



Bunbury City Council

Minutes 27 May 2014

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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 27 May 2014.

Minutes 27 May 2014

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

1. Declaration of Opening / Announcements of Visitors

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

2. Disclaimer

All persons present 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 advised that last Friday he and the CEO met with the Bunbury Wellington Group of Councils to consider the acquisition of a regional waste site in Banksia Road, Dardanup, it is an 85 hectare site. The state government provided a grant of just over four million dollars to the regional group to purchase the site and install some capital improvements to the land. The Bunbury Wellington Group of Councils submitted an offer of 3.7million dollars.

The Shire of Dardanup last Wednesday resolved to call for public expressions of interest for the site. The Bunbury Wellington group has resolved not to proceed with an expression of interest and will be asking the Department of Regional Development for the group to retain the grant and to examine alternative sites and waste to energy as a long term solution.

The Mayor also discussed that earlier this afternoon, the CEO and himself met with the Shire President and CEO of Dardanup. They visited at Martin Palusey Road which is just inside the Shire of Dardanup. The shire has purchased quite a large land holding there and they were invited to look at the land with the possibility of it been looked at for a future combined depot site and other possible land uses. The CEO's of Bunbury and Dardanup will get together and prepare an item for the shire of Dardanup and City of Bunbury council agendas to consider which may or may not include a business plan but is worthwhile considering as it is roughly 100 acres of land which in the long term may be of good use to the City and it was good of the Shire of Dardanup to make that offer.

4. Attendance

Present:

Council Members:	
Presiding Member	Mayor G Brennan
Deputy Presiding Member	Deputy Mayor Cr B Kelly
Members	Councillor J Hayward
	Councillor B McCleary
	Councillor J Jones
	Councillor S Morris
	Councillor J Miguel
	Councillor M Steck
	Councillor K Steele
	Councillor W Giles
	Councillor M Cook
Executive Leadership Team (Non-Voting)	
Chief Executive Officer	Mr A Brien
Director Community Development	Ms S Addison-Brown
Director Corporate Services	Mr W Wright
Director Planning and Development Services	Mr B Karaszkewych
Director Works and Services	Mr P Harris
Council Officers (Non-Voting)	
Senior Strategic Planning Officer	Ms A Jank
Media and Communications Officer	Ms L Gallo
Engineering Technical Officer	Mr K Daly
Council Meeting Support Officer	Ms J Pezzaniti
Others (Non-Voting)	
Members of the Public	50 (approximately)
Members of the Press	2

4.1 Apologies

Cr David Prosser

4.2 Approved Leave of Absence

Councillor McNeill requested leave of absence from all Council-related business from 27 May 2014 to 5 June 2014 inclusive.

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

Executive Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor McNeill is granted leave of absence from all Council-related business from 27 May 2014 to 5 June 2014 inclusive.

Outcome – Council Meeting 27 May 2014

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

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

Council Decision 167/14

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor McNeill is granted leave of absence from all Council-related business from 27 May 2014 to 5 June 2014 inclusive.

CARRIED

11 votes "for" / nil votes "against"

5. Declaration of Interest

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

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

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

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

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

Outcome – Council Meeting 27 May 2014

Cr Steck declared a financial interest for item 10.5.2 titled "Proposed Change of Use from "Trade Display/Showroom" to "Tavern" and alterations/ additions Unit 6, Block C at LOT: 107 DP: 47979 Homemaker Centre #42 Strickland Street SOUTH BUNBURY" as her partner owns the property. Cr Steck will vacate the chamber and not participate in the discussion or vote on the matter.

Cr Steele declared an impartiality interest for item 10.6.1 titled "Bunbury Primary School - Lovegrove Avenue Traffic and Parking" as her children attend Bunbury Primary School and she is an ex board member. Cr Steele will remain in the in the chambers for the discussion and vote on each matter.

Cr Hayward declared an impartiality interest for item 10.6.1 titled "Bunbury Primary School - Lovegrove Avenue Traffic and Parking" as his child attends Bunbury Primary School. Cr Hayward will remain in the in the chambers for the discussion and vote on each matter.

6. Public Question Time

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

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

6.1 Public Question Time

Daniel Johnston of 1 Lovegrove Avenue, Bunbury

Mr Johnston asked the following two (2) questions to Council. The responses were provided by the Director Works and Services.

Question 1: The January proposal has been referred to consistently by the BPS Board Chair as the safer of the proposals in spite of the City of Bunbury's engineering data stating that their recommendation is safer. Is the current proposal being voted on tonight, the only proposal being considered, and can we please have clarification that the January proposal will no longer be discussed as part of this process?

Response: Yes

Question 2: The BPA board supports the proposal with amendments, can the city clarify those amendments and how many bays will be left on the school side of Lovegrove Avenue with these school amendments?

Response: The agenda item and recommendation do not take into consideration the BPS amendments. The agenda item has been amended to provide clarity around some of the questions / points raised during last weeks briefing session.

Stephen Eaton of 5a Turner Street, Bunbury

Mr Eaton asked the following two questions to Council. A response was provided to Question 1 by the Director Works and Services. The Mayor advised that Question 2 would be taken 'on notice' and a full response will be provided to Mr Eaton.

Question: It was mentioned at last weeks briefing presentation by the chair of the Bunbury Primary School board that after capital works completion there would only be 5 additional car parks. Can you please clarify why there will only be 5 car parking bays when your proposal shows an additional 15 parking bays?

Response: The proposal creates 15 bays if the trees remain and 25 if the trees are removed

Question 2: As per the city of Bunbury local planning document section 8.4.5 car parking tabled for specific use, in this case education primary parking considering existing on street parking, kiss and drop zone in Reading St and staff parking, does the current plan without the removal of trees meet these requirements?

Shauna Willis of 13 Lovegrove Avenue, Bunbury

Ms Willis asked the following question to Council. The response was provided by the Director Works and Services.

Question: Last week Bunbury encountered a one in fifty year rainfall event with 52mm of rain falling in three and a half hours. It was noted that Lovegrove Avenue did not flood despite many other streets across Bunbury being inundated and flooding. Were there any flooding issues reported and if not does this mean that Lovegrove Avenue does not have the “flooding” issues as stated previously and hence replacement of the drains is no longer required?

Response: The existing pipe network is damaged and undersize and requires replacement irrespective of if the school parking modification proceed or not. The rainfall last week varied across so we are unable to compare the event with previous flooding issue. The City has undertaken some works in recent years while placing a camera through the pipe network to clear some obstructions. The video footage confirms that the pipework has been damaged and breached by roots in other areas.

Kelvin Carmichael of 3 Lovegrove Avenue, Bunbury

Mr Carmichael asked the following question to Council. The responses were provided by the Director Works and Services.

Question: We have researched information on the Brazilian Pepper Trees, and have found that they react to stress, for example when they are cut they send out basal shoots and damage to the root system or canopy stimulates root suckering. When removing them, they need to be poisoned within 5 minutes of making a cut or complete removal of the trunk and roots. For effective removal the area needs to be poisoned with for 12-26 months. What information has been obtained regarding removal of trees if they are removed?

Response: The City has successfully removed similar trees in the past. The City engaged an arborist to report on the condition of the trees and the necessary treatment.

Jo Clark of 21 Lovegrove Avenue, Bunbury

Ms Clark asked the following two (2) questions to Council. The response was provided by the Director Works and Services.

Question 1: It was mentioned last week that any drainage works that took place around the trees would damage the trees. Has there been any investigation in to whether this would happen?

Response: Yes refer to response to the previous question

Question 2: If this proposal has been passed, will any further discussions or changes take place or is this the end of the matter?

Response: This may be a direction for Council to set however if the project is deferred than the staff will concentrate resources into delivering the Adam Road option and look at recommencing discussions at some time in the future. If the project is approved by Council then the staff will develop a delivery communication plan to keep everyone informed.

David Smith of 8 Picton Crescent, Bunbury

Mr Smith asked the following three (3) questions to Council. The responses were provided by the Chief Executive Officer.

Question 1: I refer to the income statement for the Hay Park South Pavilion shown in the Agenda item for the 13th May 2014 meeting which shows a total of \$5,000,000 whereas the income items shown total only \$4,550,000 and ask "What was the reason for this error and why it was not corrected at or before the briefing session or the meeting on the 13th May, 2014.

Response: Through an elected member, this anomaly can be rectified in the official adopted minutes.

Question 2: What was the shortfall between the lowest construction tender for the pavilion and change rooms received last year and the previously approved Council budgets for the project.

Response: This information is of a confidential manner and as such will not be provided.

Question 3: Has there been any discussion between Council, the local State and Federal MPs and/or the Minister for Regional Development and/or the Minister for Sport and Recreation and/or Colin Holt MLC to advert them to the fact that what is now proposed is a substantially reduced project that will not meet the standard required by Bunbury Forum Force and nor for other elite soccer, and to discuss whether it is possible to get any additional funding from the State or Federal Governments for this project and if so when, where and how have these discussions taken place, and what were the outcome of each discussion.

Response: As per my previous answers to your questions raised at the Ordinary Meeting of 15 April 2014 and correspondence to you of the 17 April 2014, City offices have me with the Department of Sport and Recreation. This correspondence also addresses your question regarding further funding. In relation to discussions with State and Federal Elected Officials regarding the scope of the project – No.

John Sherwood, 53A Stockley Road, Bunbury

Mr Sherwood asked the following questions to Council. A brief response was provided by the Director of Works and Services. The Mayor advised that the questions would be taken 'on notice' and a full response will be provided to Mr Sherwood.

Question 1: I have had a long professional and community interest in due process so would Council and the City Administration please accept my thanks and appreciation, and of other in our neighbourhood for a process which has been carried out well and a plan which promises solutions to the key issues

Question 2: If the plan endorsed by the Executive is adopted tonight, approximately when is the project likely to be completed.

Response: The works, subject to Councils endorsement would be scheduled to occur during the Christmas School holidays to reduce the impact on the school and when the weather is more suitable for road construction. The ground water in the area during the winter months can impact of drainage works.

6.2 Responses to Public Questions Taken ‘On Notice’

At the Council Meeting held 13 May 2014, three questions were asked during Public Question Time that could not be answered during the meeting. A copy of the questions and the written response forwarded to the questioner following the meeting is provided below for public information:

Question 1: Can Council please provide a list of payments made by Council for the design of the Building, the Hay Park South Pavilion, for design and architectural work, commencing with that supplied for the funding application to date, showing the date, amount and the payee.

Response: The total expenditure to date (as at 16 May 2014) is \$170,820.64. It should be noted there are additional costs that the City has not yet been invoiced. NOTE: As requested. Mr Smith was provided with a separate breakdown of expenditure, including date paid, amount and payee.

Question 2: Can you please also provide the expected payments to come for the design and architectural of the building including any contingency payments and who the likely payee is.

Response: At this stage we do not have firm costs for the redesign as the concepts provided to Council on 13 May 2014 will require input from stakeholders and funding providers to ensure that prior to work commencing on the new design that the required deliverables are clearly documented. Once the documentation is complete the design consultants will be requested to provide a revised estimate to complete the design with consideration to utilising information that had formed the original design.

Question 3: Can you also advise what has caused the need for each redesign and whether the plan now being proposed has been referred to the State Soccer Association for confirmation that it meets their requirement for elite level games including player security between the change rooms and the pitch.

Response: The redesign is required as a result of Council Decision 384/13 whereby Council resolved to advise all tenderers that all tenders exceeded Councils budget for the project and therefore no tender was accepted. In addition Council requested that the CEO undertake an investigation to redesign the multi sports pavilion in accordance with current funding and stakeholder requirements.

As per question 2 we are only at Concept stage with stakeholder consultation including the State Soccer Association ongoing.

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 13 May 2014 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 12 May 2014 be confirmed as a true and accurate record.

Outcome – Council Meeting 27 May 2014

Cr Cook moved, Cr Kelly seconded the minutes with an amendment to item 10.7 titled “Hay Park Sports Pavilion” on page 41 to correct the total income in the table shown from 5,000,000 to 4,550,000.

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

Council Decision 168/14

The Minutes of the Ordinary meeting of the Bunbury City Council held 13 May 2014 be confirmed as a true and accurate record with the following amendment to item 10.7 titled “Hay Park Sports Pavilion”:

On page 41, Total Income displayed in the table to read “4,550,000”.

CARRIED

11 votes “for” / nil votes “against”

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

File Ref:	Various
Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Various
Attachments:	Appendix MTBN-1 – Bunbury-Setagaya Sister Cities Committee Minutes 19.03.2014 Appendix MTBN-2 – Bunbury-Setagaya Sister Cities Committee Minutes 16.04.2014 Appendix MTBN-3 – Roadwise Committee Minutes 5.2.14 and 2.4.2014 Appendix MTBN-4 - Withers Advisory Committee Minutes 09.05.14

Summary

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

1. Title: Bunbury-Setagaya Sister Cities Committee Minutes 19.03.2014
Author: Jenni Brown
Appendix: MTBN-1
2. Title: Bunbury-Setagaya Sister Cities Committee Minutes 16.04.2014
Author: Jenni Brown
Appendix: MTBN-2
3. Title: Roadwise Committee Minutes 5.02.2014 and 2.04.2014
Author: Rachel Griffiths
Appendix: MTBN-3
4. Title: Withers Advisory Committee Minutes 09.05.14
Author: Alison Baker
Appendix: MTBN-4

Council Committee Recommendation

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

1. Bunbury-Setagaya Sister Cities Committee Minutes 19.03.2014
2. Bunbury-Setagaya Sister Cities Committee Minutes 16.04.2014
3. Roadwise Committee Minutes 5.02.2014 and 2.04.2014
4. Withers Advisory Committee Minutes 09.05.14

Outcome – Council Meeting 27 May 2014

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

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

Council Decision 169/14

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

1. ***Bunbury-Setagaya Sister Cities Committee Minutes 19.03.2014***
2. ***Bunbury-Setagaya Sister Cities Committee Minutes 16.04.2014***
3. ***Roadwise Committee Minutes 5.02.2014 and 2.04.2014***
4. ***Withers Advisory Committee Minutes 09.05.14***

CARRIED

11 votes "for" / nil votes "against"

8. Petitions, Presentations, Deputations and Delegations

8.1 Petitions

Nil

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.

Five deputations were received:

Mr Edwin Taylor of 20 Forrest Ave Bunbury

Mr Taylor requested to address Item 10.5.1 titled *“Proposed “Pylon Sign” – LOT: 9, No.19 Forrest Avenue South Bunbury”*.

Ms Kanella Hope & Mr Shane Doherty of Bunbury Primary School

Ms Hope and Mr Doherty requested to address Item 10.6.1 titled *“Bunbury Primary School - Lovegrove Avenue Traffic and Parking”*.

Mr Daniel Johnston of 1 Lovegrove Ave

Mr Johnston requested to address Item 10.6.1 titled *“Bunbury Primary School - Lovegrove Avenue Traffic and Parking”*.

Ms Geraldine Atkinson of 8 Garvey Place

Ms Atkinson requested to address Item 10.6.1 titled *“Bunbury Primary School - Lovegrove Avenue Traffic and Parking”*.

Mr Kelvin Carmichael of 3 Lovegrove Ave

Mr Carmichael requested to address Item 10.6.1 titled *“Bunbury Primary School - Lovegrove Avenue Traffic and Parking”*.

