support the installation of Traffic Control Signals at the Blair Street / Mangles Street intersection.

Background

The Blair Street / Mangles Street intersection has been previously identified for traffic management improvements. This section of Blair Street, including the Mangles Street intersection, has been referenced in three (3) road studies.

- The *Carey Park Traffic Management Study* (City of Bunbury, March 2003) refers to the pending Council decision to install a 4-way roundabout at Blair Street / Mangles Street.
- The *Blair Street / Sandridge Road Traffic Study* (WML, December 2004) identified a problem with right turn crashes and recommended the installation of Traffic Control Signals, should the Council's pursuit of the roundabout not be successful.
- The *Blair Street (Clarke Street to Parade Road) Road Safety Audit* (Opus, 2010) identified 19 crashes at the site in the period 2004/05 to 2008/09, 15 of which were right angle crashes, and recommends the installation of a roundabout as a suitable treatment.

In 2002 and 2003 the Council considered a project to install a roundabout at this intersection. The proposal attracted public attention and generated considerable debate in the Council.

State Blackspot funding to install a roundabout at this location was secured in 2003/04, however, public opposition to the roundabout proposal prompted the Council to re-direct the funding to the Blair / Clarke Street roundabout project. Public opposition to the Blair / Mangles project was based on:

- Perceived loss of property value at nearby residents
- Impact on the adjoining Class A Reserve (Vincent Park)
- Significant changes in the local road network

Council Decision 9/05 of the Councils 8 February 2005 meeting applies.

The current project to install TCS is to address the crash history at this intersection and to improve the accessibility of traffic from Mangles Street onto Blair Street.

Council Policy Compliance

Not Applicable

Legislative Compliance

Installation of Traffic Control Signals is regulated by Main Roads WA.

The design needs to be compliant with Austroads Guidelines, Australian Standards and approved by Main Roads WA.

Officer Comments

Blair Street is a two lane dual carriageway and carries in the order of 20,000 vehicles per day (vpd). Mangles Street is a two lane road and carries about 5,000 vpd.

The Blair Street median is too narrow and does not conform to Austroads Guidelines. This has contributed to a high number of 'right angle' crashes, particularly vehicles turning right from Mangles Street to Blair Street.

There have been a number of issues and incidents at the intersection. In the period 2007 – 2012 there were 25 crashes, including 21 right angled crashes. Within these 21 crashes, there were 2 hospitalisations and 5 incidents that required medical treatment.

18 of the 19 crashes occurred during daylight hours, and they were uniformly spread over the day.

Installation of TCS at this intersection will significantly reduce this type and the severity of crashes. The resultant Benefit-cost ratio (BCR) for the proposal is 3.13, which is significantly higher than the required 2.0.

TCS are not always viewed popularly by motorists, but they have noticeable advantages in certain circumstances. In this case, the introduction of TCS will:

- Drastically reduce right angled crashes
- Give right turning vehicles dedicated phases to move safely across traffic lanes
- Improve traffic flow across the sub-standard Blair Street median
- Create downstream gaps for nearby side roads (eg Steere Crescent, Halsey Street)
- Introduce a safe pedestrian crossing point across Blair Street and Mangles Street supplementing the street lighting project undertaken on this section of Blair Street in 2012/13.

As part of a growing urban centre with a developing road network it is important to create safer roads and intersections. Unfortunately this may cause disruption to individual land owners, but as traffic grows, the need for safer traffic controls increases and the need to address crash sites becomes more urgent.

Analysis of Financial and Budget Implications

The project has secured \$360,000 of Federal Blackspot funding, which does not require any Council contribution.

Additionally, the Council has secured Regional Road Group funding to reseal sections of Blair Street and Mangles Street immediately adjacent to the intersection. These projects are being delivered as a staged build using City employees and subcontractors.

The funding arrangements for these projects is tabled as follows:

Road section	Funding	CoB Contribution
Blair Street / Mangles Street intersection Federal Blackspot PR-3233	\$360,000	Nil
Blair Street – asphalt overlay Regional Road Group PR-1077	\$133,333	\$66,667
Mangles Street – asphalt overlay Regional Road Group PR-1080	\$80,000	\$40,000
Project Total = \$680,000	\$573,333	\$106,667

The asphalt overlays on Mangles Street and Blair Street are being delivered as part of the City's reseal program.

Community Consultation

The proposal to improve the safety of right turn movements at this intersection has been previously supported by the Council, Main Roads WA and the Bunbury Region RoadWise Committee, albeit under the previous roundabout concept.

Proposals that have the potential to dramatically reduce road crashes are supported by the Bunbury Region RoadWise Committee by virtue of its support for the Safe Systems approach to road safety.

Staff have discussed the proposal with Main Roads WA and forwarded the design for approval.

A letter drop was conducted on 2 December 2013 to properties surrounding the intersection, with letters posted to absentee owners. A total of 103 letters were distributed. Seven responses supporting the project were received along with four responses objecting the proposal.

An on-site meeting was held with the objecting respondents on Monday 20 January 2014.

The key issues of objection relate to effects on nearby properties including noise, loss of property value, potential road rage incidents and the like.

Councillor/Officer Consultation

The project has been discussed at officer and Executive level in the planning, design and consultation phases.

Outcome – Council Meeting 18 February 2014

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

Council Decision 53/14

That the Council support the installation of Traffic Control Signals at the Blair Street / Mangles Street intersection.

CARRIED

12 votes "for" / nil votes "against"

10.7 WALGA Committee Vacancies – Nomination of Elected Members *(was listed as item 10.2.1 of the Council Agenda)*

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

Summary

The Western Australian Local Government Association (WALGA) has advised of vacancies for members on eight (8) Boards and Committees.

As all nominations to WALGA committees are required to be submitted by member Councils, it is proposed that Council endorses any interested elected members nominations to the boards and committees.

