



## City of Bunbury Council

### Minutes

11 July 2017



**CITY OF BUNBURY**

4 Stephen Street  
Bunbury WA 6230  
Western Australia

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## Nature of Council's Role in Decision Making

- Advocacy:** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive/Strategic:** The substantial direction setting and oversight role of the Council, e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative:** Includes adopting local laws, town planning schemes and policies.
- Review:** When Council reviews decisions made by Officers.
- Quasi-Judicial:** When Council determines an application/matter that directly affects a person's rights and interests. The Judicial character arises from the obligations to abide by the principles of natural justice.

Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

## City of Bunbury Council Minutes

The Minutes of the Ordinary Meeting of the City of Bunbury Council held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 11 July 2017 at 5.30pm.

### Minutes

11 July 2017

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

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

#### **2. Disclaimer**

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

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

Nil.

## 4. Attendance

*Present:*

<b>Council Members:</b>	
Presiding Member:	Mayor G Brennan
Deputy Presiding Member:	Deputy Mayor Councillor B Kelly
	Councillor S Morris
	Councillor J Jones
	Councillor M Cook
	Councillor K Steck
	Councillor K Steele
	Councillor M Warnock
	Councillor J Miguel
	Councillor B McCleary
	Councillor J McGuinness
<b>Executive Leadership Team (Non-Voting)</b>	
Acting Chief Executive Officer	Mr M Osborne
Director Works and Services	Mr G Harris
Director Corporate and Community Services	Ms S Addison-Brown
Acting Director Planning and Development Services	Mrs S Upton
<b>City of Bunbury Officers (Non-Voting)</b>	
Manager Information Communications and Technology	Mr M Roberts
Manager Finance	Mr D Ransom
Acting Manager Tourism and Events	Ms I Evans
Manager Community and Library Services	Ms S Chapman
Manager Arts and Culture	Mr Julian Bowron
Media and Communications Officer	Mr J Tatham
Council Meeting Support Officer	Ms J Earl
<b>Others (Non-Voting)</b>	
Members of the Public	6
Members of the Press	2

### 4.1 Apologies

### 4.2 Approved Leave of Absence

Cr Giles is on approved leave of absence from all Council-related business from 30 May 2017 to 17 July 2017 inclusive.

### **4.3 Request by Cr Hayward to Participate by Phone**

#### **Summary/Background**

Cr Hayward submitted a request to participate in tonight's Ordinary Council Meeting via telephone. In order for Cr Hayward to participate, three conditions must be met in accordance with regulation 14A(1) of the *Local Government (Administration) Regulations 1996*:

- a) the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and
- b) the person is in a suitable place; and
- c) the council has approved of the arrangement.

Cr Hayward has advised the he will be situated at 3 Truscott Crescent, Exmouth for the duration of the meeting. Regulation 14A(4) defines a suitable place as a place that the council has approved as a suitable place for the purpose of this regulation and that is located:

- a) in a townsite or other residential area; and
- b) 150 km or further from the place at which the meeting is to be held under regulation 12, measured along the shortest road route ordinarily used for travelling.

This location complies with the geographical requirements of regulation 14A(4)(b), being more than 150km from the place at which the meeting is being held.

To fulfil this request, Council consideration is required as follows:

That Council:

1. Approves 3 Truscott Crescent, Exmouth as a suitable place for the purpose of Regulations 14A(1)(b) and 14A(4).
2. Approves the participation of Cr Hayward at the Ordinary Council Meeting held 11 July 2017 via telephone pursuant to Regulation 14A(1)(c).

#### **Executive Recommendation**

That Council:

1. Approves 3 Truscott Crescent, Exmouth as a suitable place for the purpose of Regulations 14A(1)(b) and 14A(4).
2. Approves the participation of Cr Hayward at the Ordinary Council Meeting held 11 July 2017 via telephone pursuant to Regulation 14A(1)(c).