Council Decision 170/14

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves the following deputations:

- ***Mr Edwin Taylor relating to Item 10.5.1 titled “Proposed “Pylon Sign” – LOT: 9, No.19 Forrest Avenue South Bunbury” and allows a period of up to 10 minutes to present to Council.***
- ***Ms Kanella Hope & Mr Shane Doherty relating to Item 10.6.1 titled “Bunbury Primary School - Lovegrove Avenue Traffic and Parking” and allows a period of up to 10 minutes to present to Council.***
- ***Mr Daniel Johnston relating to Item 10.6.1 titled “Bunbury Primary School - Lovegrove Avenue Traffic and Parking” and allows a period of up to 10 minutes to present to Council.***
- ***Ms Geraldine Atkinson relating to Item 10.6.1 titled “Bunbury Primary School - Lovegrove Avenue Traffic and Parking” and allows a period of up to 10 minutes to present to Council.***
- ***Mr Kelvin Carmichael relating to Item 10.6.1 titled “Bunbury Primary School - Lovegrove Avenue Traffic and Parking” and allows a period of up to 10 minutes to present to Council.***

CARRIED

All deputations were accepted.

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 10.3.1, 10.4.2, 10.4.3 and 10.5.4.

Items 10.2.1, 10.3.2, 10.4.1, 10.5.1, 10.5.2, 10.5.3 and 10.6.1 of the meeting agenda were then discussed and voted on separately and in the order that they appeared on the agenda. The items have been renumbered with the items voted “by exception” listed first.

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

10. Reports

10.1 Bunbury Event Coordination Group Terms of Reference and Event Funding Process (*was listed as item 10.3.1 of the Council Agenda*)

Applicant/Proponent:	
Author:	Stephanie Addison-Brown, Director Community Development
Executive:	Stephanie Addison-Brown, Director Community Development
Attachments:	Appendix DCD-1 - BECG Terms of Reference - May 2014 Appendix DCD-2 - Updated Council Funding Policy - May 2014 Appendix DCD-3 - CoB Corporate Guidelines - Event Funding Program May 2014 Appendix DCD-4 - Event Funding Application Form 2014-15

Summary

In February 2014, Council decided to establish a Bunbury Event Coordination Group (BECG) to coordinate the event calendar in Bunbury and the allocation of event funding offered by the City. Since then, BECG members have been appointed and several meetings have taken place during which the group developed draft terms of reference and scoped a proposed process for the coordination of event grants.

The BECG is requesting Council's endorsement for a series of documents which will enable the City to proceed with publicly advertising the availability of event funding for 2014 and to invite event organisers to apply for cash and/or in-kind support from the City.

Executive Recommendation (based on Bunbury Event Coordination Group recommendation)

That Council:

1. Endorse the Bunbury Event Coordination Group Terms of Reference
2. Endorse the updated Council Policy CEO-10 'Council Funding' (previously CEO-10 'Community Funding') which now incorporates the Event Funding Program
3. Endorse the City of Bunbury Corporate Guideline 'Event Funding Program'
4. Endorse the Event Funding Application Form for 2014/15

Background

In February 2014, Council decided to establish a Bunbury Event Coordination Group to coordinate the attraction and development of non City-run events and activities in Bunbury.

Following its establishment, the BECG has prepared a series of documents for Council to endorse to formalise the role of the group and to establish the criteria, guidelines and application process for the new Event Funding Program.

These documents include:

- BECG Terms of Reference (**attached** at Appendix DCD-1)
- Council Policy CEO-10 'Council Funding' (updated from CEO-10 'Community Funding') (**attached** at Appendix DCD-2)

- City of Bunbury Corporate Guidelines ‘Event Funding Program’ (**attached** at Appendix DCD-3)
- City of Bunbury Event Funding Application Form 2014/15 (**attached** at Appendix DCD-4)

While ordinarily Council Policies are to be referred to Council by the Policy Committee, the updated Council Policy CEO-10 has been brought directly to Council as the changes are purely administrative to incorporate the direction set by Council on 4 February 2014 and do not alter the intent of original document other than to incorporate the additional wording relating to the Event Funding Program.

It is anticipated that should Council endorse the documents proposed for endorsement, the City of Bunbury’s Event Funding Program will be advertised at the same time as the Community Grant Program at the end of May 2014. This will enable prospective applicants to discuss their applications with the Events Team and the City’s Community Grants Officer to ensure they are applying for the correct funding round and minimise confusion. It is anticipated that funding allocations will be decided by the end of July 2014, thus providing event organisers and the City’s Events Team as much time as possible to prepare for any events being held within the time period for the funding allocation.

Council Policy Compliance

In May 2013, Council adopted Council Policy CEO-10 (Community Funding) which covered grants the City makes available annually for community activities and events. As events will now also have an allocation of funding (separate from and additional to the original Community Funding Program), the relevant Council Policy (CEO-10) has been updated for Council to endorse.

In addition, a new Corporate Guideline relating to the Event Funding Program has also been developed for Council’s endorsement.

Legislative Compliance

N/A

Officer Comments

The BECG has met numerous times with all members enthusiastic to see positive outcomes in terms of events for Bunbury. The endorsement of these documents will enable to BECG to undertake the work they were established to do and ensure the Event Funding Program for 2014/15 commences in a timely manner.

Analysis of Financial and Budget Implications

An allocation of \$350,000 is currently in the draft Council budget for 2014/15 for the Event Funding Program.

Community Consultation

Extensive community consultation was undertaken prior to Council’s decision in February 2014 to establish the BECG and the Event Funding Program.

The BECG currently comprises a representative from the BCCI, the Manager BREC, the Director BRAG, a representative of the X2Y group, a tourism industry representative and five Bunbury community members. This group has collectively developed the documents being presented to Council for endorsement.

Councillor/Officer Consultation

Councillor Morris is the Council representative on the BECG and both the Director Community Development and Team Leader Events sit on the group (Events Team staff are proxies in case either of these people are unavailable for a meeting). All were involved in the development of the suite of documents Council is being asked to endorse.

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 and Social Issues

Economic

Enabling Bunbury to host a quality calendar comprising the right mix of events will 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. The establishment of an Event Funding Program coordinated by the BECG will ensure a quality and diverse range of events can be encouraged for Bunbury with a strong emphasis on capacity building and economic returns to Bunbury.

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

The Chief Executive Officer has delegated authority to approve the recommendations of the BECG including endorsement of recommended funding allocations from the Event Funding Program.

Relevant Precedents

Decision 55/14 made on 18 February 2014
(Establishment of BECG and Event Funding Program)

Outcome – Council Meeting 27 May 2014

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

Council Decision 171/14

That Council:

- 1. Endorse the Bunbury Event Coordination Group Terms of Reference***
- 2. Endorse the updated Council Policy CEO-10 'Council Funding' (previously CEO-10 'Community Funding') which now incorporates the Event Funding Program***
- 3. Endorse the City of Bunbury Corporate Guideline 'Event Funding Program'***
- 4. Endorse the Event Funding Application Form for 2014/15***

CARRIED

11 votes "for" / nil votes "against"

10.2 Schedule of Accounts Paid for the Period 1 April 2014 to 30 April 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 DCS-5 – Schedule of Accounts Paid 1.4.14 – 30.4.14

The City of Bunbury "*Schedule of Accounts Paid*" covering the period 1 April 2014 to 30 April 2014 has been issued to elected members **attached** at Appendix DCS-5. The schedule contains details of the following transactions:

1. Municipal Account – payments totalling \$5,280,215.88
2. Advance Account – payments totalling \$3,607,246.39
3. Trust Account – payments totalling \$14,239.99
4. Visitor Information Centre Trust Account – payments totalling \$15,752.45
5. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$959,548.27
6. Bunbury-Harvey Regional Council Advance Account – payments totalling \$985,801.38

Executive Recommendation

The Schedule of Accounts Paid for the period 1 April 2014 to 30 April 2014 be received.

Outcome – Council Meeting 27 May 2014

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

Council Decision 172/14

The Schedule of Accounts Paid for the period 1 April 2014 to 30 April 2014 be received.

CARRIED

11 votes "for" / nil votes "against"

10.3 Financial Management Report for the Period Ending 30 April 2014 (was listed as item 10.4.3 of the Council Agenda)

Applicant/Proponent:	Internal Report
Author:	David Ransom, Manager Finance
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Appendix DCS-6 – Statement of Comprehensive Income Appendix DCS-7 – Statement of Financial Activity Appendix DCS-8 – Statement of Net Current Assets Appendix DCS-9 – Balance Sheet Appendix DCS-10 - Capital Works Expenditure Summary

Summary

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

1. Statement of Comprehensive Income (**attached** at Appendix DCS-6)
Actual Financial Performance to 30 April 2014
 - Actual operating income of \$45.94M is \$90K more than the year-to-date budgeted income of \$45.85M (refer explanation within the report).
 - Actual operating expenditure of \$33.50M is \$1.35M less than the year-to-date budgeted expenditure of \$34.85M (refer explanation within the report).
 - Actual operating surplus of \$12.45M is \$1.45M more than the year-to-date budgeted operating surplus of \$11.00M (refer explanation within the report).

2. Statement of Financial Activity (**attached** at Appendix DCS-7)
 - Closing Funding Surplus to 30 June 2014 is forecast at \$1.92M, which is \$1.45M more than the Current Budget Closing Funding Surplus of \$468K. Note that the forecast closing funds of \$1.92M includes \$1.31M of operating and capital projects carried forward to the 2014/15 Budget.

3. Balance Sheet (**attached** at Appendix DCS-9)

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

	Year-to-date	Forecast
• Current Assets of \$25.8M includes:		
- Cash and Investments	\$24.00M	\$13.76M
- Rates	\$ 0.92M	\$0.22M
- Other Current Assets	\$ 0.88M	\$2.20M
• Current Liabilities of \$6.09M includes:		
- Trade and Other Payables	\$1.64M	\$5.40M
- Annual Leave and LSL Provisions	\$3.00M	\$3.46M
• Working Capital (Current Assets less Current Liabilities)	\$19.7M	\$5.38M
• Equity (Total Assets less Total Liabilities)	\$432.02M	\$413.97M

4. Capital Works (**attached** at Appendix DCS-10)
- Actual capital works of \$16.16M is \$6.87M less than the year-to-date budgeted capital works of \$23.03M (refer explanation on next page).

Executive Recommendation

The Financial Management Report for the period ending 30 April 2014 be received.

Background

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

- Statement of Comprehensive Income (**attached** at Appendix DCS-6)
- Statement of Financial Activity (**attached** at Appendix DCS-7)
- Statement of Net Current Assets (**attached** at Appendix DCS-8)
- Balance Sheet (**attached** at Appendix DCS-9)
- Capital Works Expenditure Summary (**attached** at Appendix DCS-10)

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

Council Policy Compliance

Not applicable.

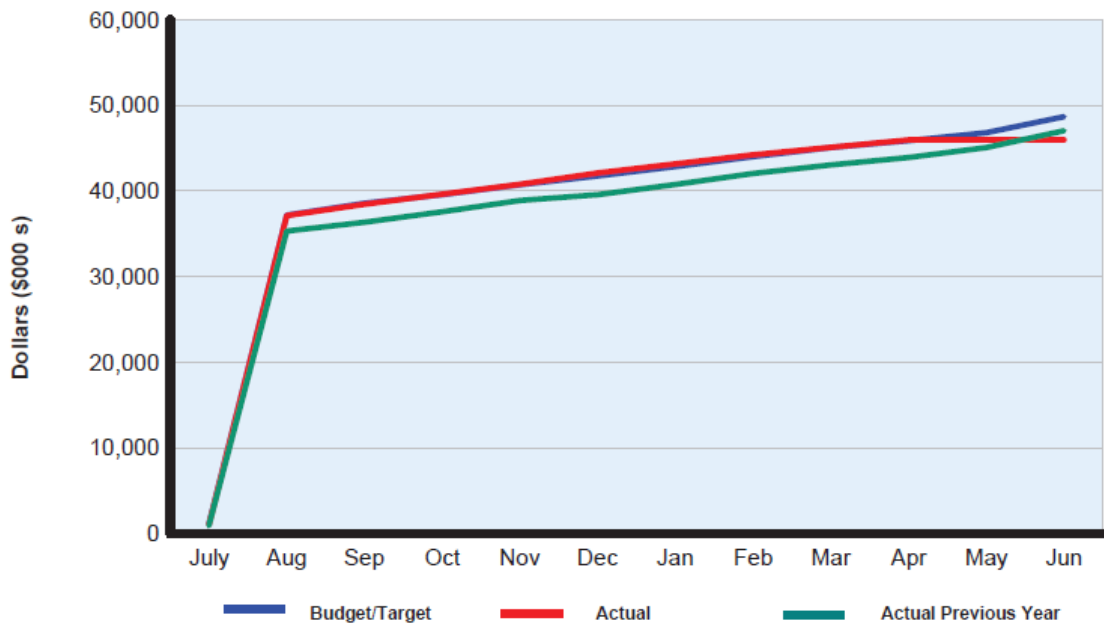
Legislative Compliance

In accordance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996, a Local Government is to prepare each month a Statement of Financial Activity (**attached** at Appendix DCS-7) reporting on the revenue and expenditure as set out in the annual budget under Regulations 22 (1) (d) for this month.

Officer Comments

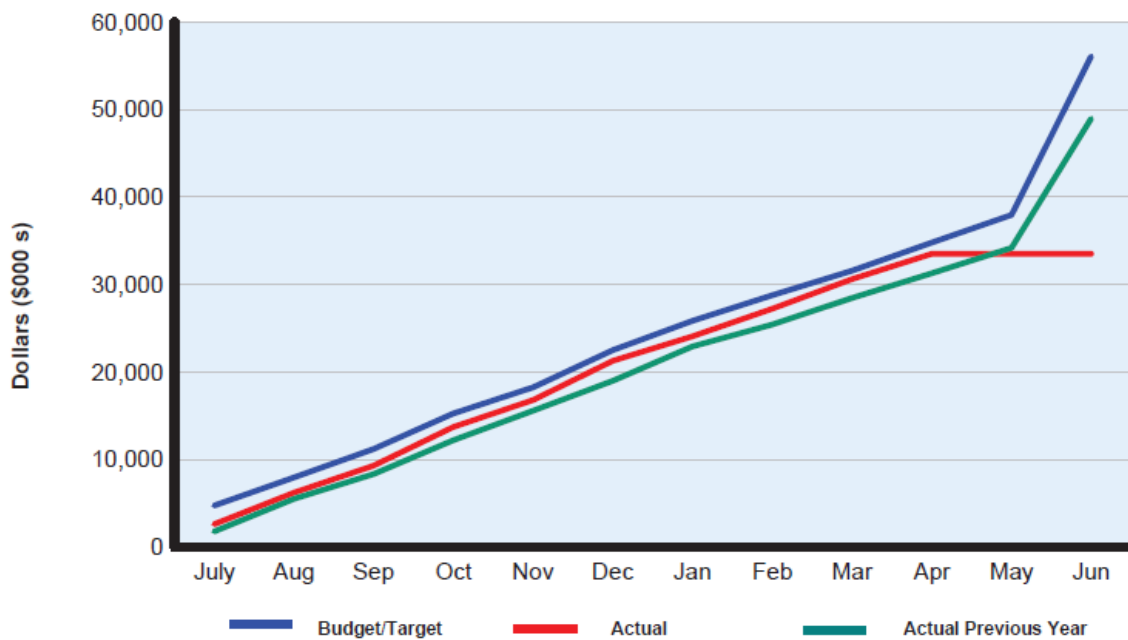
The Operating Income, Operating Expenditure and Capital Expenditure graphs provide an overview on how actual income/expenditure is tracking to budget and the previous financial year. Comments are provided on each graph regarding the current financial position.