Councillor Cook has expressed his desire to nominate to fill one of two vacancies on the South West Regional Planning Committee.

Executive Recommendation

Council endorse Cr Murray Cook's nomination for consideration by the Minister to potentially fill one (1) of two (2) vacancies on the South West Region Planning Committee

Background

Advice has been received from WALGA of vacancies on the below committees.

- Local Government Advisory Board
- Alliance for the Protection of Elder Abuse
- Bush Fire Brigade Volunteer Advisory Committee
- Bush Fire Service Capital Grants Committee
- Heritage Council of Western Australia
- Road Safety Council
- Western Australian Planning Commission
- South West Regional Planning Committee

Nominations were sought from elected members interested in nominating for any of these vacancies. These nominations will then to be considered by the respective Ministers who then seek endorsement of their recommended candidate/s from cabinet.

Officer Comments

It is considered important that Council continue its attempts to maintain representation on significant Committees and Boards to maintain a presence and awareness of future State initiatives which will impact on regional areas throughout the State.

Copies of the information relative to the positions were circulated to Elected Members on 22 January 2014 for information and calling for nominations. This information also includes details of what is required through the nomination process.

Outcome – Council Meeting 18 February 2014

The recommendation (as printed) was moved Cr Kelly seconded Cr McNeill.

Cr Steck address Council advising that she wishes to also put forward a nomination for one (1) of the two (2) position on the South West Regional Planning Committee. The mover and seconder agreed to the inclusion of her nomination in the motion.

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

Council Decision 54/14

Council endorse Cr Murray Cook's and Cr Michelle Steck's nominations for consideration by the Minister to potentially fill one (1) of two (2) vacancies on the South West Region Planning Committee

CARRIED

12 votes "for" / nil votes "against"

10.8 Events Review Report (was listed as item 10.3.1 of the Council Agenda)

Applicant/Proponent:	Internal
Author:	Stephanie Addison-Brown, Director Community Development
Executive:	Stephanie Addison-Brown, Director Community Development
Attachments:	Appendix DCD-1 - Events Review Report (containing 6 sub-attachments numbered i to vi)

Summary

Following decisions 168/13 and 368/13 in relation to events in Bunbury, research and consultation has been undertaken to provide reports and recommendations in relation to the following as requested:

- To consider the future focus and operations of events
- To address future children’s events
- To address a future “Events Grant Program”
- To address a revised events calendar for Bunbury

A copy of the Events Review report (containing sub attachments i to iv) is **attached** at Appendix DCD-1.

Executive Recommendation

That Council:

1. Notes the Events Review Report.
2. Refers all current City-run events to the budget process for consideration in the 2014/15 budget.
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.

Background

The City of Bunbury runs five main events each year:

- Australia Day
- VIVA! Bunbury
- Shorelines (writing for performance festival)
- KidsFest (at the end of a three year trial and due for review)
- Christmas Carnivale

Throughout the year the City also runs smaller community events and activities such as 'Love Where You Live' community screenings, youth events and Grandparents/Grandkids fun day.

In June 2013, the following decision (168/13) was made by Council:

- "1. That Council accept/receive the post-event reports for the City of Bunbury's 2012-13 events*
- 2. That a report be provided to Council to consider the future focus and operations of the events in 2013-14."*

In December 2013, the following decision (363/13) was made by Council:

- "1. Council notes the Kidsfest report summary.*
- 2. Council agrees that the Events and Tourism team further research alternative and more cost effective models that still deliver social and community outcomes through children's activities and events.*
- 3. Council request a report with recommendations in regard to future children's events be presented for consideration in February 2014.*
- 4. Council request a report with recommendations in regard to a future "Events Grant Program" be presented for consideration February 2014.*
- 5. Council request a report with recommendations in regard to a revised events calendar for Bunbury be presented for consideration February 2014."*

As part of the event review requested by Council, the main five events have been considered in context of a larger annual event calendar and community have been consulted about the type of events they want to see in Bunbury.

Given the high cost of KidsFest, alternate models have been researched which would still provide quality activities for children but which would be run at a smaller cost.

A workshop with key community stakeholders was undertaken in January 2014 to obtain feedback on current events in the calendar and to look at the role the City should play into the future in relation to event delivery. In addition, a community survey was conducted throughout January to seek feedback and ideas in relation to the types of events the community wanted to see more of and the frequency.

An Events Grants Program was also researched as part of this review, including research into the way event grants are managed in other places.

Council Policy Compliance

In May 2013, Council adopted Council Policy CEO-10 (Community Funding) which covered grants for community activities and events. If events are to have a separate allocation for funding, the relevant policy and guidelines will need to be updated accordingly.

Legislative Compliance

N/A

Officer Comments

It is clear that there is renewed interest amongst residents and businesses in Bunbury in relation to the new direction Council wants to take. Response to the events review was overwhelmingly positive with many contributions from people in relation to their time and ideas.

There is already work underway by groups and organisations such as the BCCI Bunbury City Heart Marketing Group and the South West Development Commission, and their proposed direction aligns well with the recommendations that come out of this events review. Some key themes that came out of the research and consultation include:

1. Bunbury needs to define its events brand and better promote itself as a quality events destination.
2. The community want to see more events happening in Bunbury and have a sense of 'something happening all the time'. This could be a mix of large and small events with a range of themes and would include other 'micro-events' or activities which contribute to vibrancy (such as lane way markets, public art activities, pop up shops, buskers, street festivals, fashions shows, tasting events/street BBQs with local cafes and so on).
3. Events held in Bunbury need to complement regional events rather than compete with them.
4. The community and local businesses want more involvement in attracting and running events in Bunbury and do not see it as solely the City's role to coordinate this solely. Several people have suggested the establishment of an expert committee/panel comprising Councillors, City staff, local events experts, businesses and community members to assess the value of any event proposition for Bunbury.
5. There needs to be central coordination to ensure event opportunities are quickly and easily assessed and to ensure effective communication to businesses takes place when an event is confirmed so they can respond positively to the increase in visitors during the event.
6. The City needs to provide stronger support to external and community-run events in terms of facilitation, increased in-kind support and professional advice to (i.e. to be an enabler). It was suggested that City staff create an events tool kit/package to provide advice and guidance to prospective event organisers when they are considering running an event in Bunbury. The City could also provide training to event coordinators to ensure they understand all the requirements that need to be in place when they run an event.