**\*Note: Absolute Majority Vote Required**

**Outcome – Council Meeting 11 July 2017**

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

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

**Council Decision 253/17**

***That Council:***

- 1. Approves 3 Truscott Crescent, Exmouth as a suitable place for the purpose of Regulations 14A(1)(b) and 14A(4).***
- 2. Approves the participation of Cr Hayward at the Ordinary Council Meeting held 11 July 2017 via telephone pursuant to Regulation 14A(1)(c).***

CARRIED

11 votes "for" / Nil votes "against"

**ABSOLUTE MAJORITY ATTAINED**

At this time Cr Hayward became a Voting Member of the meeting.



## 5. Declaration of Interest

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

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

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

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

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

Cr Miguel declared a financial interest in the item titled “10.3.1 Partnership Proposal Clontarf Foundation, Role Models and Leaders and City of Bunbury” as the Program Manager of the Girls Academy is a client of his. Cr Miguel will leave the chamber for the duration of the discussion and the vote on the matter.

## 6. Public Question Time

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

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

### 6.1 Public Question Time

Nil.

### 6.2 Responses to Public Questions Taken ‘On Notice’

## **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 27 June 2017 have been circulated.

#### **Recommendation**

The minutes of the Ordinary meeting of the Bunbury City Council held 27 June 2017 be confirmed as a true and accurate record.

#### **Outcome – Council Meeting 11 July 2017**

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

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

#### **Council Decision 254/17**

***The minutes of the Ordinary meeting of the Bunbury City Council held 27 June 2017 be confirmed as a true and accurate record.***

CARRIED

12 votes "for" / Nil votes "against"

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

Nil.

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

### **8.1 *Petitions***

Nil.

### **8.2 *Presentations***

Nil.

### **8.3 *Deputations***

#### **Mr Shane Garton, 10 Acacia Street Bunbury**

Mr Shane Garton requested to address item 10.4.2 titled “*Proposed Grouped Dwellings at Strata Lot 1 and Strata Lot 2 (#2/12 and #3/12) Acacia Street, Bunbury*”.

#### **Council Decision 255/17**

*Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Shane Garton’s deputation request to address item 10.4.2 titled “Proposed Grouped Dwellings at Strata Lot 1 and Strata Lot 2 (#2/12 and #3/12) Acacia Street, Bunbury” and allows a period of up to 5 minutes to present to Council.*

CARRIED

12 votes “for” / Nil votes “against”

### **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).

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

Items 10.3.1, 10.4.2, 10.4.3 and 10.5.1 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*” were moved Cr Cook, seconded Cr Jones.

### **10.1 Appointment of Consultant to undertake the Recruitment of a New Chief Executive Officer (was listed as item 10.1.1 on the Council Agenda)**

<b>Applicant/Proponent:</b>	CEO Performance Review Panel
<b>Author:</b>	Mayor Gary Brennan
<b>Executive:</b>	Mal Osborne, Acting Chief Executive Officer
<b>Attachments:</b>	CRUSC-A: Copy of proposals received CRUSC-B: Copy of CEO Performance Review Panel Committee Evaluation Forms

#### **Summary**

At the Council meeting held 18 April 2017 Council accepted the resignation of Mr Andrew Brien as Chief Executive Officer (CEO) and Council authorised the CEO Performance Review panel to prepare selection criteria and CEO Duty Statement. These were subsequently endorsed by Council at its meeting of 30 May 2017 and approval was provided to seek quotes from suitably qualified firms to assist the City in advertising, selection and appointment of a replacement CEO.

At the conclusion of the quotation period, five (5) quotations were received and these are attached at Confidential Appendix CRUSC-A.

The CEO Performance Review panel met on 29 July 2017 to evaluate quotations received and prepare a recommended firm for appointment to Council. A copy of panels evaluation reports are attached at Confidential Appendix CRUSC B.

Council is asked to endorse the appointment of the preferred recruitment firm to progress with the recruitment and appointment of a new CEO.

#### **Committee Recommendation**

Council appoint Beilby to assist with the advertising, selection and appointment of a replacement Chief Executive Officer and authorise the Acting Chief Executive Officer to accept the flat fee of \$22,800 plus GST plus advertising up to \$6,850 plus GST for these services.