Operating income (\$000's)



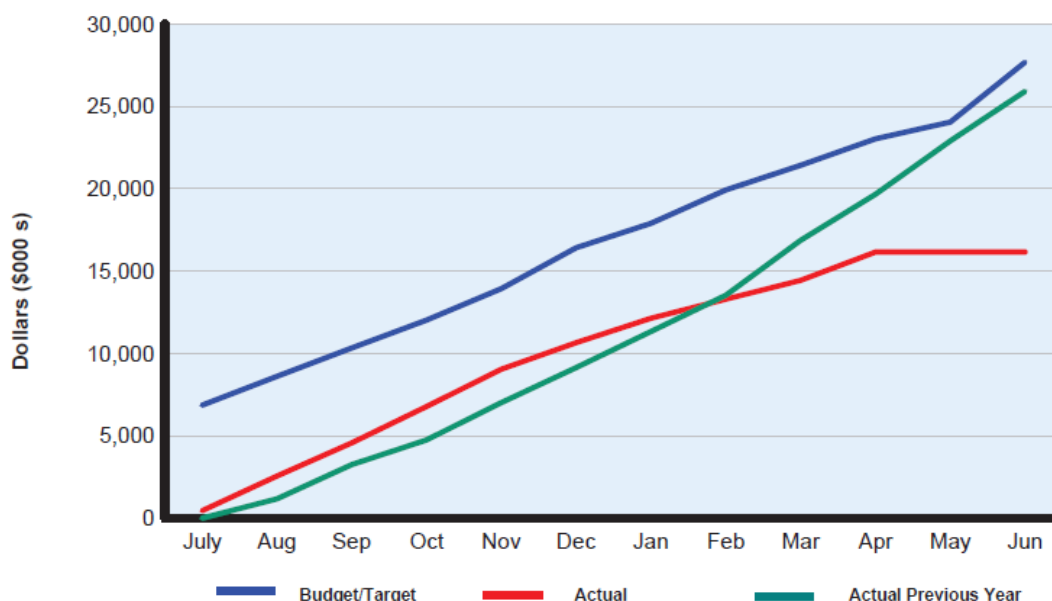
Note: Operating income includes: rates, fees and charges,
 There is a favourable actual to budget-to-date variance of \$60K.

Operating expenditure (\$000's)



Note: Actual operating expenditure is \$1.3M under the year-to-date budget mainly due to Materials and Contracts being under budget by \$1.18M.

Capital Expenditure (\$ 000's)



Note: The capital expenditure variance to the end of April 2014 of \$6.87M is due to the delay in commencement or progress of various projects as reported in the monthly Capital Works Expenditure Summary Report to Council.

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

Statement of Comprehensive Income	YTD Actual to YTD Budget Variance
Operating Income	
Donation Income – Bunbury Wildlife Park donation income is down \$9K on year to date budget. Overall operating income for Bunbury Wildlife Park is on budget.	\$6,327 39%
Operating Expenditure	
Material and Contracts (Contract Employment Expense) – Contract employment expenses are higher than year-to-date budget estimates due to staff vacancies, employees on workers compensation, employee leave, and using temporary agency staff in-lieu of contractors. The increase in contract employment expenses has been offset by savings in salaries and wages and contract labour and materials budgets.	(\$63,006) (14%)
Utilities (Sewerage Expense) – There has been an increase in recoupable utilities, which has been matched with a corresponding increase in income.	(\$9,097) (29%)
Non Operating Income and Expenditure	
Grants and Contributions for the Development of Assets – Year-to-date budgeted grant income for the following projects have not yet been received:	(\$613,526) (13%)

<p>PR-1444 Implement the Hands Oval Master Plan Stage 1 (\$335,001) – Grant funds will be received following acquittal of project works. The acquittal has been prepared and submitted to the funding body. Final payment of grant funds was expected in April.</p> <p>PR-1952 Renew Sykes boat ramp and jetty (\$213,568) – 56% of grant funds have been received. The balance is able to be claimed on completion of the project. The project is nearing completion.</p> <p>PR-3433 Replace Asbestos roof covering to the Bunbury bowling club (\$60,000) – 50% contribution income yet to be received.</p>	
<p>Proceeds Land Disposals – Sale of land yet to occur. Settlement is due in May 2014.</p>	<p>(\$150,364) (38%)</p>
<p>Proceeds Plant and Vehicle Disposals – Changeover of various plant and vehicles scheduled to be completed by end of March are yet to occur.</p>	<p>(\$156,251) (38%)</p>

Statement of Financial Activity	YTD Actual to YTD Budget Variance
Operating Revenues	
<p>Other Revenue – Increase in current year actual income is reflective of the following other revenue being received in excess of the current year-to-date budget amount:</p> <p>Undertake Private Works (\$15,395) – Favourable variance. This account will continue to be monitored on a monthly basis.</p> <p>Coordinate Rating (\$4,936) – Revenue associated with rate enquiries is greater than year-to-date budget.</p> <p>Undertake Fundraising Activities for Bunbury Museum (\$13,500) – Donation income has been received for the Bunbury Museum this amount is to be transferred to reserve.</p> <p>Collect hard, hazardous and commercial waste (\$10,738) – Favourable variance. Sale of Scrap metals has increased and this account will continue to be monitored on a monthly basis.</p> <p>Employee contributions (\$4,953) – Increase in employee contributions.</p> <p>Maintenance of street banners (\$2,547) – Favourable variance. This account will continue to be monitored on a monthly basis.</p>	<p>\$51,603 19%</p>
Operating Expenses	
<p>Material and Contracts – Actual expenditure is down on year-to-date budgeted expenditure as of 30 April 2014 over both base operating and operating project accounts. Variance relates to works that will be completed during 2013/14.</p>	<p>\$1,185,965 10%</p>
Capital Revenues	
<p>Grants and Contributions for the Development of Assets – See explanation above included in the Statement of Comprehensive Income variances.</p>	<p>(\$613,526) (13%)</p>
<p>Proceeds on Disposal of Assets – See explanation above included in the Statement of Comprehensive Income variances.</p>	<p>(\$306,615) (38%)</p>
Capital Expenses	
<p>Acquisition of Assets – Variance due to delay in commencement or progress of various projects.</p> <p>The Capital Expenditure Report included at Appendix 5 provides details of all projects and the expenditure progress versus year-to-date estimates for the project.</p>	<p>\$6,871,059 30%</p>

Analysis of Financial and Budget Implications

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

Community Consultation

There is no requirement for community consultation on this report.

Councillor/Officer Consultation

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

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

Outcome – Council Meeting 27 May 2014

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

Council Decision 173/14

The Financial Management Report for the period ending 30 April 2014 be received.

CARRIED

11 votes "for" / nil votes "against"

10.4 Recommendation to WALGA on Contaminated Sites Auditors *(was listed as item 10.5.4 of the Council Agenda)*

File Ref:	A05991
Applicant/Proponent:	Internal Report
Author:	Ben Deeley, Team Leader Sustainability
Executive:	Bob Karaszewych, Director Planning and Development Services
Attachments:	Nil

Summary

The State government requirement to engage contaminated sites auditors as private consultants to review contaminated site investigations and management works places a considerable additional expense on proponents, including local government, and may introduce inefficiencies to the contaminated site management process.

Of the suspected and known 28 contaminated sites Council has responsibility for, at least twelve (12) may require the future engagement of a contaminated sites auditor with a potential significant cost to the Council, and accordingly this report seeks Council's support to transfer the responsibility for contaminated sites auditors, on a fee for service basis, to the Department of Environment Regulation.

Executive Recommendation

That Council refer the following recommendation to the Western Australian Local Government Association for consideration at the Annual General Meeting:

1. That the Western Australian Local Government Association:
 - a) Lobbies the State government to transfer the responsibility for auditing of contaminated sites reports to the Department of Environment Regulation as either a statutory requirement or on a fee for service basis; and
 - b) Investigates and implements measures to reduce the cost of resolving contaminated site issues on local government (e.g. discounted consultant fees under WALGA preferred supplier panel contracts)."
2. That the CEO prepare a report and associated background material in support of the recommendation.

Background

The *WA Contaminated Sites Act 2003* (the Act), was introduced by the State government in 2007, in order to minimise the risk posed by contaminated sites to public and environmental health.

The Act requires responsible parties to report known and suspected contaminated sites to the Department of Environment Regulation, which in turn assigns each site a particular classification depending upon the risks involved and level of investigation and management required.

Both the investigation and management works are typically highly technical in nature, expensive and time consuming, and require the engagement of consultants. For example, the investigations associated with a moderately complex contaminated site may cost in excess of \$100,000, and

require between six (6) and twelve months to complete. Management works, where required, can be considerably more expensive and time consuming.

In certain circumstances, particularly where contamination issues are complex, proponents may be required to appoint a private consultant contaminated sites auditor to review investigations and management works, prior to the information being supplied to the Department of Environment Regulation. Contaminated sites auditors are not employees of the department, but rather external consultants. In this manner, proponents at times need to appoint one consultant to undertake the investigations and management works, and a second consultant to review the work of the first consultant.

The appointment of contaminated sites auditors can be expensive with auditors, as private consultants, having an hourly rate in the order of \$300 per hour. It is understood that the resolution of a simple land fill site may attract an auditor fee in excess of \$50,000.

The current approach involving the use of contaminated sites auditors may also introduce inefficiencies to the State government process as the work of an auditor, being the review of the first consultants work, must in turn be reviewed by the Department of Environment Regulation in determining whether the relevant contamination issue has been sufficiently resolved.

Arguably, it would be less financially burdensome on proponents and more efficient, if the auditing review of contaminated site investigations and management works were to be completed by the Department of Environment Regulation, rather than consultants.

The above recommendation provides for a Council recommendation to the Western Australian Local Government Association to investigate this matter, and if deemed appropriate, make representation to and lobby the State government to change the existing contaminated sites auditor arrangements.

Informal consultation on the proposal occurred with the Department of Environment Regulation on the 12 May 2014, during which no immediate fatal flaws were raised.

Council Policy Compliance

Not applicable.

Legislative Compliance

The relevant legislation is the WA Contaminated Sites Act 2003.

Officer Comments

The City of Bunbury is responsible for 28 suspected and known contaminated sites, all of which have been previously reported to the Department of Environment Regulation, in accordance with the City's statutory responsibilities under the Act.

Of these, at least 12 may require the engagement of contaminated sites auditors based on previous advice from the Department of Environment Regulation. Two sites, Jaycee Park and Lot 70 Winthrop Avenue, College Grove, are currently subject of Council development proposals.

The contaminated sites auditor fees associated with the resolution of the contamination issues at

12 sites may result in a combined cost to Council in the order of hundreds of thousands of dollars. If endorsed, the recommendation may achieve a change in the State government's contaminated site process and cost savings for Council.

It is anticipated that various stakeholders may have concerns with the proposal as it represents a fundamental shift in the State governments approach. Concerns that are likely to be raised by stakeholders along with potential solutions for each have been briefly outlined below to assist the further consideration of the proposal:

Concern: How would the Department of Environment Regulation resource the appointment of auditors?

Potential solution: A fee for service model whereby proponents pay the department to audit their investigations etc. could address this issue (e.g. the federal Department of the Environment's impending introduction of a fee for service approach for environmental impact assessments).

Concern: How would the Department of Environment Regulation attract and fund the recruitment and engagement of auditors in view of current private sector rates?

Potential solution: This issue could be addressed by amending the Act to reflect the department as having the primary responsibility for performing and/or reviewing audits. Under such a system, the department would conduct most scheduled audits, whilst proponents who wish to expedite the audit process could obtain such assistance privately from consulting auditors at market rates.

Concern: How would a fee for service model work where the responsible party(ies) for certain contaminated sites is currently unknown?

Potential solution: This issue is understood to be a problem under the present arrangements, and it is currently resolved by proponents through the land development process which drives the completion of audits.

Concern: How would a government-based fee for service approach improve cost and time efficiency over the current approach of consulting auditors engaged on an as needs basis?

Potential solution: This issue would be addressed through a system that provides for both government and private sector involvement. Under such a system, the department would conduct scheduled audits, whilst proponents who wish to have audits completed more urgently could obtain assistance from consulting auditors at a market rate. Such a system is likely to offer a balance between cost and time efficiency.

Analysis of Financial and Budget Implications

The Executive Recommendation has no budgetary implications.

Where the State government requires the City of Bunbury to engage a contaminated sites auditor under the current approach, there are likely to be budgetary implications for Council.

Community Consultation

No community consultation has been undertaken on this matter to date.

Councillor/Officer Consultation

The Executive Leadership Team has been consulted in relation to this report.

Outcome – Council Meeting 27 May 2014

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

Council Decision 174/14

That Council refer the following recommendation to the Western Australian Local Government Association for consideration at the Annual General Meeting:

- 1. That the Western Australian Local Government Association:***
 - a) Lobbies the State government to transfer the responsibility for auditing of contaminated sites reports to the Department of Environment Regulation as either a statutory requirement or on a fee for service basis; and***
 - b) Investigates and implements measures to reduce the cost of resolving contaminated site issues on local government (e.g. discounted consultant fees under WALGA preferred supplier panel contracts)."***
- 2. That the CEO prepare a report and associated background material in support of the recommendation.***

CARRIED

11 votes "for" / nil votes "against"

10.5 West Australian Local Government Association – 2014 WA Local Government Convention – Perth 6 August to 8 August Inclusive (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:	Appendix CEO-1 - WALGA Convention Registration Brochure

Summary

The West Australian Local Government Association (WALGA) has advised of the Annual WA Local Government Convention, to be held in Perth from Wednesday 6 August to Friday 8 August 2014 inclusive.

The Annual General Meeting of the WA Local Government Association is held in conjunction with Local Government week. All Member Councils are entitled to be represented by two (2) voting delegates at the meeting.

Executive Recommendation

1. Council nominate the following City of Bunbury representatives as voting delegates at the Annual General Meeting of WA Local Government Association.
 - Councillor _____
 - Councillor _____
 - Councillor _____ (Proxy)
 - Andrew Brien, Chief Executive Officer (Proxy)

2. Council approve the attendance of Councillors _____ and _____ together with the Chief Executive Officer at the WA Australian Local Government Association Local Government Convention to be held in Perth from Wednesday 6 August to Friday 8 August 2014 inclusive.

3. That Council endorse the preparation of the following motions to be forwarded to WALGA for consideration at the 2014 Convention:
 - a) Review of rating and revenue raising arrangements and options for use by local governments
 - b) A review of the requirements for engagement of Environmental Auditors
 - c) Transferring of staff from local governments to other levels of government and Regional Councils.
 - d) The requirement for western Australian local governments to hold annual electors meetings
 - e) Any other matters determined by Council prior to the cut off for agenda items for consideration.

Background

Elected members and Chief Executive Officers from Local Governments have been invited to the Annual West Australian Local Government Association Convention to be held at the Perth Convention and Exhibition Centre between Wednesday 6 August to Friday 8 August 2014.

The theme for the 2014 Local Government Convention this year is “Illuminate: Transparency, Trust and Transformation” which will reflect the ever present challenges facing the local government sector, the opportunities and changes these present. A copy of the program is **attached** at Appendix CEO-1.

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 Annual General Meeting of the WA Local Government Association is held in conjunction with Local Government week. All Member Councils are entitled to be represented by two (2) voting delegates at the meeting.

In the event that a Voting Delegate is unable to attend, provision is made for proxy delegates to be registered.

Only registered delegates or proxy registered delegates will be permitted to exercise voting entitlements on behalf of Member Councils. Delegates may be Elected Members or serving officers.

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 convention will only serve to benefit the determining of future long term strategic economic, social, environmental and sustainability issues including infrastructure.