7. Core events like Australia Day, Christmas Carnivale and Shorelines are considered core business for Council but there is a need for the community to be able to attract and organise other events in Bunbury.
8. An events grants round as well as an 'opportunistic' budget should both be made available to enable Bunbury to attract quality events (sometimes at short notice) and be known to be 'open for business'.
9. Bunbury already has numerous events but they are not marketed well and the City should provide strong marketing support for events being run in Bunbury including an annual events calendar.
10. It is clear that the feedback from the community in relation to events aligns well with the direction the recently formed BCCI marketing group are proposing, in particular Goal 1 from their draft proposal ("To create a vibrant, experiential focus in the City Heart").
11. It is recognised that the City ensures its own events are accessible to all members of the community, however, there is a need to ensure that this is the case for all events and activities run in Bunbury and the City would take a lead role in provision of advice to event organisers in relation to accessibility.

The Events Review Report (attachment DCD-1) contains facts, data and commentary in relation to the following headings:

- Current Position and Outlook
- Current City-run events and City support for other events
- What do other places do?
- Community consultation
- Funding/grants for events and activities
- Summary
- Recommendations

The attachments to the Events Review Report include:

- Attachment i 12 month calendar of events in Bunbury
- Attachment ii Alternative options for KidsFest
- Attachment iii Table of funding provided by the City to externally run events
- Attachment iv Events survey responses
- Attachment v Note from the workshop on 22 January 2014
- Attachment vi Grant funding provided by other local government organisations

Analysis of Financial and Budget Implications

With the continuation of core community events as well as a large reduction in spend on KidsFest and the proposed establishment of a Bunbury Events Grants Program, it is anticipated that the City would contribute around the same amount to securing and delivering events in 2014/15, but this allocation would be better utilised to attract and enable a greater number of quality events and activities to take place in Bunbury, thus maximising economic and social outcomes as a return on this spend.

The KidsFest project included a salary allocation of 1.0 FTE during the three year trial for a staff member on a fixed term contract. This contract ended after the third event, however, if Council wishes to continue to run KidsFest, an appropriate salary allocation will be necessary to continue

with this. If Council decide to outsource VIVA! Bunbury, some current staff time spent on VIVA! Bunbury could be diverted to the coordination of KidsFest, although this would not equate to 1.0 FTE and an additional 0.5 FTE would be necessary.

Community Consultation

A workshop with representatives from local businesses, South West Development Commission, Bunbury Chamber of Commerce and Industries, Bunbury Regional Entertainment Centre, Bunbury Regional Art Galleries, Australia's South West and X2Y was held on Wednesday 22nd January 2014. Councillors were invited and relevant officers were in attendance. The workshop was facilitated by David Kerr, General Manager of the Dolphin Discovery Centre, who is also coordinating the BCCI's Bunbury City Heart Marketing Group.

In addition to the workshop, a community survey was undertaken seeking feedback from local residents and visitors in relation to City events.

The activity surrounding community consultation includes:

Surveys:

- Survey Monkey full survey
- Hard copies of full surveys located at Bunbury Wildlife Park, South West Sports Centre, City of Bunbury Administration Building, Visitor Centre, City Library and Withers Library.
- Town Hall Social – quick poll with two key questions in a ranking format. This was a trial with this style of consultation designed to engage a new audience/demographic in a quick response format.

Media:

- Media release distributed on 10 January 2014.
- ABC News conducted telephone interview with Director Community Development on 10 January 2014.
- Radio West live interview with Director Community Development on 15 January 2014.
- Article in Bunbury Herald 14 January 2014.
- Article in Bunbury Mail 15 January 2014.

Advertising:

- City of Bunbury website (notice and slider link).
- Visit Bunbury (tourism) website
- City Focus features on January 15, 22 and 29 including the use of QR codes.
- Facebook – weekly posts with links to both the full survey and the quick poll. Paid promotion on Facebook on January 15 2014 resulted in a total reach of 6,132 people.
- Twitter – tweet published on 9 January 2014.
- Posters in CBD, including at BREC, BRAG, SSAC.
- Email links to relevant contacts including X2Y, Dolphin Discovery Centre, BREC, BRAG, BCCI.

Councillor/Officer Consultation

Councillors and relevant officers were invited to attend and participate in a workshop with local business and representatives from a selection of groups on Wednesday 22nd January 2014.

In addition, all Councillors and officers were able to access the survey and quick poll via the channels listed under 'Community Consultation'.

Strategic Relevance

Events relate to vision as well as the following themes, goals and objectives in the City of Bunbury's Strategic Community Plan:

Vision:

Bunbury will continue to be recognised as the capital of the South West region, with a strong and diverse economy offering a safe, friendly and vibrant lifestyle within an attractive natural and built environment.