#### **Background**

At the Ordinary Meeting held 18 April, the following Council Decision (147/17) was resolved:

- 1. That Council accepts the resignation of Mr Andrew Brien as Chief Executive Officer with his last day of employment being 28 June 2017.*
- 2. That Council allocate \$50,000 in the 2017/18 financial year for the recruitment of a replacement Chief Executive Officer*
- 3. That Council authorise the CEO Performance Review panel to prepare selection criteria and CEO Duty Statement for submission to Council for endorsement by no later than June 2017.*

4. *Upon the endorsement of Point 3 above, Council authorise the CEO Performance Review Panel to recommend to Council a preferred recruitment firm to assist in the recruitment of a new Chief Executive Officer*
5. *Upon appointment of the firm, Council authorises the advertising for the position of Chief Executive Officer, with the recruitment firm applicant shortlist to be brought back to Council following the 2017 October Elections.*
6. *That Council appoint Mr Mal Osborne to the position of Acting Chief Executive Officer for the duration of the time between Mr Brien's departure and a permanent replacement commencing the duties of Chief Executive Officer.*

At the Council Meeting held 2 May 2017, a further decision was then resolved amending last day of employment for Andrew Brien to 19 May 2017. Following the Council Meeting of 18 April 2017, the CEO Performance Review Panel met on Wednesday 26 April and Tuesday 9 May 2017 to progress item the finalisation of the selection criteria.

At the Ordinary Council Meeting of 30 May 2017, the following Council Decision (209/17) was resolved:

1. *Council endorse the Selection Criteria as outlined within this report.*
2. *Council authorises the CEO Performance Review panel to seek quotes from suitably qualified firms contained within the report to assist the City in advertising, selection and appointment of a replacement CEO and subject to a successful quote within the approved budget, delegate authority for the review panel to appoint the consultant.*
3. *Council approve a maximum remuneration package up to \$290,000 which is within the approved range for a Band 1 Local Government.*

The recruitment firms were then approach to provide submissions and quotations to assist with the advertising, selection and appointment of a replacement CEO:

At the conclusion of the Quotation period, proposals were received from all recruitment firms approached being:

- Lester Blades
- BEILBY
- Gerald Daniels
- Hays Specialist Recruitment (Australia) Pty Ltd
- Michael Page International (Australia) Pty Ltd

#### **Officer Comments**

Following that appointment of the suitably qualified and experienced recruitment firm, the successful firm will then be available to assist Council in the recruitment process including selection of a short list for interview by Council following the October 2017 elections.

It is envisaged that a representative from the successful recruitment agency would then meet with the Review Panel to finalise the recruitment process to enable a decision by Council as soon as possible after the 2017 Local Government elections.

### **Legislative Compliance**

There are three (3) sections of the Local Government Act 1995 that have direct application to the appointment of a CEO being:

- Section 5.36 of the Act requires a local government to employ a “Suitably qualified” person to fill the position of CEO
- Section 5.39 contains the provision for the contracts of CEO’s and
- Section 5.40 requires that all employees are to be selected in accordance with the principles of merit and equity

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

Council has previously resolved to include \$50,000 in the 2017/18 financial budget and had resolved that subject to a successful quote within the approved budget, delegate authority for the review panel to appoint the consultant.

Although the recommended firm proposal falls within the approved budget, the CEO Performance Review Panel felt it was appropriate to refer their recommendation to Council for endorsement.

### **Community Consultation**

Not Applicable.

### **Councillor/Officer Consultation**

This matter is presented to Council for consideration by the CEO Performance Review Panel.