Councils representation at the WALGA Annual General Meeting will contribute to the potential 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. To date two matters have been identified for development of position papers and draft motions to be considered at the Convention, these being a review of the rating provisions under the Local Government Act 1995 and the requirement for Council to engage the services of Environmental Auditors. Copies of these reports will be provided to Council for endorsement prior to submission to WALGA.

It should be noted to any elected members wishing to attend the Convention and the WALGA Annual General Meeting that this coincides with the Mayors Annual Dinner to be held on Friday 8 August 2014.

In previous years, Council has had several elected members attend the convention.

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

Analysis of Financial and Budget Implications

Councils Budget contains funding allocations to accommodate attendance at this conference.

Community Consultation

There is no requirement for community consultation on this proposal.

Councillor/Officer Consultation

This report serves to bring the matter to the attention of all elected members.

Outcome – Council Meeting 27 May 2014

The CEO advised Council that Cr McNeill had expressed an interest in nominating as a representative for the recommendation as he was absent on approved leave.

Cr Kelly and Cr McNeill were nominated to represent Council. The recommendation was moved Cr Cook, seconded Cr McCleary.

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

Council Decision 175/14

- 1. Council nominate the following City of Bunbury representatives as voting delegates at the Annual General Meeting of WA Local Government Association.**
 - Councillor Cr Kelly
 - Councillor Cr McNeill
 - Andrew Brien, Chief Executive Officer (Proxy)
- 2. Council approve the attendance of Councillors Cr Kelly and Cr McNeill together with the Chief Executive Officer at the WA Australian Local Government Association Local Government Convention to be held in Perth from Wednesday 6 August to Friday 8 August 2014 inclusive.**
- 3. That Council endorse the preparation of the following motions to be forwarded to WALGA for consideration at the 2014 Convention:**
 - a) Review of rating and revenue raising arrangements and options for use by local governments**
 - b) A review of the requirements for engagement of Environmental Auditors**
 - c) Transferring of staff from local governments to other levels of government and Regional Councils.**
 - d) The requirement for western Australian local governments to hold annual electors meetings**
 - e) Any other matters determined by Council prior to the cut off for agenda items for consideration.**

CARRIED

11 votes "for" / nil votes "against"

10.6 Research into a Potential Sister City Relationship with Vietnam *(was listed as item 10.3.2 of the Council Agenda)*

Applicant/Proponent:	Internal Report
Author:	Stephanie Addison-Brown, Director Community Development
Executive:	Stephanie Addison-Brown, Director Community Development
Attachments:	Appendix DCD-5 – Sister City Program with Vietnam – Benefits Report

Summary

In February 2014, the Vietnamese Consular General visited Bunbury to meet with the Mayor, Deputy Mayor, a representative from the South West Development Commission and a representative from the Executive Committee of the Bunbury Chamber of Commerce and Industries to discuss the possibility of Bunbury forging a new Sister City relationship with a city in Vietnam. Following that meeting, the South West Development Commission prepared a summary of the potential benefits such a relationship might provide. Council is now asked to consider undertaking further research and consultation over the next six (6) months to fully explore the potential opportunities and benefits of pursuing a new Sister City relationship with a Vietnamese city.

Executive Recommendation

That Council conduct further research and consultation within the next six (6) months to fully explore the opportunities and benefits of developing a new Sister City relationship with a Vietnamese city.

Background

In October 2013, the Vietnamese Consular General visited Bunbury and met with the (former) Mayor and a representative from the South West Development Commission to initiate discussions about a potential new Sister City relationship between Bunbury and a Vietnamese city.

In February 2014, The Vietnamese Consular General visited Bunbury again to meet with the current Mayor, Deputy Mayor, South West Development Commission and Bunbury Chamber of Commerce and Industries to further discuss this possibility. Discussions included potentially linking Bunbury with another port city in Vietnam.

Following the meeting in February 2014, the South West Development Commission developed a summary report entitled “Potential Benefits of a Sister City Program with Vietnam” **attached** at Appendix DCD-5. This document summarises the potential benefits that could arise from establishing a Sister City relationship with Vietnam and provides information and data relating to Vietnam including a country profile, current trading conditions, export and investment opportunities, tourism opportunities and potential social/cultural opportunities.

Additional research would take into consideration the type of city Bunbury might enter into a relationship with as well as any economic, social and cultural benefits of doing so. In addition, the research would explore how the relationship would be managed and what an annual program of Sister City activities would include and the level of community involvement in the arrangement. These options would also be costed in terms of staff resources and other costs (eg flights for exchange visits).

Council Policy Compliance

Nil

Legislative Compliance

Nil

Officer Comments

Bunbury already enjoys two sister city relationships, one with Setagaya (Tokyo) in Japan and one with Jiaxing in China.

Setagaya

The City of Bunbury signed a Sister City agreement with the City of Setagaya in Japan in 1992. Since then, the relationship has blossomed to include regular programs such as student exchanges, photographic exchanges and the hosting of marathon runners who visit to compete in their sister city.

The Sister City relationship is conducted at the highest level between the Mayors of the two cities, however, the activities are coordinated through Council's Bunbury-Setagaya Sister City Committee (comprising Councillors and community members). This Committee encourages and promotes the community and cultural elements of the relationship and Committee members are actively involved in the numerous activities which take place to maintain and grow the relationship between the two cities.

The City's relationship with Setagaya has continued successfully for 22 years with significant 20 year celebrations taking place in 2012.

Jiaxing

The Sister City relationship with Jiaxing in China is coordinated through the Bunbury-Jiaxing Business Relations Office. This office provides advice and support for local people wanting to trade with China and for citizens of Jiaxing intending to conduct business in the South West region of Australia.

The specially created offices in both Bunbury and Jiaxing were established to provide a starting point for people looking to trade between the sister cities and their regions. Staff in these offices work to assist prospective importers and exporters with communications and advice and help to facilitate trade opportunities.

The City of Bunbury is a member of the Bunbury-Jiaxing Business Relations Office and provides a financial contribution to this each year.

Vietnam

Should a Sister City relationship be developed between Bunbury and Vietnam, this would be the first relationship forged between a Western Australian city and a Vietnamese city. It is understood that the Vietnamese Consular General is currently considering opportunities with two coastal cities at present, one being Bunbury.

Research already undertaken by the South West Development Commission demonstrates that there are many possibilities in terms of economic and social/cultural benefits to a Sister City relationship with Vietnam. The report provided by the South West Development Commission states that *“the role and subsequent economic advantages of sister city relationships acting as catalysts in developing business linkages is likely to increase over the next decade”*. It also states that *“Cultural and commercial objectives need not be mutually exclusive – enhancing cultural understanding in the short term can promote commercial exchange in the long run”*.

National Sister Cities Conference in Bunbury

The National Sister City conference is due to take place in Bunbury in November 2014 with three key themes – ‘Cultural Sister City relationships’, ‘Commercial Sister City relationships’ and ‘Establishing a new Sister City relationship’.

Should a decision progress with the development of a new Sister City relationship between Bunbury and a Vietnamese city in 2014, this national conference would be a good opportunity to announce, showcase and celebrate this decision.

Analysis of Financial and Budget Implications

The necessary research will be undertaken in-house so the costs associated with this will be minimal and include staff time only.

The potential cost of establishing and fostering a new Sister City relationship with Vietnam will be scoped as part of the research and consultation undertaken in the next six months. Should Council later wish to proceed with establishing a Sister City relationship with Vietnam, a new allocation in future years budgets will need to be considered.

Community Consultation

The South West Development Commission and Bunbury Chamber of Commerce and Industries were represented at the initial meeting with the Vietnamese Consular General. If further research is to be undertaken, more extensive community consultation will be undertaken as part of that process.

Councillor/Officer Consultation

The Mayor and Deputy Mayor met with the Vietnamese Consular General in Bunbury in February 2014 to discuss the possibility of establishing a Sister City relationship with a Vietnamese city.

Relevant Precedents

Bunbury currently has two Sister City relationships with Setagaya (Tokyo) in Japan and with Jiaxing in China.

Outcome – Council Meeting 27 May 2014

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

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

Council Decision 176/14

That Council conduct further research and consultation within the next six (6) months to fully explore the opportunities and benefits of developing a new Sister City relationship with a Vietnamese city.

CARRIED

7 votes "for" / 4 votes "against"

It was requested that Councillor's Giles, Jones, Steck and Steele votes "against" be recorded. All other Councillors voted "for" the motion.

10.7 Proposal by the Water Corporation for the purchase of a portion of Lots 8 and 256 Tuart Street South Bunbury (was listed as item 10.4.1 of the Council Agenda).

Applicant/Proponent:	Internal Report
Author:	Massimo Andreone, Manager Contracts and Property
Executive:	Wayne Wright, Director Corporate Services
Attachments:	Appendix DCS-1 – Site Location Map of 4 Lots – Tuart St Appendix DCS-2 – Landgate Market Valuation – Tuart St Appendix DCS-3 – Water Corporation Plan – Tuart St Appendix DCS-4 - Site Location Map of Subject Lot – Tuart St

Summary

Correspondence between the Water Corporation ("the Corporation") and the City of Bunbury ("the City") was initiated in 2008, in terms of which the Corporation wished to acquire a portion of Lots 8 and 256 Tuart Street, to upgrade their current pump station, situated on Lot 50 Tuart Street ("Lot 50").

The project was delayed subject to the finalisation of the modified Town Planning Scheme amendment to rezone Lot 8 Tuart Street ("Lot 8") to 'Residential'. The rezoning has not been instigated, and Lot 8 would be left as public open space.

The Corporation has renewed its interest in purchasing portions of these lots, and has submitted a new proposal for acquisition of an area of 1800m² around Lot 50 ("the Subject Lot") to expand the pump station site.

Executive Recommendation

That Council agrees:-

1. Not to proceed with the modified Town Planning Scheme Amendment No. 21 insofar as it relates to Lot 8.
2. To the disposal to the Corporation of portions of Lots 8 and 256 Tuart Street, situated around Lot 50, measuring 1800m², for an amount of \$40,896.00 inclusive of GST, subject to statutory advertisement of the proposed disposal and Councils subsequent endorsement thereof in terms of the *Local Government Act 1995* ("the Act").
3. That the Corporation shall, at its discretion, be entitled to lodge a caveat noting its interest in the Subject Lot; possession and unobstructed access to the Subject Lot, upon payment of the deposit; and subject to the Corporation being responsible for the following:-
 - Preparation and costs of the Contract of Sale;
 - Payment of any costs associated with Western Australian Planning Commission conditions that require services to be supplied to the future of Lots 8 and 256 Tuart Street;
 - Payment of all costs associated with the subdivision procedure for the required portion of land and for the application for new titles associated with the subdivision;
 - Payment to the City of 10% of the total agreed purchase price as a deposit within fourteen (14) days of the Contract of Sale documentation being signed by both parties;
 - Payment of the balance of the purchase price at settlement, to occur within twenty one (21) days of the Deposited Plan being in 'Order for Dealing' at Landgate; and

- Payment of all costs associated with the preparation of documents and registration at Landgate.

Item Background

Lots 8 and 256 are owned in freehold by the City (collectively "the Lots"). The Corporation owns the smaller Lot 50 in freehold, and the adjoining land to the east, being Lot 544 Francis Street, is Crown land vested in the Corporation. A copy of the Site Location Map, showing all four lots, is **attached** at Appendix DCS-1.

Lot 8 had been identified as surplus to requirements for the reserve purpose, and it was proposed to rezone Lot 8 so that it could be sold for development for residential purposes.

During 2008, the Corporation proposed a purchase of portions of the Lots. The project was delayed as a result of the finalisation of Town Planning Scheme Amendment No. 21, in terms of which Council had resolved to initiate amendments to the City's Town Planning Scheme No. 7, to rezone Lot 8 from 'Parks and Recreation' to 'Residential R40'. Council modified the proposed local scheme amendment to accommodate the potential extension of the Corporation's interests around Lot 50.

As a consequence of the modification, additional information was requested to review the proposed amendment. The studies and investigations that would provide the information have not to date been undertaken and it could be reasonably predicted that the local scheme amendment, insofar as it relates to Lot 8, would not progress.

The investigation costs to undertake the studies and provide the environmental information, together with subsequent land remediation costs, would also impact heavily upon the viability of developing any part of Lot 8 for residential purposes.

Water Corporation Offer to Purchase

With the rezoning not having been instigated, and the proposed location of the sewerage storage facility having been finalised, the Corporation, in December of 2012, again proposed purchase of portions of the Lots.

A market valuation ("the Market Valuation"), which is **attached** at Appendix DCS-2, was obtained from Landgate, which valued the portions of land area as follows:-

- Portion of Lot 8, measuring approximately 1300m² (@ \$22.31/m²) => \$29,000 inclusive of GST
- Portion of Lot 256, measuring approximately 1100m² (@ \$22.72/m²) => \$25,000 inclusive of GST

The City re-evaluated its position, and counter-proposed a purchase of the entirety of Lot 8, together with the purchase of a Portion of Lot 256 to the east of Tuart Street.

The Corporation still requires only portion of the Lots, and has counter-proposed payment in sum of \$40,896 for an area measuring 1800m² around Lot 50, calculated at \$22.72/m², and subject to the conditions as set out under the Executive Recommendation above. A copy of the Corporation's plan, delineating the proposed coordinates and area required to expand the pump station ("the Plan"), is **attached** at Appendix DCS-3, and a copy of the Site Location Map, showing the Subject Lot, is **attached** at Appendix DCS-4.

Local public notice ("the Notice") of the proposed disposition under Section 3.58(3)(a) of the Act will be advertised in the Bunbury South Western Times newspaper, which will invite submissions from members of the public, within a period of fourteen (14) days from the date of publication of the Notice.

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

Council Policy Compliance

There are no Council policies to consider.

Legislative Compliance

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

Officer Comments

The consideration proposed by the Corporation accords with the Market Valuation, and though the valuation is dated July 2013, the area in question comprises of highly disturbed wetland remnant, and the valuation would not change substantially.

Analysis of Financial and Budget Implications

Expenditure is not anticipated on the part of the City, as the Corporation's proposal incorporates all attendant costs and disbursements.

Community Consultation

Community consultation is not required.

Council will, however, take into consideration all public submissions that may be received pursuant to publication of the Notice.

Strategic Community Plan Objectives

Improve the City's financial performance.
Improve urban design, diversity of land uses, and enabling infrastructure.

Outcome – Council Meeting 27 May 2014

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

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

Council Decision 177/14

That Council agrees:-

- 1. Not to proceed with the modified Town Planning Scheme Amendment No. 21 insofar as it relates to Lot 8.***
- 2. To the disposal to the Corporation of portions of Lots 8 and 256 Tuart Street, situated around Lot 50, measuring 1800m², for an amount of \$40,896.00 inclusive of GST, subject to statutory advertisement of the proposed disposal and Councils subsequent endorsement thereof in terms of the Local Government Act 1995 ("the Act").***
- 3. That the Corporation shall, at its discretion, be entitled to lodge a caveat noting its interest in the Subject Lot; possession and unobstructed access to the Subject Lot, upon payment of the deposit; and subject to the Corporation being responsible for the following:-***
 - Preparation and costs of the Contract of Sale;***
 - Payment of any costs associated with Western Australian Planning Commission conditions that require services to be supplied to the future of Lots 8 and 256 Tuart Street;***
 - Payment of all costs associated with the subdivision procedure for the required portion of land and for the application for new titles associated with the subdivision;***
 - Payment to the City of 10% of the total agreed purchase price as a deposit within fourteen (14) days of the Contract of Sale documentation being signed by both parties;***
 - Payment of the balance of the purchase price at settlement, to occur within twenty one (21) days of the Deposited Plan being in 'Order for Dealing' at Landgate; and***
 - Payment of all costs associated with the preparation of documents and registration at Landgate.***

CARRIED

10 votes "for" / 1 vote "against"

10.8 Proposed “Pylon Sign” – LOT: 9, No.19 Forrest Avenue South Bunbury (was listed as item 10.5.1 of the Council Agenda)

File Ref:	P03275-02 DA/2014/61/1
Applicant/Proponent:	Rando and Associates
Author:	Dorothy Harmer, Planning Officer
Executive:	Bob Karaszekwych, Director of Planning and Development Services
Attachments:	Appendix DPDS-1 - Sign Elevations 19 Forrest Avenue Appendix DPDS-2 - Site Plan 19 Forrest Avenue Appendix DPDS-3 - Aerial photo 19 Forrest Avenue Appendix DPDS-4 - Neighbours Objection Forrest Avenue

Summary

Development Approval is sought for a “Pylon Sign” measuring 3m in height and 1.2m in width (see **attached** at Appendix DPDS-1).