Goals and Objectives:

Goal 2: Economic Diversity and Prosperity

- | | |
|---------------|--|
| Objective 2.1 | Maintain support for local business |
| Objective 2.3 | Create an environment that will attract new business |

Goal 4: Social Enhancement

- | | |
|---------------|--|
| Objective 4.2 | Increase participation in sport and leisure activities |
| Objective 4.3 | Celebrate and conserve our culture and heritage |
| Objective 4.4 | Enhance our sense of place, pride and participation in our community |
| Objective 4.5 | Improve our community health and wellbeing |

Themes:

- | | |
|-------------|----------------------------|
| Theme One | Support for local business |
| Theme Three | Heritage |
| Theme Six | Community connection |
| Theme Eight | Tourism |
| Theme Nine | Council leadership |
| Theme Ten | Health |

Economic, Social, Environmental and Heritage Issues

Economic

Hosting the right events provide clear economic benefits to any destination in terms of increased visitor numbers, length of stay and spend. Increased vibrancy and visitation enables stronger business opportunities which subsequently enhance opportunities for growth, wealth and employment.

Social

There are strong social outcomes for any community hosting appropriate events including a sense of vibrancy, place and pride. Participation has been proven to have positive health benefits for all ages and events can be shown to increase the quality of life for the community in terms of educational opportunities, being active, connections with other members of the community through volunteering and so on. Strong and connected communities are resilient communities and increased vibrancy often comes with an increased sense of safety.

Delegation of Authority

It is proposed an annual budget allocation be made available for a Bunbury Events Grants Program (funded by savings from KidsFest and possibly VIVA!), with assessment of applications to be

undertaken by a Bunbury Event Coordination Group and recommendations of that group to be authorised by the CEO.

Relevant Precedents

Decision 121/13 (Endorsement of Council Policy: Community Funding)

Decision 168/13 (referred to above)

Decision 368/13 (referred to above)

Outcome – Council Meeting 18 February 2014

The recommendation (as printed) was moved Cr Kelly seconded Cr McNeill.

During discussions, it was requested that the following amendments to the recommendation be considered:

Item 2 of the recommendation be replaced with the wording “2. Conducts the annual Christmas Carnival and Australia Day celebrations in-house” and a new items 6 be included being “6. Where entertainment is included in events, paid performers be sourced from within the Bunbury, Greater Bunbury or South West community”.

The reasons behind the suggestions was that it is noted that Council Officer’s roles apart from the Christmas and Australia Day Celebrations wherein Council Officers have significant roles in the delivery of these events, are changing to facilitation rather than conducting the events. The other events can be referred to the coordination group which can then make informed decisions based on the amount of funding allocated during budget deliberations. In relation to Point 6, it was agreed that the home grown talent in Bunbury is exceptional and Council should therefore look at any opportunity to showcase and promote the artists.

The mover and seconder agreed to the amendment and inclusion. The Mayor put the motion to the vote and was adopted to become the Council’s decision on the matter.

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

12 votes "for" / nil votes "against"

10.9 Proposed Change of Use application of Tenancy 3D at the Homemaker Centre, LOT: 107 DP: 47979 #42 Strickland Street, South Bunbury (was listed as item 10.5.2 of the Council Agenda)

File Ref:	P09230-22
Applicant/Proponent:	Planning Solutions (Aust) Pty Ltd for Citygate Properties Pty Ltd
Author:	Laura Sabitzer, Planning Officer
Executive:	Bob Karaszekwych, Director Planning and Development Services
Attachments:	Appendix DPDS-5 – Applicants Justification Appendix DPDS-6 – Location plan Appendix DPDS-7 – Development plans Appendix DPDS-8 – Schedule of Submissions

Summary

The proposal is for a Change of Use of Tenancy 3D Homemaker Centre at Lot 107, #42 Strickland Street, South Bunbury to enable the relocation of the Rusticana shop premises from its existing CBD location to the above premises.

The premises is intended to incorporate the following specific elements: storage of bulk products for wholesale and meat products for manufacture; cooking classes; and retail sales not entirely out of character with the nature of a typical Shop premises.

Having consideration for legal counsel advice; State Administrative Tribunal precedents; the WAPC Activity Centres for Greater Bunbury Policy; and Council's adopted Local Planning Strategy, the proposal represents a 'Shop', which is an 'X' (Not Permitted) use in the 'Mixed Business' Zone. The City's Town Planning Scheme No. 7 (Scheme) requires that *"the local government must refuse to approve any 'X' use of land"*. Accordingly, the application should be refused.

To allow the use in the 'Mixed Business' Zone does not represent orderly and proper planning; adversely impacts on the retail primacy of the CBD and the economic viability and competitiveness of retail activity in the 'City Centre', and 'Shopping Centre' zones, where a 'Shop' use is permitted.

Should Council deem that the proposal should not be classed as a 'Shop' or consider the use as another use in the Scheme Zoning Table, subject to the requirements listed in Clause 4.4.2 of the Scheme, the land use classification may be dealt with as a 'Use Not Listed' and may be capable of approval, but this exposes any decision to approve the use to legal challenge. Nonetheless, an option for consideration/recommendation is provided at the end of the report.

Executive Recommendation

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.

Background

A development application for a Change of Use of Tenancy 3D at the Homemakers Centre was received in November 2013.

Prior to the development application being submitted, there has been correspondence between the proprietor of Rusticana and the City. The City provided the proprietor with written planning advice relating to the proposed development on the 10 May 2013, 27 June 2013 and 11 September 2013. In summary, the advice stated that the proposed relocation of Rusticana would not be supported because the proposed development was considered to be a 'Shop' use, which is listed as an 'X' use (Not Permitted) in the Mixed Business Zone.

The applicant has applied for a proposed change of use to 'Produce Market'. A 'Produce Market' use, is not listed, in the Zoning Table (TPS7 Table No.1), and requested that the application be dealt with as a 'use class not listed'. This is discussed in the Officer Comments section below.

Based on detailed analysis of the proposal and upon legal counsel advice, the City does not agree with the proposed land use classification submitted by the applicant, more particularly because the use 'Produce Market' was specifically applied in scheme amendment SU 54 to accommodate the Bunbury Farmers Market and only at its specific location. On the advice of the Department of Planning, the definition of 'Produce Market' is not supported to be included in the draft TPS8.