### **Outcome – Council Meeting 11 July 2017**

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

#### **Council Decision 256/17**

***Council appoint Beilby to assist with the advertising, selection and appointment of a replacement Chief Executive Officer and authorise the Acting Chief Executive Officer to accept the flat fee of \$22,800 plus GST plus advertising up to \$6,850 plus GST for these services.***

CARRIED

12 votes “for” / Nil votes “against”

**10.2 Retrospective Application for Solar Panels at Lot 1 (#51A) Stirling Street, Bunbury**  
*(was listed as item 10.4.1 on the Council Agenda)*

<b>File Ref:</b>	5/2017/50/1
<b>Applicant/Proponent:</b>	Susan Barbara Pitts
<b>Responsible Officer:</b>	Lacey Brown, Strategic Planning Officer (Heritage)
<b>Manager:</b>	Thor Farnworth, Manager Sustainability, Planning and Development
<b>Executive:</b>	Sarah Upton, Acting Director Planning and Development Services
<b>Attachments:</b>	Appendix DPDS-1: Location Plan and Site Photograph

**Summary**

The City of Bunbury has received an application for retrospective development approval for the installation of solar panels on the primary street elevation of #51A Stirling Street, Bunbury. The lot is located within the Stirling Street Heritage Area.

The position of the solar panels on the primary street elevation represents a variation to the existing and draft Local Planning Policy for the Stirling Street Heritage Area. The Heritage Advisor considers that the development does not comply with either the existing or draft local planning policies. The application was therefore referred to the Heritage Advisory Committee for its recommendation before the matter was presented to and determined by Council.

Notwithstanding the above, officers recognise that it would be difficult to justify a refusal of the solar panels that are visible from the primary street given their recent approval on the adjoining property (Council Decision 39/17). The adjoining solar panel approval occurred during the drafting of the revised Local Planning Policy (LPP). Pending finalisation of the draft LPP (incorporating a deemed-to-comply criteria for solar panels) and communications with solar panel providers on development requirements for heritage properties, the development is recommended for approval.

**Executive Recommendation**

That Council resolves:

1. Approval for the retrospective development application for solar panels at Lot1, #51A Stirling Street, subject to the following condition:
  - (a) All development shall be in accordance with the approved development plans (attached) which form part of this development approval.
2. Communication be undertaken with solar panel providers on the requirements for installation of solar panels on heritage places;
3. The draft Local Planning Policy incorporate a deemed-to-comply criteria for solar panels being installed on side or rear elevations from the primary street;
4. Advise the applicant, landowner and submitter of Council's decision.



### Strategic Relevance

Key Priority Area No. 1 Community and culture  
Objective No. 1.5 Celebrate and recognise the richness of our arts, culture and heritage

Key Priority Area No.3 Natural and built environment  
Objective No.3.2 Mitigate and adapt to the possible impacts of climate change

### Background

A summary table of details relating to the subject site is as follows:

Property Address:	Lot 1 (#51A) Stirling Street, Bunbury
Zoning:	Residential Zone (R15/40)
Existing Land Use:	Single House
Lot Area:	315m <sup>2</sup> (strata lot)
Heritage	Located within the Stirling Street Heritage Area (LPP)

The subject property has solar panels installed on the northern elevation of the roof facing the primary street frontage. It is noted that the dwelling to the west of the subject lot also features solar panels on the north primary street elevation, which were recently issued an approval for retrospective development. That approval was based on the grounds of having a greater street setback, installation occurring prior to the drafting of the LPP and lack of clarity for owners between the requirements of the R-Code for single houses and the LPP for single houses in heritage places.

The site plan and photograph accompanying the application for development approval are **attached** at Appendix DPDS-1.

### Legislative Compliance

The following statutory planning instruments of the State Planning Framework and Local Planning Framework are applicable to the assessment of this application for development approval:

- *Planning and Development Act 2005 (as amended);*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- City of Bunbury Town Planning Scheme No.7 (TPS7);
- Local Planning Policy: Stirling Street Heritage Area; and
- Draft Local Planning Policy: East Bunbury Heritage Area.

### Officer Comments

The main issue for consideration is whether the proposed solar panels would adversely affect the heritage value of the Stirling Street Heritage Area.

*Comments from the Heritage Advisor*

The Heritage Advisor provided comment that the retrospective application is not consistent with the intent of the draft LPP at the current location and that it would set a precedent in the Stirling Street Heritage Area.

The Heritage Advisor argues that if the City of Bunbury were to approve solar panels on the primary street frontage then the cumulative impact of solar panels on the Stirling Street Area would be noticeable in the long run, and therefore the heritage value of the area would be diminished. It was recognised that the northern elevation provided maximum efficiency, but that should still be balanced with heritage outcomes.