The subject land is zoned Mixed Business and the sign’s dimensions and face area are both within the permitted range outlined in the *Local Planning Policy: Signage and Advertising Devices*.

The proposal includes a reduced setback of 1m from the adjoining neighbour’s property - the Policy requires 3m (see **attached** at Appendix DPDS-2). The adjoining landowners were consulted and submitted an objection to this variation.

The proposed sign is not considered to adversely affect the visual amenity of the locality due to its simple and concise design, and it is within the height and size dimensions deemed suitable for the zone.

Executive Recommendation

That Council, pursuant to the provisions of the *Planning and Development Act 2005* (as amended), hereby resolves to grant planning approval for the erection of a “Pylon Sign” at No.19 Forrest Avenue, Bunbury, subject to the conditions and advice notes set out below:

Use and Development:

1. 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.
2. The Pylon Sign is to be located in accordance with the approved drawings and is not to exceed the dimensions as indicated on the application without written approval from the City of Bunbury.
3. The Pylon Sign shall be sited 1.5m from the front lot boundary, as annotated on the approved plan.
4. The Pylon Sign shall bear on its face(s) in clearly legible figures the reference number of the approval under which it is erected or displayed.

5. The Pylon Sign shall be professionally made and kept clean and maintained free of dilapidation at all times.
6. Any alteration to the sign or its location will render this approval void. In such an event the Pylon Sign shall be subject to a new approval.
7. Lines of sight are to be maintained for both vehicles and pedestrians.

Advice Notes:

- a. The development the subject of this approval is also regulated by the Building Code of Australia and a separate **building permit** must be granted before the development commences. The owner is advised to liaise further with the City of Bunbury's Building Certification department on (08) 9792 7000.
- b. all documentation submitted with the **building permit** application shall be in accordance with the Building Regulations 2012 and the Building Code of Australia – Volume 2, including in particular, detailed plans and specifications for the site works (including finished ground and floor levels), storm water and roof run-off disposal, existing easements, cross-over and parking areas (including pavement type), to the satisfaction of Council.
- c. The City notes that there may be a possibility of the existence of Acid Sulphate Soils (ASS) on the land concerned. At the time of subdivision and/or, at the time of the construction of any buildings/structures on the land, the applicant is to ensure compliance with all relevant legislation and/or standards in this regard.
- d. The City of Bunbury contains many places of Aboriginal Heritage significance. Proponents are advised to consider Aboriginal heritage issues and their obligations under the *Aboriginal Heritage Act 1972* at an early stage of planning. Further information can be obtained from the Department of Aboriginal Affairs on 9235 8000 or at the following web site <http://www.daa.wa.gov.au/en/Heritage-and-Culture/>.

Background

The site has an approved land use of 'Office'. The lot is zoned Mixed Business with businesses operating from both the adjoining and adjacent neighbours. The Local Planning Policy allows for a "Pylon Sign" up to 6m in height with a sign face area of 10m² (each side) and where signs are facing the adjoining property they are required to be setback 3m from the boundary.

The proposed sign is significantly less than the maximum permitted height and size being 3m tall with a sign face area of 3.6m² (see **attached** at Appendix DPDS-1).

There are no other signage devices on the subject land.

Council Policy Compliance

Draft Local Planning Policy: Signage and Advertisements was subject to public advertising until 9 May 2014, and is now considered to be "a seriously entertained policy", albeit in draft. The Bunbury Chamber of Commerce and Industries have supported the draft Policy.

At the time of report writing there have been no further submissions received to the draft LPP.

Legislative Compliance

The application has been assessed in accordance with the Town Planning Scheme No. 7 and the City's *Draft Local Planning Policy – Signage and Advertisements*. The Bunbury Chamber of Commerce and Industries support the draft Policy.

Officer Comments

The neighbour consult was initiated due to the variation of the setback from the boundary with the adjoining neighbours. The draft Policy states that where a "Pylon Sign" faces an adjoining property it should be setback 3m from the property boundary, unless the adjoining land owner consents to a reduced setback.

The objector outlined three (3) key points for consideration:

Non Compliance with the Policy

Objector has noted that the requirement is for the sign to be set back 3m from the property boundary and that the proposed site for the sign is non-compliant.

While the aim of the 3m setback is to reduce the impact on neighbouring properties, a reduced setback for the proposed sign is considered suitable due to the size of the sign being less than half the permitted heights and less than 50% of the permitted sign face area, minimising the potential impact.

Reduced ability for people travelling south to sight adjoining property and building

The objector has raised a concern that the reduced setback for the sign will negatively impact people's ability to locate his business premises when they are travelling south along Forrest Avenue.

The 1.5m setback from the front boundary would maintain site lines for both vehicles and pedestrians. The proposed location for the sign meets this requirement.

Change the character of Forrest Avenue

The objector raised concern that approving the proposed sign would change the character of Forrest Avenue, concerned it will become visually polluted.

The proposal is deemed suitable in the zone; the subject land has businesses on both sides and on the opposite side of the road (see **attached** at Appendix DPDS-3). The proposed sign is less than 50% of the permitted height of 6m, and less than 40% of the permitted sign face area requirements (10m²). The proposed sign is also compliant with the street setback requirements and there are no other signs on the site, so the proposal does not set a precedent for excessive signage along Forrest Avenue. The design of the proposed sign is simplistic and is considered in accordance with the amenity of the area.

Analysis of Financial and Budget Implications

There are no financial or budget implications applicable to this matter.

Community Consultation

The proposed sign is in compliance with all of the requirements of a “pylon sign”, however requires the neighbours consent to reduce the setback from the property boundary.

The City wrote to the adjoining land owner at 21 Forrest Ave, potentially affected by the variation for comment - an objection (see **attached** at Appendix DPDS-4).

Councillor/Officer Consultation

Not applicable.

Conclusion

The proposed sign is in accordance with the aims and intent of the draft Local Planning Policy, and it is considered to have minimal impact on the amenity of the area. The proposed sign is within the permitted height, area and street setback requirements. It is considered that the reduced setback will have minimal effect on the adjoining land owner.

Outcome – Council Meeting 27 May 2014

Mr Edwin Taylor of 20 Forrest Ave addressed Council on this matter against the recommendation.

Cr Cook moved the Executive Recommendation with an amendment to point 3 to read:
The Pylon Sign shall be sited 3m from the front boundary.

Cr McCleary seconded the amended recommendation.

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

Council Decision 178/14

That Council, pursuant to the provisions of the Planning and Development Act 2005 (as amended), hereby resolves to grant planning approval for the erection of a “Pylon Sign” at No.19 Forrest Avenue, Bunbury, subject to the conditions and advice notes set out below:

Use and Development:

- 1. 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.***
- 2. The Pylon Sign is to be located in accordance with the approved drawings and is not to exceed the dimensions as indicated on the application without written approval from the City of Bunbury.***
- 3. The Pylon Sign shall be sited 3m from the front boundary.***

4. ***The Pylon Sign shall bear on its face(s) in clearly legible figures the reference number of the approval under which it is erected or displayed.***
5. ***The Pylon Sign shall be professionally made and kept clean and maintained free of dilapidation at all times.***
6. ***Any alteration to the sign or its location will render this approval void. In such an event the Pylon Sign shall be subject to a new approval.***
7. ***Lines of sight are to be maintained for both vehicles and pedestrians.***

Advice Notes:

- a. ***The development the subject of this approval is also regulated by the Building Code of Australia and a separate building permit must be granted before the development commences. The owner is advised to liaise further with the City of Bunbury's Building Certification department on (08) 9792 7000.***
- b. ***all documentation submitted with the building permit application shall be in accordance with the Building Regulations 2012 and the Building Code of Australia – Volume 2, including in particular, detailed plans and specifications for the site works (including finished ground and floor levels), storm water and roof run-off disposal, existing easements, cross-over and parking areas (including pavement type), to the satisfaction of Council.***
- c. ***The City notes that there may be a possibility of the existence of Acid Sulphate Soils (ASS) on the land concerned. At the time of subdivision and/or, at the time of the construction of any buildings/structures on the land, the applicant is to ensure compliance with all relevant legislation and/or standards in this regard.***
- d. ***The City of Bunbury contains many places of Aboriginal Heritage significance. Proponents are advised to consider Aboriginal heritage issues and their obligations under the Aboriginal Heritage Act 1972 at an early stage of planning. Further information can be obtained from the Department of Aboriginal Affairs on 9235 8000 or at the following web site <http://www.daa.wa.gov.au/en/Heritage-and-Culture/>.***

CARRIED

10 votes "for" / 1 vote "against"

10.9 Proposed Change of Use from “Trade Display/Showroom” to “Tavern” and alterations/ additions Unit 6, Block C at LOT: 107 DP: 47979 Homemaker Centre #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 Karaszewych, Director Planning and Development Services
Attachments:	Appendix DPDS-5 – Location Plan DA 2014 54 Homemaker Centre Appendix DPDS-6 – Development Plans Lot 107 Blair St Appendix DPDS-7 – Applicant's Covering Letter – Lot 107 Blair St Appendix DPDS-8 – Applicant's Justification to Land use Lot 107 Blair St Appendix DPDS-9 – Car Parking and Vehicle Access Points – Lot 107 Blair St Appendix DPDS-10 – Schedule of Submissions Lot 107 Blair Street Appendix DPDS-11 – Applicant's Response to Submissions Received

Summary

This application is for the proposed change of use from “Trade Display/Showroom” to “Tavern” and alterations/ additions Unit 6, Block C at the Homemaker Centre for the premises to be refurbished to enable a Tavern use open seven (7) days a week and to serve liquor as well as breakfast, lunch and dinner meals.

The Homemaker Centre is in the Mixed Business Zone. Under the City of Bunbury Town Planning Scheme No. 7 (TPS7) a “Tavern” use is listed as an ‘A’ use, meaning that Council may exercise its discretion and approve the use if considered appropriate following the application being advertised for public comment. During the public comment period 136 submissions were received of which 125 represented submissions of support (a standard letter) being received. Eleven submissions from nearby residences and other Tavern owner/ operators opposed the application, and service authorities.

The application has been assessed against the provisions of TPS7 and relevant Local Planning Policies. Upon analysis, it has been established that the proposed land use is capable of approval, will not pose any traffic or parking impacts and will not adversely impact the amenity of the immediate area. It is recommended that Council approve the development application, subject to the listed conditions and advice notes.

The application also proposes a “Restaurant” as defined in TPS7. A “Restaurant” per se in the Mixed Business Zone is listed as an ‘X’ use, which is not permitted. TPS7 states that the local government must refuse to approve any ‘X’ use of land. An ‘X’ use of land may only proceed by way of an amendment to the scheme.

Executive Recommendation

That Council resolves to:

1. Approve a development application for the proposed change of use from “Trade Display/Showroom” to “Tavern” and alterations/ additions to Unit 6, Block C at Lot 107, #42 Strickland Street, South Bunbury (application reference DA/2014/54/1) in accordance with the

City of Bunbury Town Planning Scheme No. 7, subject to the following conditions and advice notes:

Conditions:

- a. At all times, the development the subject of this planning approval must comply with the definition of “**Tavern**” as contained in Schedule 1 of the City’s Local Planning Scheme.
- b. This planning approval does not permit the use of the premises as a “**Restaurant**” as defined in TPS7.
- c. All development shall generally be in accordance with the approved development plans (attached) which form part of this planning approval.
- d. 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.
- e. No change of use or other development is to occur in connection with the approval, until such time as a Tavern licence has been issued under the *Liquor Control Act 1988 (WA)*.
- f. The opening hours of the “**Tavern**” are restricted to:
7:00 am and 12:00 midnight Monday to Friday;
7:00 am and 12:00 midnight Saturday; and
7:00 am and 10:00 pm Sunday or public holiday.
This is consistent with the permitted operating times for a tavern licence.
- g. Before the development is occupied, a minimum of 96 car parking bays must be provided on the land, the subject of this planning approval, to the satisfaction of the City of Bunbury.
- h. No smoking is allowed outside in the alfresco dining area on Warehouse Street and in the outdoor seating area on Clive Lane (refer to Advice Note a).
- i. At all times, provision must be made onsite for the storage and collection of garbage and other solid waste. A waste storage and collection area must be graded, drained and screened from public view, and the garbage collected regularly, to the satisfaction of the City of Bunbury. Details to be submitted with the building permit application.
- j. As indicated in red on the approved plans, no solid structures or objects higher than 1m shall be located within a 3m by 3m truncation area. This is to ensure that sightlines are maintained for vehicles exiting Clive Lane.

Advice notes:

- i. There is a large gas tank adjacent to the proposed outdoor seating and smoking area on the opposite side of Clive Lane. The Dangerous Goods Safety section of the Department of Mines and Petroleum has advised that Dangerous Goods Regulation at clause 56 states that, *“An operator of a dangerous goods site must ensure that any ignition source in a hazardous area within the site is eliminated or, if this is not reasonably practicable, the risk arising from the ignition source is controlled”*.

Furthermore, the *Tobacco Products Control Act 2006*, requires that reasonable steps are undertaken to prevent smoke from tobacco products entering enclosed public places. The Department of Health recommends no smoking within at minimum 5m from entrances and openings.

- ii. The City of Bunbury advises that the development the subject of this planning approval must comply with the *Environmental Protection Act 1986* and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.
- iii. The City of Bunbury advises that the development the subject of this planning approval must comply with the *Environmental Protection Act 1986* and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100.
- iv. Before the development commences, a waste management plan is to be submitted for the approval of the Manager Environmental Health Services. The plan will detail how and where waste produced during the operation the subject of this approval will be stored, handled and removed.
- v. The development must comply with the requirements of the Health (Public Buildings) Regulations 1992. Regardless of whether a building permit is required, application shall be made to the City of Bunbury's Environmental Health Services for assessment and approval prior to the commencement of development.

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

- location and width of emergency exits;
- location of emergency exit signage;
- location and number of sanitary facilities;
- emergency lighting; and
- intended use of each public building area.

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

The building must not be opened to the public until a Certificate of Approval or a Variation of Certificate of Approval has been issued by the City in accordance with section 178 of the *Health Act 1911*. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.

- vi. 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's Environmental Health Services 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 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.

- vii. 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.
 - viii. The development the subject of this planning approval must comply with the requirements of the *Health Act* 1911.
 - ix. The development the subject of this planning approval is required to comply with the City of Bunbury Health Local Laws 2001.
 - x. This is a planning approval and it is not a building permit. The development the subject of this approval is also regulated by the Building Code of Australia and a separate building permit must be granted before the development commences. The owner is advised to liaise further with the City of Bunbury's Development Assessment and Building Certification department on (08) 9792 7000. All documentation submitted with the Building Permit application shall be in accordance with the Building Act 2011, the Building Regulations 2012 and the current Building Code of Australia – Volume 1.
 - xi. Owners, builders and developers undertaking development of any kind are advised of their responsibility to comply with the requirements of the Disability (Access to Premises - Buildings) Standards 2010 and the *Disability Discrimination Act* 1992.
 - xii. The Plans and Specifications must be submitted to the Water Corporation for approval.
2. Advise the applicant, owner and submitters of Council's decision.