The applicant's justification for the proposal is **attached** at Appendix DPDS-5.

A summary of the applicant's justification is as follows:

"We consider the business comprises significant and unique characteristics and functions which give rise, on proper and orderly planning grounds, for classification as a 'use not listed' for the purposes of TPS7 being 'Produce Market'...consistent with the TPS7 objectives for the Mixed Business zone, and is therefore permitted. Notwithstanding the above, if the use were to otherwise be classified as another use under TPS7, the proposed

use is more consistent with the TPS7 objectives for the Mixed Business zone, and is therefore capable of approval under the non-conforming use provisions of TPS7”.

A location plan and the development plans provided are **attached** at Appendices DPDS-6 and DPDS-7.

The subject tenancy, known as Tenancy 3D, is located in the south-eastern portion of the Homemaker Centre site. It is approximately 556 sq m in area. The main entry to the premises will be via the existing door on the western elevation of the building, and there is an existing loading/service area east of the premises, which can be accessed from Albert Road. No changes to the existing building are proposed.

Council Policy Compliance

The development application is contrary to the adopted City of Bunbury Local Planning Strategy for Activity Centres and Neighbourhoods.

Legislative Compliance

The application has been assessed against the provisions of the City of Bunbury’s Town Planning Scheme No. 7 (Scheme). The land use classification of the proposal under the Scheme is a point of contention with this application.

From assessing the applicant’s justification and the development plans (refer to **attached** Appendices DPDS-5 and DPDS-7), it is considered that in accordance with the land use definitions contained in Schedule 1 of the Scheme, the proposal falls within the definition of a ‘Shop’ use. The Scheme at Schedule 1 defines a ‘Shop’ land use as follows:

“means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or a fast food outlet”.

In a ‘Mixed Business’ Zone, the Zoning Table lists a ‘Shop’ use as an ‘X’ use, which is not permitted. The explanatory note in the Scheme states that the local government must refuse to approve any ‘X’ use of land.

Officer Comments

Land Use Classification

The subject site is zoned ‘Mixed Business’ Zone and contains a range of land uses, including Showroom; Office; Industry – Service; Industry – Light; Recreation – Private; Service Station; Fast Food Outlets and Lunch Bar uses. It is noted that a ‘Shop’ use is listed as an ‘X’ use which is not permitted in a ‘Mixed Business’ Zone. In accordance with the Scheme, a ‘Shop’ use is only permitted in the ‘City Centre’ and ‘Shopping Centre’ zones.

When considering the appropriate land use classification of the proposal, the City’s officers reference the land use definitions provided at Clause 1.2 in Schedule 1 of the Scheme to determine whether the activity reasonably falls within one of the listed definitions.

Interpretation of the land use definitions are guided through Clause 4.4 of the Scheme (titled interpretation of the Zoning Table), planning law principles and case law, such as State Administrative Tribunal (SAT) decisions.

It is acknowledged appropriate land use classification of the proposal under the Scheme is debatable. Legal opinion on the issue of land classification of the Rusticana proposal has been sought by both the City and the applicant.

Summary of City's legal advice

The City has sought legal advice in relation to the land use classification of the proposal under the Scheme's zoning table. In summary the City's legal opinion concludes that based on the information provided to the City, the most appropriate classification of the proposed use is a 'Shop' use. It states that there may be a combination of use classes, including 'Shop' and 'Showroom' or 'Warehouse' or 'Industry – light' use occurring at the premises at one time, however as the 'Shop' use is retail activity with ancillary storage and preparation area it is an 'X' not permitted use and the proposal should arguably not be approved.

An excerpt of the legal advice is as follows:

"In the final analysis, in my opinion it is difficult to avoid the conclusion that the Rusticana proposal involves either predominately a shop, or at least involves a clearer and distinct Shop use".

However the legal advice does note that there is potential for the proposal to be classed as a 'Use Not Listed' under the Scheme:

"...if the City is inclined to treat the matter differently [i.e. the proposal is not classed as a 'Shop' use], then in my opinion the only reasonable and workable basis on which an approval might be given is if the use was to be treated as a use not listed. I should emphasise that I must not be understood in saying this that I consider that the proper approach is to treat the proposal as a use not listed".

The advice sets out elements to be considered when assessing the land use of the proposal. The predominance of a land use is not just based upon the proposed floor areas dedicated to each activity, regard also has to be given to factors such as the proportion of sales, the proportion of profit gained from the retail and wholesale sales and whether floor area not primarily dedicated for retail sale has a connection to the retail element. For example, most shops have a storage area which the public does not have access to, where goods to be sold from the shop area are stored, quite frequently in bulk, ready to be transferred when required into the display and retail area; such areas whilst not specifically dedicated for retail sale do have a retail connection and are classed as a 'Shop' use.

The advice states that the Rusticana proposal may represent more than one distinct land uses.

"Where [multiple] uses are proposed on one site, if the character of each use remains unaffected by the fact the one site is shared between them, there is no reason why the categorisation of each use should be any different than if each has been effected from its own site".

The approval of a business comprising of more than one land use has been affirmed in multiple State Administrative Tribunal decisions. Therefore, in this case, even if the proposal on a whole does not represent a 'Shop' use, if an element of the proposal could be considered as a distinct 'Shop' use in conjunction to another use(s) at the premises (i.e. a 'Showroom', 'Warehouse' or 'Educational Establishment' uses) the proposal is not capable of approval under the Scheme as it contains an 'X' not permitted use.

Summary of applicant's legal advice

The applicant has sought legal advice, which supports the approval of the proposal under the Scheme. In summary, the applicant's legal advice presents two arguments:

1. the Rusticana proposal cannot firmly be classed as falling with the 'Shop' use class definition or any other use class definitions referred to in Table 1 and Schedule 1 of the Scheme and therefore would be appropriately dealt with as a 'Use Not Listed'
2. in relation to non-conforming use rights as Tenancy 3D was previously approved as a 'Liquor Store' under the previous Town Planning Scheme No.6.