*Residential Design Codes (R-Codes)*

Outside of heritage areas the deemed-to-comply provision of the R-Codes (clause 5.4.4, C4.1) permits solar panels on the roof of dwellings and does not prohibit solar panels on the primary street elevation. This is made clear in the explanatory text (clause 7.4) which states that ‘the location of solar collectors determines their efficiency; hence their positioning needs to be site-specific and is therefore permitted as of right.’ The R-Codes therefore encourages the locating of solar collectors where maximum efficiency can be achieved.

However, in this case the environmental benefits need to be balanced against the heritage value of the area and identify whether the degree of impact is acceptable.

*Adopted Stirling Street Heritage Area and Draft East Bunbury Heritage Area Local Planning Policies*

The current local planning policy does not explicitly reference solar panels or incidental development; however, the development would be considered under the following requirements:

*‘To conserve and protect the cultural heritage significance of the Stirling Street Heritage Area.’*

*‘To ensure that new buildings, alterations and additions can be accommodated within the area without adversely affecting the Stirling Street Heritage Area’s cultural significance.’*

The City of Bunbury is finalising a draft LPP (East Bunbury Heritage Area) to replace this policy. The draft policy proposes to include a performance based assessment and deemed-to-comply provisions to better synchronise with the R-Codes. One of the requirements (clause 9.12), which is also relevant to the current retrospective application, states in the following terms:

*‘Desired Development Outcomes:*

*Incidental items such as television aerials, satellite dishes, solar panels (or solar collectors etc.) should be located away from the primary street in order to minimise their impact on heritage buildings and the wider East Bunbury Heritage Area.’*

The proposal is therefore inconsistent with the draft LPP.

It is recommended that the deemed-to-comply provisions in the draft LPP be modified to provide options for side and rear elevation installation, as generally solar panels should not be visible from

the primary frontage on a heritage listed place or in a heritage area. This still allows variations to be considered on their merit with due regard to the performance criteria.

A case study for reference is the City of Fremantle which has a ‘Sustainable Building Design’ policy. Council may exercise discretion to waive the requirements of the policy in the case where there may be detrimental impacts on the heritage values of a place or area.

#### *Conclusion*

The inconsistency with the draft local planning policy and the concerns of the Heritage Advisor are acknowledged. It is noted that the current location of the solar panels is to maximise the efficiency of a green technology but it is prominent in the wider streetscape. The adjoining solar panel approval occurred during the drafting of the local planning policy and it has a greater street setback.

Pending finalisation of the draft local planning policy (and incorporation of a deemed-to-comply criteria for solar panels being installed on side or rear elevations) and communications with solar panel providers on development requirements for heritage properties, the development is recommended for approval.

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

This application for development approval relates to private property, and therefore, the effect of the recommendation has no direct budgetary or financial implications for the City of Bunbury.

If the applicant is aggrieved by Council’s decision they may apply for a review of the decision through SAT which may result in legal costs to the City of Bunbury.

#### **Community Consultation**

Letters were sent to adjoining landowners and occupiers resulting in no objections being received.

The officer recommendation was reported to the Heritage Advisory Committee and their recommendation was as per this agenda item.

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

The application for development approval has been referred to the City of Bunbury’s Development Coordination Unit (DCU) for professional advice and technical assessment prior to the finalisation of this report.

#### **Consultation with the applicant**

The applicant was advised of the need to consult with the Heritage Advisory Committee and of the draft recommendation.

#### **Delegation of Authority**

This retrospective development application is referred to Council as the Heritage Advisor considers that the application is not consistent with the intent/requirements of the Local Planning Policy.