Background

A development application for a change of use from "Trade Display/ Showroom" to "Tavern" use at the Homemaker Centre was received in February 2014. The application also proposes the following additions/ alterations:

- the addition of an outside alfresco area;

- internal works;
- new doors and windows to the south and east elevations;
- upgrading the external appearance of the tenancy;
- installing an outdoor bin store and service area; and
- signage

Referring to the location plan **attached** at Appendix DPDS-5, the Homemaker Centre is bounded by Blair Street, Strickland Street, Albert Road and Mervyn Street; and contains a range of land uses, including; Showroom, Office, Industry – Service, Industry – Light, Recreation – Private, Service Station, Fast Food Outlet and Lunch Bar uses.

The subject tenancy at Unit 6 Block C is located in the southern portion of the Homemaker Centre site. Its internal area is 394sqm plus a proposed outside alfresco area. The previous approved use of this unit was for a “Trade Display/ Showroom” use, tenanted by Plunkett Homes.

The Tavern proposes to serve liquor and meals (breakfast, lunch and dinner). The Tavern seeks to trade seven (7) days a week with the following operating hours:

Monday to Thursday:	7.00am – 10.00pm
Friday:	7.00am – 10.30pm
Saturday:	8.00am – 10.30pm
Sunday:	9.00am – 10.00pm

It is noted that the times liquor can be sold will be restricted by the liquor license. A liquor license is issued by the Department of Racing, Gaming and Liquor (WA) and the applicant has indicated that they intend on applying for a Tavern liquor license should this application be approved.

The proposal provides for a “lounge, restaurant and alfresco dining areas”, with a total of 232 chairs proposed; 130 seats and 102 stools. There will be formal and informal seating areas, as well as, standing areas. “Restaurant” per se, as defined in TPS7, in the Mixed Business Zone is listed as an ‘X’ use, which is not permitted. TPS7 states that the local government must refuse to approve any ‘X’ use of land. An ‘X’ use of land may only proceed by way of an amendment to the scheme.

The development plans and applicant’s covering letter are **attached** at Appendices DPDS-6 & DPDS-7.

Council Policy Compliance

Local Planning Policy 3.1: Access and Parking for Pedestrians, Bicycles and Vehicles (LPP 3.1)

The car parking area and vehicle access points at the Homemaker Centre are existing. It is considered that the proposal is generally in compliance with this policy.

Local Planning Policy 3.2: Building Facade of Commercial and Industrial Development (LPP 3.2)

The proposed alfresco area and upgrades to the building façade are in compliance with the policy provisions. It is considered that the proposal provides for an improved and attractive facade with opportunities for passive surveillance and an active frontage.

Legislative Compliance

City of Bunbury Town Planning Scheme No. 7 (TPS7)

The proposal is required to be in compliance with the provisions outlined in TPS7. The land use of 'Tavern' is listed as an 'A' use in a Mixed Business Zone. This means that Council can consider the application following the public consultation process. TPS7 notes that Council is to have due regard to the matters listed in Clause 10.2 in TPS7 when considering the proposal.

Officer Comments

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

Land use classification

The Homemaker Centre is in the Mixed Business zone. Under the City of Bunbury Town Planning Scheme No. 7 (TPS7) a "Tavern" use is listed as an 'A' use, meaning that Council may approve the use if it is considered appropriate, following the application being advertised.

A "Tavern" is defined in Schedule 1 of TPS7 as:

"premises licensed as a tavern under the Liquor Licensing Act 1988 and used to sell liquor for consumption on the premises".

The applicant has indicated that they intend on applying for a Tavern liquor license should this application be approved. Additionally, liquor is to be sold for consumption on the premises.

Notwithstanding, a "Restaurant" is defined in Schedule 1 of TPS7 as:

"premises where the predominate use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the Liquor Licensing Act 1988".

A "Restaurant" is not permitted and the local government must refuse to approve any 'X' use.

Due regard has been given to the land use definitions provided at Schedule 1 of TPS7 and relevant case law. The City has also received legal advice regarding the land use classification of the proposal.

In summary, the legal advice obtained considers that the submitted proposal can be classified as a "Tavern" use, providing that a Tavern liquor license is issued. The legal advice indicates that the TPS7 definition of a "Tavern" use is defined primarily as, *"premises licensed as a tavern under the Liquor Licensing Act 1988..."* with the definition then stating as premises, *"used to sell liquor for consumption on the premises ..."*. It is considered that the phrase *"used to sell liquor"* is not fully definitive of the use. It is typical for a tavern to sell food for consumption on the premises also and that by restricting the consumption to liquor only would be inconsistent with the strict requirements of the liquor control laws.

It has been questioned as to whether the proposal can be classed as a "Tavern" when the business is open but is unable to serve liquor due to the restrictions on the liquor license. It is proposed that breakfast would be served at the Tavern. Although the premises would be not be able to serve liquor in the early morning, it can still be classed as a, *"premises licensed as a tavern under the Liquor Licensing Act 1988..."*, as per the TPS7 definition of "Tavern" as the premises would still be

licensed even when liquor is unable to be served. This view is affirmed in the legal advice obtained by the City which states that:

“The fact the Tavern would sell food for a limited period of time in the morning before it is able under law to sell liquor, would not prevent the premises from falling within the “Tavern” use class definition”.

The City has been in contact with the Department of Racing, Gaming and Liquor (WA) to determine the main characteristics of a “Tavern” and “Restaurant” liquor license. The Department of Racing, Gaming and Liquor has advised the following:

Type of Liquor License	Characteristics
Tavern liquor license	<p>A “Tavern” licence authorises the sale and supply of liquor for consumption on the premises; and the sale and supply of packaged liquor to patrons for consumption off the licensed premises, that is, a drive through bottle shop or an area set aside for takeaway packaged sales.</p> <p>They can have a dining area, bars, serve liquor with or without a meal, patrons can either stand up or sit down to drink, and are not restricted to the number of bars within the premises.</p>
Restaurant liquor license	<p>A “Restaurant” licence authorises the sale and supply of liquor to persons on the licensed premises for consumption with a meal supplied by the licensee, whilst seated at a dining table. In essence, the business should be focused on the regular supply of genuine meals.</p> <p>The supply of liquor should be secondary to this. Liquor can only be consumed with a meal, and all liquor consumption must take place whilst the patron is seated, i.e., they are not allowed to stand up and drink. The sale and supply of liquor is restricted to table service by staff.</p> <p>The premises must have a kitchen included for preparing food. In addition, the dining area must always be set up with tables and chairs for dining.</p>

After reviewing the characteristics and differences between a “Tavern” and “Restaurant” liquor license, the proposal submitted would represent a “Tavern” in terms of liquor licensing requirements.

Originally, a “Tavern” was listed in TPS7 as an ‘X’ not permitted use in a Mixed Business Zone. Scheme Amendment 40 was initiated by the owners of Highway Hotel in 2009, requesting to change the use class of “Tavern” from “X” (not permitted), to “A” (a use not permitted unless the local government has exercised its discretion and has granted planning approval after giving special notice in accordance with Clause 9.4) in the Mixed Business Zone. The Highway Hotel is located at the corner of Forrest Avenue and Spencer Street, Bunbury and is currently approved as a “Tavern” land use and has a Tavern liquor license.

It is noted that TPS7 at Clause 5.10.3.2.1 states that:

“In considering proposed uses and development within the Mixed Business Zone, the local government is to ensure the proposal will complement, and not adversely impact on, the City Centre or Shopping Centre zones”.

Furthermore, the objectives of the Mixed Business are recognised as:

“...a range of development which complements but does not compete with, the City Centre and Shopping Centre zones in terms of regional primacy of the City Centre (especially as the principal...entertainment...centre)..”

Whilst it is acknowledged that there are existing approved taverns in the City Centre and in Shopping Centre zones (i.e. the Parks Tavern, Carey Park), Scheme Amendment 40 by changing the use class permissibility of a “Tavern” in the Mixed Business Zone considered the impacts of the amendment on these zones. Also the proposed “Tavern” at the Homemaker Centre, is not in close proximity (i.e. walking distance) to another Tavern, and therefore will not impact the City Centre Zone in terms of impacting its primacy as the entertainment centre of Bunbury.

The applicant has provided justification in support of the proposal being classified as a “Tavern” land use, which can be viewed at Appendix DPDS-8 **attached**.

After consideration, it is accepted that the proposal can be classified as a “Tavern” land use and is capable of approval under TPS7 following public consultation and Council exercising its discretion, assessing the application on its merits.

Liquor licensing

Liquor licences are issued by the Department of Racing, Gaming and Liquor (WA). The applicant has indicated that they wish to apply for a Tavern liquor license following the planning approval of the “Tavern” land use. A Tavern liquor licence authorises the sale and supply of liquor for consumption on the premises; and the sale and supply of packaged liquor to patrons for consumption off the licensed premises.

Prior to the Department of Racing, Gaming and Liquor issuing a liquor license, the applicant is required to obtain a section 40 certificate from the City of Bunbury confirming that the proposed land use has planning approval in accordance with the Town Planning Scheme.

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 the **attached** Appendix DPDS-9 to view the car parking areas and vehicle access points to the site.

The number of car bays required for the use is calculated in accordance with the minimum car parking requirements outlined in Table 2 of TPS7. For a “Tavern” use the following car parking standard applies:

- 1 bay per 2 sq m of net lettable area (nla) used for bar area; plus
- 1 bay per 4 sq m of nla used for lounge or garden area; plus
- 1 bay per 4 seats or 1 bay per 5 sq m of nla used for dining, reception or assembly area, whichever is the greater; plus
- 1 bay per 15 sq m of nla used for storage, food preparation, services and administration; plus
- A car queuing area to accommodate 5 bays where drive through facilities are included.

The application of the above car parking standards for the proposal is outlined in the table below:

Area	Parking Standard	Net lettable area (sq m)	# bays required
Bar	1 bay per 2 sq m nla	31.8 sq m	16
Lounge, garden	1 bay per 4 sq m nla	207.5 sq m	52
Dining	1 bay per 5 sq m nla or 1 bay per 4 seats	161.6 sq m 130 seats	33
Storage, food prep, services & admin	1 bay per 15 sq m nla	101.1 sq m	7
Drive thru facility	5 bays	n/a	-
TOTAL			108 bays

The previous approved use of the tenancy required 12 car bays. Therefore, an additional 96 car bays need to be provided for the Tavern use to satisfy the minimum number of car parking required by TPS7. It is recommended if Council approves the application, that a condition is imposed requiring that a minimum of 96 car bays are provided, dedicated to the Tavern use (refer to Condition g).

The Homemaker Centre currently has a surplus of 275 car bays than the minimum number of car bays required. Therefore there are a sufficient number of car bays provided to accommodate the proposed “Tavern” use. If the “Tavern” use is approved, there will be a surplus of 179 car bays at the Homemaker Centre site.

Amenity and other matters to be considered

The proposed “Tavern” use is listed in the zoning table of TPS7 as an ‘A’ use in a Mixed Business zone. TPS7 notes that, “*In considering a ‘D’ or ‘A’ use, the local government will have regard to the matters set out in Clause 10.2*”. Clause 10.2 sets out matters the Council is to have due regard to when considering a development application.

There are no residences in the immediate vicinity of the subject location, therefore it is deemed that the proposal will not adversely impact residential amenity. It is recognised that tavern and the consumption of liquor are associated with attracting anti-social behaviour, however refusing the proposal on this basis alone is not recommended as overall it is deemed that this proposal will not adversely affect the amenity of this particular locality.

The proposed Tavern use will activate and attract people to the Homemaker Centre during night time hours. This will allow for passive surveillance opportunities and increased activity to the area, which is encouraged in policies such as Western Australian Planning Commission’s Design Out Crime Guidelines.

Additions and alterations

The application seeks approval for additions and alterations to so the premises suits and is fitting to a Tavern use. The proposed additions and alterations are relatively minor in nature and upon assessment are in compliance with the applicable TPS7, and policy provisions.

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 apply for a review of the decision through SAT. If the decision is forwarded to SAT for appeal, the City may incur legal costs.

Community Consultation

The proposed “Tavern” is an ‘A’ use which can be considered by Council following the public consultation process in accordance with TPS7 requirements.

The application was advertised for public comment from 19 March 2014 to 02 April 2014 Public consultation included the following:

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

In total, 136 submissions were received during the consultation period; 125 submissions of support, 7 submissions of objection and 4 comments from service authorities of no comments or no objection.

It is noted that the 125 submissions of support was a standard letter and submitted as individual submissions, mainly from employees of business in or nearby the Homemaker Centre. The standard letter stated:

“I fully support the proposed tavern on the Homemaker Centre, I would frequent the venue often. A tavern on the Homemaker Centre provides a social meeting place, alternative choice of food, easy access, free parking and closed proximity to East Bunbury and other residents nearby. The tavern would also service the workers of the Homemaker Centre. The tavern complements the existing businesses in the Homemaker Centre.”

In terms of the objections, the issues raised were in relation to anti-social behaviour, the number of liquor outlets in the area, traffic and parking, the land use in the Mixed Business Zone. A submission was also received highlighting Council’s recent refusal of a proposed “Shop” use (to facilitate the relocation of business Rusticana) at the Homemaker Centre. Please refer to the schedule of submissions **attached** at Appendix DPDS-10.

The applicant has also provided response to the comments of objection received. Please refer to the applicant’s response to the submissions received **attached** at Appendix DPDS-11.

Councillor/ Officer Consultation

The proposal has been discussed internally with Planning and Development Services staff prior to the finalisation of this report. Additionally, the proposal has been discussed with other State Government agencies namely, the Department of Racing, Gaming and Liquor, Water Corporation and the Dangerous Goods section of the Department of Mines and Petroleum.

Conclusion

The proposed “Tavern” in a Mixed Business Zone is listed as an ‘A’ use, meaning that Council can approve the use if it is considered appropriate following public comments on the proposal. The public submission period resulted in overwhelming support for the proposal however objections were received noting a range of issues such as anti social behaviour, the number of liquor outlets and land use classification of the proposal.

Overall, it is considered that the proposal is in compliance with the provision of TPS7 and relevant Local Planning Policies. As discussed above, it is accepted that the proposed land use can be classified as a “Tavern” and that it will not adversely affect the amenity of the area.

For the reasons outlined above, the development application is recommended for approval subject to the listed conditions and advice notes.

Delegation of Authority

The application is referred to Council for determination, as public submissions have been received in relation to this proposal. Furthermore, the proposed land use is determined at the Council’s discretion in accordance with the provisions of TPS7.

Relevant Precedents

- The Highway Hotel, located at the corner of Forrest Avenue and Spencer Street, Bunbury received planning approval from a change of use from “Hotel” to “Tavern” in 2011.

The purpose of this application was to facilitate an application under the *Liquor Licensing Act 1988* to transfer from a Hotel liquor license to a Tavern liquor license. A Hotel liquor license requires the provision of accommodation but a Tavern liquor license does not. The then redevelopment of the Highway Hotel did not include any accommodation. Like the Homemaker Centre, the Highway Hotel is also zoned Mixed Business and a “Tavern” is an ‘A’ discretionary use, with a “Tavern” use being approved by the City.