An excerpt of the legal advice is as follows:

"the relevant question is whether or not the Rusticana business can properly be classified as falling within the Shop use-class as defined in Schedule 1.2, or as falling within any other use-class referred to in Table 1 of the Scheme...we are firmly of the view that it does not. Rather, in our view it is a use not listed, similar to (if not wholly consistent with) the definition of Produce Market...We also agree with the view...that the use is clearly consistent, or may be consistent, with the objectives of the Mixed Business zone, and therefore can be approved".

Officer's comments in relation to applicant's legal advice

It is acknowledged that the applicant has obtained separate legal advice which suggests that the application ought to be dealt with as a 'Use Not Listed' in accordance with the provisions outlined at Clause 4.4.2 of the Scheme suggesting that it be similar, if not consistent with, the definition of 'Produce Market' which is provided in Schedule 2 of the Scheme at SU 54.

The City's legal counsel has reviewed and considered the applicant's advice, however does not concur with the opinion provided by the applicant as SU 54 Scheme Amendment was specifically permitted by the WAPC to provide for the establishment of the Bunbury's Farmers Market in Glen Iris and is not intended to be replicated elsewhere in the City. For the reasons outlined above, the City does not concur with the applicant's argument and deems that the proposal in whole or partially represents a distinct 'Shop' use.

The applicant has presented a second argument in relation to the former liquor store that operated from the subject tenancy. The liquor store was approved under the previous TPS, Town Planning Scheme No. 6, as a 'Liquor Store' use. This use class has been removed from Town Planning Scheme No. 7, and it is probable that such use would now be classed as a 'Shop' use under the Scheme.

As the previously approved use is listed as an 'X' not permitted use in the Mixed Business Zone, the applicant has put forward that the existing approved use is a non-conforming use and is capable of approval. This is not the case because the non-conforming rights applicable to the previously approved liquor store have already been transferred within the subject site, for the establishment of 'First Choice Liquor'. As there is no proposal to terminate the liquor store use at the site, the City's legal advice confirms that the non-conforming right cannot be 're-used' to accommodate the

proposal. Additionally, another consideration which extinguishes the non-conforming use rights is that the 'Liquor Store' at Tenancy 3D has ceased operation for at least six months. Clause 4.10.1 of the Scheme states:

“When a non-conforming use of any land has been discontinued for a period of six (6) months the land must not be used after that period otherwise than in conformity with the provisions of the Scheme”.

A 'Shop' use in the 'Mixed Business' Zone is not only contrary to the Scheme, but also does not meet the objectives of the WAPC Activity Centres for Greater Bunbury Policy and the City's Local Planning Strategy. If a 'Shop' use or the like is approved in the 'Mixed Business' Zone it would jeopardise the retail hierarchy of the other centres which are designated for retail shopping activities (i.e. the City Centre and Shopping Centre zones). Refer to the Strategic Relevance section of the report for further detail.

In the interest of informing Council, it is advised that if the applicant is aggrieved by Council's decision that they may apply for a review of the decision at the State Administrative Tribunal. Additionally, if a person (refer to submissions objecting to the proposed use) is aggrieved by Council's decision and considers that Council has not properly administered its Town Planning Scheme, there is avenue for a legal challenge of the decision in the Supreme Court by a Writ of Certiorari. Examples of this occurring in Western Australia can be provided upon request.

Car Parking

The Homemaker Centre has car parking on-site which can be accessed from Blair Street, Strickland Street, Albert Road and Mervyn Street. Refer to attached Appendix DPDS-7 to view the car parking and vehicle access points at the site. The number of car bays required on-site is calculated in accordance with the minimum car parking requirements outlined at Table 2 of the Scheme. The Homemaker Centre contains a surplus of 275 car bays than the minimum number of car bays required. Therefore, there is a sufficient number of car bays available on-site to accommodate the proposed use.

Analysis of Financial and Budget Implications

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

If the applicant is aggrieved by Council's decision they may appeal for a review of the decision through the State Administrative Tribunal (SAT). If the decision is forwarded to SAT for an appeal, the City would incur legal costs.

Where a person is aggrieved at the Council's decision they may challenge the decision in the Supreme Court by a Writ of Certiorari, the City would incur legal costs.

Community Consultation

The application was advertised for public comment from 22 January to 05 February 2014. Public consultation included:

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

In total, 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. Please refer to the schedule of public submissions at **attached** Appendix DPDS-8. The proprietor has also submitted a Petition containing 262 signatures requesting that Council approve the change of use application. This petition is to be forwarded for tabling at the Council meeting.

Councillor/Officer Consultation

The proposal has been discussed internally with Planning and Development Services Officers, prior to the finalisation of this report. The City also sought advice from its legal counsel in relation to the application.

Strategic Relevance

Consistent with State Planning Policy, a retail hierarchy network of activity centres have been identified for Bunbury and designated in the Western Australian Planning Commission's Activity Centres for Greater Bunbury Policy and the City's Local Planning Strategy for Activity Centres and Neighbourhoods (LPSCAN), adopted by Council in 2011.

The Homemaker Centre is not identified as an activity centre. It falls within a 'Mixed Business' Zone that primarily serves the purpose of catering for large format trading, including bulky goods retailing. Such environments do not display or reflect the mixed use or pedestrian friendly characteristics expected of activity centres and are not planned or considered to be conducive to assuming such a role.

In accordance with the Scheme, a 'Shop' use is only permitted in the 'City Centre' and 'Shopping Centre' zones. The viability and competitiveness of the land within the zonings designated for retail activity may be jeopardised if a 'Shop' use is approved in a 'Mixed Business' zoning. In turn, the function of the 'Mixed Business' zone would be affected as large format traders, such as a 'Showroom' may be priced out of the area due to market forces, if small format traders, such as 'Shop' use can compete for the same tenancies.