**Outcome – Council Meeting 11 July 2017**

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

**Council Decision 257/17**

***That Council resolves:***

- 1. *Approval for the retrospective development application for solar panels at Lot1, #51A Stirling Street, subject to the following condition:  
(a) All development shall be in accordance with the approved development plans (attached) which form part of this development approval.***
- 2. *Communication be undertaken with solar panel providers on the requirements for installation of solar panels on heritage places;***
- 3. *The draft Local Planning Policy incorporate a deemed-to-comply criteria for solar panels being installed on side or rear elevations from the primary street;***
- 4. *Advise the applicant, landowner and submitter of Council's decision.***

CARRIED

12 votes "for" / Nil votes "against"

**10.3 Partnership Proposal Clontarf Foundation, Role Models and Leaders and City of Bunbury (was listed as item 10.3.1 on the Council Agenda)**

<b>Applicant/Proponent:</b>	Clontarf Foundation Role Models and Leaders Australia
<b>Responsible Officer:</b>	Sharon Chapman, Manager Community and Library Services
<b>Responsible Manager:</b>	Sharon Chapman, Manager Community and Library Services
<b>Executive:</b>	Stephanie Addison-Brown, Director Corporate and Community Services
<b>Attachments:</b>	Appendix DCCS-1: Clontarf Income and Expenditure Forecast for 2017-2018 Appendix DCCS-2: Newton Moore Girls Academy Financials 2017 Appendix DCCS-3: Newton Moore Girls Academy Brief & Activities Budget July 2017 Appendix DCCS-4: Current City of Bunbury In-Kind Deliverables July 2017

**Summary**

Clontarf Foundation has requested financial support to operate the South West Clontarf Academy for their 60 indigenous male students each year at the Newton Moore Senior High School Campus in Bunbury. This includes an annual cash contribution of \$50,000 per year from the City of Bunbury over a three (3) year period. This figure has since been reviewed and an alternative recommendation is now submitted to Council for consideration.

Clontarf Foundation have outlined the Income and Expenditure Forecast for 2017-2018 based on \$30,000 as **attached** at Appendix DCCS-1.

Role Models and Leaders Australia has requested financial support to operate their Newton Moore Girls Academy for 50 indigenous female students each year at the Newton Moore Senior High School Campus in Bunbury. This includes a cash contribution for the 2017-2018 financial year of \$30,000.

Role Models and Leaders Australia have provided a summary of their 2017 WA Academy Financials 2017 as **attached** at Appendix DCCS-2. They have also provided a Newton Moore Girls Academy Brief and Activities Budget July 2017 to provide Elected Members with further information as **attached** at Appendix DCCS-3.

Current City of Bunbury in-kind deliverables have been provided by City officers as **attached** at Appendix DCCS-4.

**Executive Recommendation**

That Council:

1. Recognises the contribution that the Clontarf Foundation and Newton Moore Girls Academy (Role Model and Leaders) provide to the community and the role they play in developing young people;

2. Authorises the CEO to negotiate an individual Memorandum of Understanding with each organisation for the 2017/18 financial year.
3. Agrees to provide Clontarf Foundation a total sum of \$30,000 in the 2017/18 financial year for use only at the South West Clontarf Academy at Newton Moore Senior High School.
4. Agrees to provide Role Model and Leaders a total sum of \$30,000 in the 2017/18 financial year for use only at the Newton Moore Girls Academy.
5. Note that any future contributions to either organisation will be considered on a annual basis through Council's Budget deliberations.

### **Strategic Relevance**

Key Priority Area 1	Community and Culture
Objective 1.1	Establish Bunbury as the most accessible regional city in Australia by 2020
Key Priority Area 3	Natural and Built Environment
Objective 3.3	Improve public health and safety

### **Background**

At the Council Briefing Session on 28 March 2017, Mr Ross Kelly, Chairman of the Clontarf Foundation, provided Council with a presentation on the work of Clontarf in Australia and in Bunbury, with the view of establishing a partnership with the City of Bunbury.

At the Ordinary Council Meeting held 2 May 2017 Council decided (158/17):

*"That Council:*

1. *Recognise the contribution that the Clontarf Foundation makes to the community and continues to provide the Foundation with the in-kind support currently provided through Traineeships and Work Experience;*
2. *Request the CEO to explore partnership opportunities with the Clontarf Foundation, such as developing suitable health and fitness programs based at the South West Sports Centre (SWSC); and*
3. *Consider the request from the Clontarf Foundation as part of the development of the draft 2017/18 budget and future iterations of the Integrated Financial Plan. "*

Clontarf Foundation requested financial support to operate the Academy for their 60 indigenous students each year at the Newton Moore Senior High School Campus in Bunbury. This includes an annual cash contribution of \$50,000 per year from the City of Bunbury over a three (3) year period.