Outcome – Council Meeting 27 May 2014

Cr Steck declared a financial interest in this matter (see section 5). Cr Steck left the chambers at 6.05pm and did not vote on the matter.

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

Cr Kelly moved an amendment to point ‘f’ of the recommendation to read:

f. The opening hours of the “Tavern” are restricted to the trading hours of when liquor can be served at the premises, in accordance with a Tavern license issued under the Liquor Control Act 1988 (WA). Cr McCleary seconded the amended recommendation.

The amendment to point ‘f’ of the Executive Recommendation was put to the vote and was carried 9 votes “for”, 1 vote “against”.

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

Cr Steck returned to the chambers at 6.12pm.

Council Decision 179/14

<i>That Council resolves to:</i>

1. **Approve a development application for the proposed change of use from “Trade Display/Showroom” to “Tavern” and alterations/ additions to Unit 6, Block C at Lot 107, #42 Strickland Street, South Bunbury (application reference DA/2014/54/1) in accordance with the City of Bunbury Town Planning Scheme No. 7, subject to the following conditions and advice notes:**

Conditions:

- a. **At all times, the development the subject of this planning approval must comply with the definition of “Tavern” as contained in Schedule 1 of the City’s Local Planning Scheme.**
- b. **This planning approval does not permit the use of the premises as a “Restaurant” as defined in TPS7.**
- c. **All development shall generally be in accordance with the approved development plans (attached) which form part of this planning approval.**
- d. **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.**
- e. **No change of use or other development is to occur in connection with the approval, until such time as a Tavern licence has been issued under the Liquor Control Act 1988 (WA).**
- f. **The opening hours of the “Tavern” are restricted to the trading hours of when liquor can be served at the premises, in accordance with a Tavern license issued under the Liquor Control Act 1988 (WA).**
- g. **Before the development is occupied, a minimum of 96 car parking bays must be provided on the land, the subject of this planning approval, to the satisfaction of the City of Bunbury.**
- h. **No smoking is allowed outside in the alfresco dining area on Warehouse Street and in the outdoor seating area on Clive Lane (refer to Advice Note a).**
- i. **At all times, provision must be made onsite for the storage and collection of garbage and other solid waste. A waste storage and collection area must be graded, drained and screened from public view, and the garbage collected regularly, to the satisfaction of the City of Bunbury. Details to be submitted with the building permit application.**
- j. **As indicated in red on the approved plans, no solid structures or objects higher than 1m shall be located with a 3m by 3m truncation area. This is to ensure that sightlines are maintained for vehicles exiting Clive Lane.**

Advice notes:

- i. **There is a large gas tank adjacent to the proposed outdoor seating and smoking area on the opposite side of Clive Lane. The Dangerous Goods Safety section of the Department of Mines and Petroleum has advised that Dangerous Goods Regulation at clause 56 states that, “An operator of a dangerous goods site must ensure that any ignition source in a hazardous area within the site is eliminated or, if this is not reasonably practicable, the risk arising from the ignition source is controlled”.**

Furthermore, the Tobacco Products Control Act 2006, requires that reasonable steps are undertaken to prevent smoke from tobacco products entering enclosed public places. The Department of Health recommends no smoking within at minimum 5m from entrances and openings.

- ii. The City of Bunbury advises that the development the subject of this planning approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.**
- iii. The City of Bunbury advises that the development the subject of this planning approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100.**
- iv. Before the development commences, a waste management plan is to be submitted for the approval of the Manager Environmental Health Services. The plan will detail how and where waste produced during the operation the subject of this approval will be stored, handled and removed.**
- v. The development must comply with the requirements of the Health (Public Buildings) Regulations 1992. Regardless of whether a building permit is required, application shall be made to the City of Bunbury's Environmental Health Services for assessment and approval prior to the commencement of development.**

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

**location and width of emergency exits;
location of emergency exit signage;
location and number of sanitary facilities;
emergency lighting; and
Intended use of each public building area.**

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

The building must not be opened to the public until a Certificate of Approval or a Variation of Certificate of Approval has been issued by the City in accordance with section 178 of the Health Act 1911. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.

- vi. 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's Environmental Health Services 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 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.

- vii. 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.**
- viii. The development the subject of this planning approval must comply with the requirements of the Health Act 1911.**
- ix. The development the subject of this planning approval is required to comply with the City of Bunbury Health Local Laws 2001.**
- x. This is a planning approval and it is not a building permit. The development the subject of this approval is also regulated by the Building Code of Australia and a separate building permit must be granted before the development commences. The owner is advised to liaise further with the City of Bunbury's Development Assessment and Building Certification department on (08) 9792 7000. All documentation submitted with the Building Permit application shall be in accordance with the Building Act 2011, the Building Regulations 2012 and the current Building Code of Australia – Volume 1.**
- xi. Owners, builders and developers undertaking development of any kind are advised of their responsibility to comply with the requirements of the Disability (Access to Premises - Buildings) Standards 2010 and the Disability Discrimination Act 1992.**
- xii. The Plans and Specifications must be submitted to the Water Corporation for approval.**
- 2. Advise the applicant, owner and submitters of Council's decision**

CARRIED

10 votes "for" / nil votes "against"

10.10 Proposed “Large Pylon Sign” – Lot 18, Lot 34 and Lot 35, No.92 Blair Street South Bunbury (*was listed as item 10.5.3 of the Council Agenda*)

File Ref:	P00863 DA/2014/16/1
Applicant/Proponent:	Crestwood Corporation Pty Ltd T/A Southern Coromal
Author:	Anthony Pick, Planning Officer
Executive:	Bob Karaszekwych, Director Planning and Development Services
Attachments:	Appendix DPDS-12 - Site Plan (92 Blair Street) Appendix DPDS-13 - Approved Sign Licence (92 Blair Street)

Summary

Development Approval is sought for an illuminated “Large Pylon Sign” measuring 6.13m in height and 2.74m in width – see **attached** at Appendix DPDS-12.

The lot is zoned Mixed Business. It is considered that having regard to the height of the proposed sign, its design, and the commercial context of the area, the sign would not adversely affect the established level of visual amenity in the locality. The sign is proposed to be sited 1.5m from the lot boundary, adjacent to Blair Street, and it is therefore considered the proposal would not adversely affect highway safety.

Executive Recommendation

That Council, pursuant to the provisions of the *Planning and Development Act 2005* (as amended), hereby resolves to grant planning approval for the erection of a “Large Pylon Sign” at No. 92 Blair Street, Bunbury, subject to the conditions and advice notes set out below:

Use and Development

1. 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.
2. The “Large Pylon Sign” is to be located in accordance with the approved drawings and is not to exceed the dimensions as indicated on the application without written approval from the City of Bunbury.
3. The “Large Pylon Sign” shall be sited 1.5m from the front lot boundary, as annotated on the approved plan.
4. Any illuminated “Large Pylon Sign” is not to flash or pulsate and shall have a maximum luminance of 300cd/m². The signage shall be switched off between 11.00pm and sunrise on the following day.
5. The “Large Pylon Sign” shall be professionally made and kept clean and maintained free of dilapidation at all times.
6. Lines of sight are to be maintained for both vehicles and pedestrians to the satisfaction of the City.

Advice Notes:

1. The development the subject of this approval is also regulated by the Building Code of Australia and a separate **building permit** must be granted before the development commences. The owner is advised to liaise further with the City of Bunbury's Building Certification department on (08) 9792 7000.
2. All documentation submitted with the **building permit** application shall be in accordance with the Building Regulations 2012 and the Building Code of Australia – Volume 2, including in particular, detailed plans and specifications for the site works (including finished ground and floor levels), storm water and roof run-off disposal, existing easements, cross-over and parking areas (including pavement type), to the satisfaction of Council.
3. It is understood that according to anecdotal reports 92 Blair St was formerly used as a service station. Based on the Department of Environment and Regulation's Potentially Contaminating Activities, Industries and Landuses Guideline service stations may present site contamination issues associated with the leakage of petrol, diesel, oil and other chemicals which can present environmental and human health risks. It is possible that if contaminants are present at the site that they may be intercepted whilst digging the 2.5 m deep hole to installing the footings for the sign. This may present health risks for the sign installers.

The *Contaminated Sites Act 2003* provides the regulatory framework for the management of potentially contaminated sites and known contaminated sites in Western Australia. This Act is administered and regulated by the Department of Environment and Regulation.

Prior to undertaking any development at the site the proponent is advised to review the Department of Environment Regulation's Contaminated Sites Fact Sheets which can be located on the Department's website at www.der.wa.gov.au/your-environment/contaminated-sites and contact the Department on 1300 762 982 for advice on how to manage any potential site contamination issues that may be present at the site. Several contaminated sites fact sheets are attached for your information.

(The Department of Regulation was formerly the Department of Environment and Conservation and prior to that the Department of Environment).

4. The City notes that there may be a possibility of the existence of Acid Sulphate Soils (ASS) on the land concerned. At the time of construction the applicant is to ensure compliance with all relevant legislation and/or standards in this regard.
5. The City of Bunbury contains many places of Aboriginal Heritage significance. Proponents are advised to consider Aboriginal heritage issues and their obligations under the *Aboriginal Heritage Act 1972* at an early stage of planning. Further information can be obtained from the Department of Aboriginal Affairs on 9235 8000 or at the following web site <http://www.daa.wa.gov.au/en/Heritage-and-Culture/>.

Background

The land use comprises 'Motor Vehicle, Boat or Caravan Sales and Motor Vehicle Repair (Caravan repair only). The business specialises in the retail sale of caravans and provides a caravan repair facility. The lot is zoned Mixed Business and is located at the intersection of Blair St and Hayes St. To the east of the site (north side of Hayes St) is Special Use No.27 and (south side of Hayes St) Residential Development.

The City granted a sign licence, No. 1461/1462, on 01/02/2010 for the existing signage on the premises – see **attached** at Appendix DPDS-13.

Council Policy Compliance

Draft Local Planning Policy: Signage and Advertisements was subject to public advertising until 9 May 2014. The Bunbury Chamber of Commerce and Industries has supported the draft Policy. The assessment of compliance with the Policy is set out in the officer comments section.

Legislative Compliance

The application has been assessed in accordance with the Town Planning Scheme No. 7 and the City's draft Local Planning Policy – Signage and Advertisements.

Officer Comments

It is considered that there are two key issues for consideration. Firstly, whether the proposed illuminated "Large Pylon Sign" (sign) would result in a road safety hazard, and secondly, whether the proposed signage would adversely affect the visual amenity of the area.

Road safety

The siting of the sign is proposed in close proximity to the traffic lights at the intersection of Blair Street and Hayes Street. In order to comply with the policy and at the request of the City's Engineer the siting of the sign has been amended and is now proposed 1.5m from the lot boundary. The City Engineer is satisfied that the sign would not impact on highway safety so long as the setback requirement is complied with.

The application was referred to Main Roads WA for comment. Main Roads WA does not object to the proposed sign provided that:

- The type of sign and location complies fully with the relevant local law and Town Planning Scheme;
- The level of illumination is appropriate to the level of off-street ambient lighting;
- The illumination does not flash or pulse.

The illumination type and levels would be appropriately conditioned.

The effect of the proposal on the visual amenity of the street scene

The second consideration is whether the proposed "Large Pylon Sign" would appear excessively large or incongruous as to significantly adversely affect the street scene.

The proposed sign exceeds the design criteria for a "Large Pylon Sign", on the basis that the face area of the sign marginally exceeds 10m² per face. The proposed signage would be at the lower limits of that permissible. Pylon Signs are impact assessable, and as such, the adjoining land owners were notified of the proposal.

The pylon signs along Blair Street are of varying heights. A review indicates that pylon signs at Mazda, and Ron Krikke Auto Centre are in excess of 6m. The Bunbury Mower Service pylon sign,

(sign license No.891) in 2004 had approval for a height of 9.9m. There are a number of other pylons signs in the immediate vicinity approximately 4.5m to 5.0m in height.

It is considered that in terms of height the proposed 6.13m would not be out of scale with similar pylon signs along Blair Street and would be below the permissible 6.5m as set out in the LPP. The height of the proposed signage is therefore considered acceptable.

The City has received one letter of objection from the owners of the adjoining land on the grounds that existing signage is sufficient. The existing sign has a sign license approval and has been determined to be proportionate to the façade. The proposed sign is required to be assessed on its merits having regard to the cumulative impact of signage on this land.

It is considered that given the context of surrounding commercial uses and the sign, together with the separation (67m) from residential properties the proposed 6.13m pylon sign would not unacceptably detract from the visual amenity of the street scene. As the site is within 100m of residential premises the illumination will be conditioned in accordance with policy.

Analysis of Financial and Budget Implications

There are no known financial or budget implications relating to this matter.

Community Consultation

The proposed sign falls within the category “Large Pylon Sign” as set out in the draft Local Planning Policy: Signage and Advertisements. Large pylon signs are identified as an ‘A’, which means they are impact assessable. Such sign is not permitted, unless the local government has exercised its discretion and has granted planning approval after giving notice in accordance with Clause 9.4 of the Scheme. In this regard, consultation has consisted of writing to the owner(s) of the adjoining lots.

The City has received one objection to the proposal on the grounds that the site already has good signage. At the time of writing there have been no further submissions received to the draft LPP.

Councillor/Officer Consultation

Not applicable.

Conclusion

The proposed sign would not adversely affect the visual amenity of the street scene or result in a highway safety hazard.

Outcome – Council Meeting 27 May 2014

Cr Cook moved the Executive Recommendation with an amendment to point '2' to read:

2. The "Large Pylon Sign" is to be located in accordance with the approved drawings and is not to exceed a face dimension of 10m². Cr Kelly seconded the amended recommendation.

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

Council Decision 180/14

That Council, pursuant to the provisions of the Planning and Development Act 2005 (as amended), hereby resolves to grant planning approval for the erection of a "Large Pylon Sign" at No. 92 Blair Street, Bunbury, subject to the conditions and advice notes set out below:

Use and Development

- 1. 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.***
- 2. The "Large Pylon Sign" is to be located in accordance with the approved drawings approved drawings and is not to exceed a face dimension of 10m².***
- 3. The "Large Pylon Sign" shall be sited 1.5m from the front lot boundary, as annotated on the approved plan.***
- 4. Any illuminated "Large Pylon Sign" is not to flash or pulsate and shall have a maximum luminance of 300cd/m². The signage shall be switched off between 11.00pm and sunrise on the following day.***
- 5. The "Large Pylon Sign" shall be professionally made and kept clean and maintained free of dilapidation at all times.***
- 6. Lines of sight are to be maintained for both vehicles and pedestrians to the satisfaction of the City.***

Advice Notes:

- 1. The development the subject of this approval is also regulated by the Building Code of Australia and a separate building permit must be granted before the development commences. The owner is advised to liaise further with the City of Bunbury's Building Certification department on (08) 9792 7000.***
- 2. All documentation submitted with the building permit application shall be in accordance with the Building Regulations 2012 and the Building Code of Australia – Volume 2, including in particular, detailed plans and specifications for the site works (including finished ground and floor levels), storm water and roof run-off disposal, existing easements, cross-over and parking areas (including pavement type), to the satisfaction of Council.***

- 3. It is understood that according to anecdotal reports 92 Blair St was formerly used as a service station. Based on the Department of Environment and Regulation's Potentially Contaminating Activities, Industries and Landuses Guideline service stations may present site contamination issues associated with the leakage of petrol, diesel, oil and other chemicals which can present environmental and human health risks. It is possible that if contaminants are present at the site that they may be intercepted whilst digging the 2.5 m deep hole to installing the footings for the sign. This may present health risks for the sign installers.**

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(The Department of Regulation was formerly the Department of Environment and Conservation and prior to that the Department of Environment).