Delegation of Authority

The application is referred to Council for determination, due to the contention regarding the land use classification of the proposal and as the City's Officers do not have the delegation to refuse development applications. Additionally, public submissions and a Petition have been received in relation to the proposal.

Relevant Precedents

- In 2010, the City received a development application for the proposed establishment of an additional use class not listed, namely 'Other Retail – Apparel' (reference number: DA/2010/88/1) at the Homemaker Centre. This application was refused at the Ordinary Council Meeting of Council on 8 June 2010 as the proposal involved a retailing element which fell within the "Shop" use-class and in accordance with the zoning table was not a permitted use in the Mixed Business Zone. The applicant appealed the refusal notice at the

State Administrative Tribunal (SAT), however the application on review was withdrawn by the applicant, prior to the scheduled hearing.

- In 2008, a SAT review (reference: Chisholm Holdings Pty Ltd and City of Wanneroo [2008] WASAT250) was heard, which is similar in nature to the subject Change of Use proposal. In this case, the applicant applied for a ‘Growers Market’ use, which was a use class definition provided in a Local Structure Plan, but which was not listed in the Zoning Table. The City of Wanneroo, in defending the appeal, contended that proposed development involved a “Shop” use which is mentioned in the Zoning Table as a use which was not permitted in the ‘Business’ zone or alternatively, two different distinct land uses namely a “Shop” use and to the extent the wholesaling would be carried out, a ‘Warehouse’ use. It is considered that there are very significant similarities between the Chisholm Holdings P/L v the City of Wanneroo SAT appeal (which SAT did not uphold).

The SAT determined that the development involved the carrying out of two different and distinct land uses, namely a “Shop” which is a prohibited use in the Scheme and a “Warehouse” use. The SAT did not concur that the development involved a composite or hybrid land use of a “Growers Market”.

- Other examples of SAT cases can be provided upon request.

Option/Alternative

The proposal has been advertised following the procedures of Clause 9.4 of the Scheme. Please refer to the Community Consultation section of the report and **attached** at Appendix DPDS-8 for information of the submissions received during the public comment period.

Should Council consider that the proposal, whether in part or whole cannot reasonably be classed as a ‘Shop’ use or another use listed in the Zoning Table, then the proposal may be capable of approval as a ‘Use Not Listed’ as per Clause 4.4.2 of the Scheme. This Clause states:

“If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot be reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may –

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter following the advertising procedures of clause 9.4 in considering an application for planning approval; or*
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

If the application is deemed to be dealt with as a ‘Use Not Listed’ then Council in accordance with the Scheme, is to be satisfied that the proposed use is consistent with the objectives of the ‘Mixed Business’ Zone. The objectives of the zone are:

“to provide for a wide range of light and service industry, storage, wholesaling, showroom, trade and professional services and a limited range of other mixed business uses which, by reason of their scale, character, operational or land requirements are not generally appropriate to be accommodated within the City Centre, Shopping Centre or Industry zones”.

If Council considers that the proposed use is consistent with the 'Mixed Business' zone objectives and is capable of approval, the following conditions and advice notes are provided as an option/alternative to the Executive Recommendation, bearing in mind that any approval may be challenged in the Supreme Court.

1. Council resolves to approve a development application for the proposed application for a Change of Use of Tenancy 3D – Homemaker Centre from 'Liquor Store' to 'Use Not Listed' at Lot 107, #42 Strickland Street, South Bunbury (application reference DA/2013/289/1) in accordance with the City of Bunbury Town Planning Scheme No. 7, subject to the following conditions and advice notes:
 - a. All development shall be in accordance with the approved development plans which form part of this planning approval.
 - b. 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.
 - c. Before the development is occupied, a minimum of 28 car parking bays must be provided on the land the subject of this planning approval and to the satisfaction of the City of Bunbury.

Advice notes:

- a. The premises and equipment the subject of this planning approval is required to comply with Clause 3.2.3 of the Australian Food Safety Standards. Regardless of whether a building permit is required, application shall be made to the City of Bunbury Environmental Health Services Department for assessment and approval, prior to commencing development.

Two (2) sets of scaled plans (minimum 1:100) and specifications detailing the design and fit out shall be submitted to Environmental Health Services Department and shall include the following information:

- the use of each room/area;
- the structural finishes of walls, floors, ceilings, benches, shelves and other surfaces;
- the position and type of all fixtures, fittings and equipment;
- all sanitary conveniences, floor wastes/bucket traps/cleaner's sinks, grease traps etc;
- waste storage and disposal areas;
- plans and specifications of the mechanical exhaust system if cooking is to take place in the food business;
- specifications of all cooking equipment (stoves, ovens, fryers, etc);
- elevations of food handling and storage areas; and
- details of the types of food being prepared or sold.

Please refer to the City of Bunbury's Requirements for the Establishment, Construction and Fit Out of Food Premises available on the website at www.bunbury.wa.gov.au.

A final inspection of the premises will be required to be carried out by Environmental Health Services prior to commencing operation.

Further information may be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100.

- b. The development is defined as a 'Food Business' under the *Food Act 2008*. The development must comply with the *Food Act 2008* and *Food Regulations 2009*. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.
 - c. The development the subject of this planning approval must comply with the requirements of the *Health Act 1911*.
 - d. The development the subject of this planning approval is required to comply with the City of Bunbury Health Local Laws 2001.
2. Advise the applicant of Council's decision.

Outcome – Council Meeting 18 February 2014

Mayor Brennan, Councillors Steck and Prosser declared a financial interest in this matter (see section 5) and vacated the Chambers at 5.50pm for the discussion and vote on the matter. Deputy Mayor, Brendan Kelly assumed the chair.