The City proposes to allocate a one-off \$30,000 contribution for one (1) year only for the purpose of operating the South West Clontarf Academy (Newton Moore) at the Newton Moore Senior High School Campus.

Role Models and Leaders Australia requested financial support to operate their Newton Moore Girls Academy for 50 indigenous female students each year at the Newton Moore Senior High School Campus in Bunbury. This includes a cash contribution for the 2017-2018 financial year of \$30,000.

The City proposes to allocate a one-off \$30,000 contribution for one (1) year only for the purpose of operating the Role Model and Leaders Newton Moore Girls Academy at the Newton Moore Senior High School Campus.

The City of Bunbury has previously provided financial support to the Newton Moore Girls Academy through the annual Grant Funding Program:

1. 2014/2015	Just a Bit of Art Project	\$2500 cash
2. 2014/2015	Kwilanas Girls Sport	\$2500 cash + \$422 in-kind support
3. 2014/2015	Girls Camp	\$2500

### **Council Policy Compliance**

Council Policy: Equal Opportunity.

### **Legislative Compliance**

*Local Government Act 1995*

### **Officer Comments**

Clontarf Foundation has an annual budget of \$525,000. Approximately \$350K of this funding is provided by the Federal and Western Australian State Governments. The remaining funds are raised from the private sector.

Clontarf Foundation programs are delivered through a network of Academies, each of which operates in partnership with a school or college. Whilst the partnership between the Foundation and the City has national application, the relationship proposed is with only the Foundation's South West Academy in Bunbury. Staff from the Clontarf Foundation advise that it costs \$462,000 per annum to operate the Academy in Bunbury and that these costs are currently incurred 100% by the Clontarf Foundation. The South West Clontarf Academy, based at Newton Moore Senior High School, caters for almost 70 local indigenous boys.

Until recently, Clontarf's Eastern States private funding partners were satisfied that funds they provided were being directed to fund programs in states other than their own. However due to the rapid expansion of Clontarf in Victoria, New South Wales and Queensland, they are finding it increasingly difficult to justify why private funders' money is not being directed towards growing operations in their own state. As a consequence, Clontarf needs to increase the private sector funding that it raises from the local communities that benefit directly from its programs.

Role Models and Leaders Australia (RMLA), a not-for-profit charitable organisation founded in 2004 by Olympian and champion basket-baller Ricky Grace (MEdL, BPolSc). RMLA is the leading provider of school-based programs for Aboriginal and Torres Strait Islander students in Australia, developing and empowering youth through leadership training, mentoring, sport and extra-curricular programs. Our goal is to assist at-risk youth in overcoming the common barriers that prevent them from completing their education.

Role Model and Leaders programs are delivered through a network of Academies, each of which operates in partnership with a school or college. Whilst the partnership between Role Model and Leaders and the City has national application, the relationship proposed is with new Newton Moore Girls Academy in Bunbury.

The Role Model and Leaders Australia Girls Academy, based at Newton Moore Senior High School, caters for 50 local indigenous girls. Staff from Role Model and Leaders Australia have advised City Officers that it costs a total of \$318,047 to per annum to operate the Academy in Bunbury. Role Model and Leaders Australia source their revenue from (Non-Reciprocal) Government Grants and Other Grants, as follows:

For the year ended 31 December 2016

Revenue from (Non-Reciprocal) Government Grants and Other Grants	Funding Received during Year	Funding Received for Future Periods	Income for Year
	\$	\$	\$
Department of Prime Minister & Cabinet	6,971,000	(4,159,000)	2,812,000
Department of Education (NT)	609,000	-	609,000
Host Schools (NT)	240,000	-	240,000
Host Schools (WA)	762,044	-	762,044
Host Schools (NSW)	80,000	-	80,000
Corporate & Philanthropic Sectors	1,295,199	(15,000)	1,280,199
	<b>9,957,243</b>	<b>(4,174,000)</b>	<b>5,783,243</b>

The South West Development Commissions South West Action Statement recognises that Indigenous people in the South West require improved access to human services and labour force participation. In 2014–15, the Australian Bureau of Statistics (ABS) completed a National Aboriginal and Torres Strait Islander Social Survey.