- 4. The City notes that there may be a possibility of the existence of Acid Sulphate Soils (ASS) on the land concerned. At the time of construction the applicant is to ensure compliance with all relevant legislation and/or standards in this regard.**
- 5. The City of Bunbury contains many places of Aboriginal Heritage significance. Proponents are advised to consider Aboriginal heritage issues and their obligations under the Aboriginal Heritage Act 1972 at an early stage of planning. Further information can be obtained from the Department of Aboriginal Affairs on 9235 8000 or at the following web site <http://www.daa.wa.gov.au/en/Heritage-and-Culture/>.**

CARRIED

8 votes "for" / 3 votes "against"

It was requested that Councillor's Miguel, Morris and Steck votes "against" be recorded.
All other Councillors voted "for" the motion.

10.11 Bunbury Primary School - Lovegrove Avenue Traffic and Parking *(was listed as item 10.6.1 of the Council Agenda)*

File Ref:	A04417
Applicant/Proponent:	Internal Report
Author:	Jason Gick, Manager Engineering Transport and Traffic Management
Executive:	Phil Harris, Director Works & Services
Attachments:	Appendix DWS-1 - Bunbury Primary School Traffic and Parking Strategy June 2012 Appendix DWS-2 - BPS Drawing 1-2013-17-1 Original Concept Plan – Lovegrove Ave Appendix DWS-3 - City of Bunbury School Frontage Program Presentation - Lovegrove Ave Appendix DWS-4 - BPS Drawing 1-2014-16 Revised Concept Plan – Lovegrove Ave Appendix DWS-5 - Summary of Community Consultation Responses – Lovegrove Ave

Summary

Following extensive consultation with stakeholders, City staff have prepared a design to modify Lovegrove Avenue to accommodate improved traffic management and parking near Bunbury Primary School as part of the City's School Frontage Program.

Executive Recommendation

1. That Council adopt Drawing 1-2014-16 (TWO WAY concept) as its preferred development option for the School Frontage Program at Lovegrove Avenue.
2. That Council note that the construction of 30 parking bays within the School grounds has not been included in the project unless additional grant funding becomes available.
3. That the existing Japanese Pepper and Claret Ash Trees on Lovegrove Avenue be retained.

Background

Traffic management and parking near the Bunbury Primary School is problematic during morning and afternoon peak times, particularly on Lovegrove Avenue.

As part of its School Frontage Program, the City entered into discussions with Bunbury Primary School, and representatives of its board, in 2011. At that time the City's focus was on delivering improved access and parking at South Bunbury Primary School, which was jointly funded by the Department of Education.

During its assessment of the proposal, the City liaised with the Department of Education which required a Traffic and Parking Strategy for Bunbury Primary School to allow it to consider the project needs. The Department of Education has indicated that it receives numerous requests for improved parking and traffic at schools throughout Western Australia and it needed the Strategy to allow it to prioritise projects. The Traffic and Planning Strategy was prepared by members of the School board.

Following the receipt of the Traffic and Parking Strategy in June 2012 (**attached** at Appendix DWS-1), the City started developing a number of road carriageway plans for consideration by the

Bunbury Primary School and the Department of Education. This process was lengthy and investigated several options for development, based on the recommendations of the Traffic and Parking Strategy (June, 2012).

One of the recommendations of the Traffic and Parking Strategy is to convert Lovegrove Avenue from two way traffic to a ONE WAY configuration, with traffic flowing west to east. The other key outcome sought by the Strategy is to increase the amount of available parking. The Traffic and Parking Strategy (June, 2012) was supported by the Bunbury Region RoadWise Committee in August 2012.

Using the recommendations contained in the Strategy, the City, developed a concept plan shown in Drawing 1-2013-17-1 (the ONE WAY concept), as **attached** at Appendix DWS-2. This concept proposal was distributed to nearby residents and landowners in December 2013 and resulted in opposition from residents, primarily of Lovegrove Avenue.

Drawing 1-2013-17-1 was opposed for the following reasons:

- Introduced a ONE WAY system into Lovegrove Avenue, the western Right of Way (ROW) and the eastern ROW
- The ONE WAY system on the eastern ROW created movement problems for residents and businesses
- Requires the removal of 6 existing street trees
- Introduces angled parking in front of residents, and removes parallel parking
- Was seen as not creating a safe road environment
- Significantly changed the road environment in front of residents

It was noted during the review that the BPS Traffic and Parking Strategy study did not take into account the impact of traffic movement in the Right of Ways or the left in – left out vehicle movement restrictions that were implemented at the Lovegrove Avenue – Spencer Street intersection associated with the Traffic Control Signal installation at Sturt Street and Spencer Street.

The opposition to the proposal was felt at the political level resulting in the Mayor convening a meeting in January 2014 to listen to the Bunbury Primary School Board members and the residents' concerns. The Mayor offered the City to facilitate a workshop between the parties to resolve their differences.

At a project workshop convened on 10 February 2014, (attended by Cr Kelly and Cr Morris), the groups worked through several advantages and disadvantages of the ONE WAY proposal and explored alternatives. The outcome of that workshop was that there was some agreement on the underlying objectives of the proposal (children's safety and improved traffic management), there were still vastly different views on how to address these criteria. The Friends of Lovegrove Avenue put forward some alternative options for consideration.

Another meeting held on 27 February 2014 responded to the alternative proposals and explored another idea to generate a circulating loop adjacent to the school oval.

On 7 March 2014, representatives of the Bunbury Primary School met with the Mayor to discuss their frustration with the process and sought a direction from the City. The Mayor gave direction to the Chief Executive Officer to find the "best engineered solution" to the problem. The Engineering Transport and Traffic Management Department then undertook a thorough review of previous

designs and analysis of other potential options to determine the most appropriate solution for the problem.

The City's preferred solution was presented to residents, business owners and the Bunbury Primary School on 24 March 2014. A copy of the presentation is **attached** at Appendix DWS-3.

Council Policy Compliance

N/A

Legislative Compliance

Any adjustments to traffic speed zoning will require Main Roads WA approval. Changing a road environment from two way to one way requires Main Roads WA and Minister for Local Government approval under the Local Government Act 1995.

Officer Comments

On Tuesday 17 and Wednesday 18 March 2014, Engineering staff undertook manual traffic counts, photographed examples of parking and traffic management problems, and specifically observed the peak hour problems experienced at Reading Street, Stockley Road and Lovegrove Avenue.

Using the "best engineered solution" as the scope and "children's safety" as the objective the Engineering Team identified 'Indiscriminate Parking' and 'Disorderly Traffic Movements' as problems during a morning peak period between 8:26am and 8:45am, and an afternoon peak period between 2:51pm and 3:10pm.

An analysis of the transfer of recorded traffic movements showed that the introduction of a ONE WAY system is not warranted given the low volumes of traffic, the short peak periods and changes in movements from the morning to the afternoon.

Following some rigorous internal consultation, ideas development and "what if" testing, the Engineering Team developed Drawing 1-2014-16 (the TWO WAY concept), as **attached** at Appendix DWS-4, which is recommended for adoption by the Council.

Drawing 1-2014-16 is recommended because it:

- Increases the parking capacity from 46 bays to 71 bays (if existing trees are removed)
- Can retain the trees if desired (bays increase to 61 bays only)
- Retains the TWO WAY circulation on Lovegrove Avenue, the western ROW and the eastern ROW
- Improves the western ROW formation width
- Increases the on-site parking capacity from 35 bays to 65 bays (requires school land)
- Increases the width of the Lovegrove Avenue path from 1.5m to 2.0m
- Introduces an elevated "shared zone" platform near the front of the school and creates a slow speed environment
- Improves the visibility from Lovegrove Avenue down the western ROW (requires private land acquisition.)
- Retains the existing road environment in front of residents and creates a safer parking space on Lovegrove Avenue (raised platform parking with reversing space and offset distance to through traffic)

The project, subject to approval, is being scheduled to be delivered during the 2014/15 summer school holidays.

The City is upgrading the northern drainage line in Lovegrove Avenue as an opportunity to increase the capacity of the existing drainage system in this street. The drainage aspect of the project remains constant for either development proposal.

Analysis of Financial and Budget Implications

Traditionally, the City has allocated \$50,000 in its annual budgets for the School Frontage Program. The current program has carried forward funds from the South Bunbury Primary School project carried out in 2011/12 and 2012/13, as well as the 2013/14 allocation.

The Department of Education had previously committed \$93,000 as its contribution to the initial proposed development option, which was estimated to cost \$186,000. The Education Department has indicated its willingness to retain its contribution of \$93,000, but not increase it.

The following table outlines the available funds:

Item	Description	\$
1	PR-1097 – Remains of SBPS project	2,667
2	PR-1171 – Remains of SBPS project and 13/14 allocation	90,808
3	Department of Education contribution	93,000
4	PR-1172 – 14/15 allocation	50,000
	TOTAL available funds	236,475
5	Preliminary cost estimate for Drawing 1-2014-16 (approx.)	255,500
6	Preliminary cost estimate for on-site parking area	60,800
	TOTAL project cost	316,300

To deliver the Lovegrove Avenue portion of this project, PR-1172 the City will need to increase its contribution by \$19,025 to a total of \$162,500. This excludes Item 6 – On-site parking area. The cost of the land acquisition has not been included in the estimate at this time; an indicative rate of \$100 per square metre has been advised by Council's Contracts and Property Department. It is estimated that 7.5m² will be acquire at an indicative cost of \$750.00 (\$750).

Community Consultation

The Bunbury Primary School has been consulted with throughout the project development phase and the subsequent modified planning exercise.

The City has liaised closely with the Department of Education to secure funding and to ensure the development plans meet the Departments school parking criteria.

The initial plan was distributed to nearby residents and land owners for comment, generating substantial local opposition to the proposal. The opposition to the proposal resulted in the formation of the Friends of Lovegrove Avenue Group.

The City hosted and convened four meetings in an attempt to resolve the differences of opinion between the Bunbury Primary School and the Friends of Lovegrove Avenue. These meetings were

a combination of mediation, facilitation and workshopping ideas between the groups. There have also been a number of meetings between elected members and stakeholders which officers did not attend.

During the meeting phase, the Friends of Lovegrove Avenue Group established online discussion forums and attracted media interest. On 18 March 2014 a petition signed by 291 people opposed to the original one way option was received by Council. The Bunbury Primary School communicated broadly with its student family base.

Following the development of the City's preferred development plan, Drawing 1-2014-16 (TWO WAY concept), the plan has been distributed to nearby residents and land owners (including the school) for comment.

Letters to nearby residents and landowners were distributed on 4 April 2014 with the submission period open until Monday 28 April 2014.

The City has received 54 responses to its request for submissions. A copy of the summary of responses is **attached** at Appendix DWS-5. 39 responses are in support of the concept shown in Drawing 1-2014-16 (TWO WAY concept). Thirteen responses continue to show support for the concept shown in Drawing 1-2013-17-1 (ONE WAY concept). Four respondents do not specifically indicate support or objection to either proposal, but make statements of intent. For example, some comments state simply to "keep the trees", others generically encourage cycling and pedestrian movements over vehicle movements.

Councillor/Officer Consultation

Several Councillors and the Mayor have been involved in various meetings and discussions with stakeholders, including Deputy Mayor Cr Kelly, Cr Morris, Cr McCleary, Cr Steele and Cr Hayward.

Engineering staff have been actively involved in the traffic and parking analysis and the development of the alternative plan.

The City's Parking Coordinator has been consulted about and informed of the project.

Outcome – Council Meeting 27 May 2014

Ms Kanella Hope and Mr Shane Doherty of Bunbury Primary School, Mr Daniel Johnston of 1 Lovegrove Ave, Ms Geraldine Atkinson of 8 Garvey Place and Mr Kelvin Carmichael of 3 Lovegrove Ave addressed Council on this matter.

Cr Steele and Cr Hayward both declared an impartiality interest in this matter (see section 5) and remained in the chamber for the discussion and vote on the matter.

Cr Hayward moved, Cr Kelly seconded the following alternative recommendation:

1. That Council adopt Drawing 1-2014-16 (TWO WAY concept) as its preferred development option for the School Frontage Program at Lovegrove Avenue.
2. The COB work with the Bunbury Primary School to enlarge existing staff car park on school grounds to accommodate 30 extra staff parking bays.

- A. Construction of interim car park of an informal nature be considered as a first step.
- B. Work with Bunbury School Board to find funding for permanent upgrade including work on entry and exit points into the existing staff parking area.
3. Japanese Pepper and Claret Ash trees on the northern side of Lovegrove Avenue be removed where necessary to facilitate maximum parking space. A new avenue of appropriate, mature tree species be placed on the school oval edge.
4. City of Bunbury enlarge cul-de-sac to facilitate safe turn around at the top of Reading Street. Funding for this project to be found from road existing/future road budget and to be completed as soon as practicable.
5. City of Bunbury review and consider the installation of bollards and footpath extensions to improve the pedestrian / cyclist crossing points on Stockley Road at the intersections of Reading Street, Karri Street and the Western Lovegrove.

Cr Jones moved, Cr Hayward seconded an amendment to points 2, 2A and 2B to include “at no cost to Council at the end of each sentence”.

The Mayor put the amendment moved by Cr Jones to the vote and this was lost 5 votes “for”, 6 votes “against”.

Cr Giles then moved, Cr McCleary seconded an amendment to point 2 (not including 2A or 2B) to revert to the same wording as presented in the Executive Recommendation of:

2. That Council note that the construction of 30 parking bays within the School grounds has not been included in the project unless additional grant funding becomes available.

The Mayor put the amendment moved by Cr Giles to the vote and this was carried 6 votes “for”, 5 votes “against”.

The Mayor advised he would take each item separately then put the matter to the vote with the following outcomes:

Point 1: Adopted 10 votes “for” / 1 vote “against” to form part of Councils decision on this matter.

Point 2, 2A and 2B: Adopted 8 votes “for” / 3 votes “against” to form part of Councils decision on this matter.

Point 3: Lost (5 votes “for” / 6 votes “against”) to form part of Councils decision on this matter.

Point 4: Adopted 9 votes “for” / 2 votes “against” to form part of Councils decision on this matter.

Point 5: Adopted 10 votes “for” / 1 vote “against” to form part of Councils decision on this matter.

For ease of reference Councils decision is listed overleaf.

Council Decision 181/14

- 1. That Council adopt Drawing 1-2014-16 (TWO WAY concept) as its preferred development option for the School Frontage Program at Lovegrove Avenue. (carried 10/1)**
- 2. That Council note that the construction of 30 parking bays within the School grounds has not been included in the project unless additional grant funding becomes available. (carried 8/3)**
 - A. Construction of interim car park of an informal nature be considered as a first step.**
 - B. Work with Bunbury School Board to find funding for permanent upgrade including work on entry and exit points into the existing staff parking area.**
- 3. City of Bunbury enlarge cul-de-sac to facilitate safe turn around at the top of Reading Street. Funding for this project to be found from road existing/future road budget and to be completed as soon as practicable. (carried 9/2)**
- 4. City of Bunbury review and consider the installation of bollards and footpath extensions to improve the pedestrian / cyclist crossing points on Stockley Road at the intersections of Reading Street, Karri Street and the Western Lovegrove.(carried 10/1)**

CARRIED

Please note, the numbering of the points above has changed due to point 3 being lost (5/6).

11. Applications for Leave of Absence

11.1 *Request for Leave of Absence*

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

Nil

15. Meeting Closed to Public

Nil

16. Closure

The meeting was declared closed at 7.13 pm.