Mrs Kellie Piacentini (proprietor of the Rusticana) addressed Council speaking against the Executive Recommendation. Mr Piacentini showed Council some examples of the bulk good products including 25kg bags of flour, 25kg bags of raw sugar and 10kg bags of bread mix. Mr Piacentini advised Rusticana sell over 100kg of these products on a weekly basis and reiterated that the bulk side of the produce would be the focus and direction of the business, should they be allowed to relocate to the new premises at the Homemaker Centre.

Mr John Saunders addressed Council speaking in support of the Executive Recommendation advising by taking the business out of the CBD and putting in a mixed business zone, conflict may occur. He also reiterated that Council has obtained legal advice for this matter and should stand by this.

Mr Ben Doyle addressed Council speaking against the Executive Recommendation advising there is nothing in TPS7 that should stop this proposal from progressing and that Councillors are not bound by the legal advice. He advised that the perception of Council setting a precedent would not happen as for a precedent to be set a proposal of the exact same nature would need to be submitted. Mr Doyle requested Council consider approval the application subject to the conditions previously outlined.

The recommendation (as printed) was moved Cr Jones seconded Cr McCleary

During discussion on the matter, the following points were raised in support of the Executive Recommendation:

- That by not accepting the recommendation, this is not good governance.
- Although there is the bulk side produce of the business, a shop is still a shop.
- The application should be rejected and the proponents urged to submit a new application which provides all details of the proposal.
- The business is not in threat of closing down
- The change of use does not cater for the Rusticana in the Homemaker Centre
- Council needs to stand behind our guidelines
- TPS 7 is currently what Council is adhering to, not No. 6 or a future No.8.

The following points were raised against the Executive Recommendation.

- The welfare of the CBD is high on the agenda but this should not impede from business looking to expand.
- The “Shop” is only a small component of the application
- The current location has a lack of parking and collection of bulky goods from a customer point of view is difficult.
- We should be encouraging businesses to expand and succeed.

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

Council Decision 56/14

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.***

CARRIED

5 votes “for” / 4 votes “against”

The Mayor and Councillors Steck and Prosser returned to the chamber at 6.15pm.

11. Applications for Leave of Absence

Nil.

12. Motions on Notice

Nil.

13. Questions on Notice

13.1 Response to Previous Questions from Members taken on Notice

Nil.

13.2 Questions from Members

Nil.

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

The Bunbury Port Authority has requested a response to the request by the 19 February 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 *“Port Community Liaison Committee – Nomination of Elected Member Representative”* as a matter of urgent business.

Outcome – Council Meeting 18 February 2014

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

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

Council Decision 57/14

That Council pursuant to section 5.4 of Councils Standing Orders, agree to receive the item entitled “Port Community Liaison Committee – Nomination of Elected Member Representative” as a matter of urgent business. .

CARRIED

12 votes “for” / nil votes “against”

14.1 Port Community Liaison Committee – Nomination of Elected Member Representative

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

Summary

Advice has been received from the Chairman of the Bunbury Port Authority - Port Community Liaison Committee (PCLC) that the current term of the City of Bunbury representation expires officially on 31 March 2014.

Councillors McCleary and Steck have expressed their desire to nominate as the City of Bunbury representative on this Committee.

Executive Recommendation

1. Council endorse Cr _____ as the City of Bunbury representative on the Port Community Liaison Committee.
2. The Port Community Liaison Committee be advised of the endorsement.

Background

The Bunbury Port Authority, Port Community Liaison Committee was established in August, 2001 to proactively assist the Authority to address community issues associated with port operations and port development.

The objectives of the Liaison Committee are to;

- Provide advice to the Authority on community issues/impacts from port operations.
- Participate and provide advice to the Authority on proposed port developments.
- Assist in the marketing and promotion of the port as appropriate.
- Provide input/feedback on environmental matters (dust, noise, light, water quality etc).
- An independent Chair was appointed to the committee with the Authority providing secretarial/administrative support.
- To ensure that a cross section of the community/organisations participate in the committee, only one representative from each interested area was appointed to the committee.
- Members are appointed by the BPA Board for a term of 1 or 2 years. The PCLC meets bi-monthly to discuss port operations.

Members of the Committee currently are:

- John Saunders Chairman
- Adrian Egan Community Representative
- Don Fotakis Community Representative
- Matt Granger Bunbury Wellington Economic Alliance Representative
- Tony Jones Community Representative
- Derek Jesson BPA Board Representative
- Ray Frisina BPA Board Representative
- Brian Price Community Representative

- Michael Ansell Bunbury Chamber of Commerce
- Brian McLoughlin Community Representative
- Derek Lee Community Representative
- Andrew Brien City of Bunbury

At present, Councils representative on the committee is the Chief Executive Officer, however, it is felt that an Elected Member representative on the Committee would be beneficial.

Interest was sought from elected members to advise of their desire to be Councils representative on the Committee.

Officer Comments

The Bunbury Port authority have advised that the City's input to this committee has been highly valued and appreciated and have requested the City advise if it is our intention to renominate or resign from the committee.

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.

Outcome – Council Meeting 18 February 2014

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

Cr Cook nominated Cr McNeill for consideration to the Committee in addition to Councillors McCleary and Steck whom had previous expressed an interest on the Committee.

A ballot was conducted with the result being that Cr McNeill receiving the majority of votes from fellow Elected Members.

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

Council Decision 58/14

- 1. *Council endorse Cr McNeill as the City of Bunbury representative on the Port Community Liaison Committee.***
- 2. *The Port Community Liaison Committee be advised of the endorsement.***

CARRIED
12 votes "for" / nil votes "against"

15. Meeting Closed to Public

Nil.

15.1 *Matters for which the Meeting may be Closed*

Nil.

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

Nil.

16. Closure

The meeting was declared closed at 6.23pm