The ABS indicated that the proportion of Aboriginal and Torres Strait Islander people aged 15 years and over who had completed Year 12 or equivalent was 25.7%, up from 20.4% in 2008 and 16.9% in 2002. Between 2002 and 2014–15, there were significant improvements in both non-remote areas (up 9.4 percentage points) and remote areas (up 5.6 percentage points).

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

The City of Bunbury strives to foster and establish partnerships with our community. This course of action may set a precedent for community-based organisations in the future to request financial assistance outside of the standard community grants process. It must be noted that the request from Clontarf Foundation and Role Model and Leaders Australia would not meet the criteria of the City of Bunbury Grants Funding Model, i.e. Events or Projects, Capital or Programs, Place-Making, Arts Development or Event.



No specific funding has been identified at present for this proposal and Council would need to consider allocating \$60,000 of funds in 2017/18 budget.

It is therefore recommended that the City grants Clontarf Foundation and Role Model and Leaders a total sum of \$30,000 each in the 2017/2018 financial year. These allocations would be reviewed on an annual basis for future consideration.

### **Community Consultation**

At this stage there has been no community consultation.

### **Councillor/Officer Consultation**

Councillors received a presentation from Mr Ross Kelly, Chairman of the Clontarf Foundation, at the Councillor Briefing Session on 28 March 2017.

Council received the original report in relation to this request from Clontarf Foundation at a Council Meeting on 2 May 2017 (Decision 158/17).

The Mayor met with Chief Executive Officer of the Clontarf Foundation, Mr Gerard Neesham.

Councillors received a presentation from Ms Michelle Woosnam, Program Manager, Newton Moore Girls Academy, at the Council Briefing Session on 4 July 2017.

### **Applicant Consultation**

Clontarf Foundation were consulted regarding the reduction in proposed funding and expressed no objections.

#### ***Outcome – Council Meeting 27 June 2017***

*The recommendation was moved Cr Hayward, seconded Mayor Brennan as follows:*

*Council support the inclusion of \$30,000 in the draft 2017/18 Annual Budget for PR-4350 Support South West Clontarf Academy (Newton Moore College), subject to a funding agreement being signed between Clontarf Foundation and the City.*

*Cr Steele moved, Cr Steck seconded an amendment as follows:*

*Council support the inclusion of ~~\$30,000~~ \$15,000 in the draft 2017/18 Annual Budget for PR-4350 Support South West Clontarf Academy (Newton Moore College), and \$15,000 for the Girls Academy subject to funding agreements being signed between the parties and the City.*

*Cr Morris moved, Cr Warnock seconded a procedural motion that the debate be adjourned until further information can be sourced by officers in relation to the operation of the Girls Academy, and what the funding might be used for.*

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

*Council Decision 245/17*

*That pursuant to Standing Order 11.6, debate be adjourned until the next round of Council Meetings, pending more information from the Girls Academy.*

*CARRIED*  
*10 votes “for” / 1 vote “against”*

**Outcome – Council Meeting 11 July 2017**

Cr Miguel declared a financial interest in the item as the Program Manager of the Girls Academy is a client of his. Cr Miguel left the chamber for the duration of the discussion and the vote on the matter.

A procedural motion to resume the debate adjourned at Ordinary Council Meeting held 27 June 2017 was moved Cr Steele, seconded Cr Cook

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

**Council Decision 258/17**

***That debate recommence in relation to this matter, following adjournment at the Ordinary Council Meeting held on 27 June 2017.***

**CARRIED**  
**11 votes “for” / Nil votes “against”**

The Mayor put the amendment to the vote and it was CARRIED 7 votes “for” / 4 votes “against”.

Cr Kelly moved, Cr Steck seconded an amendment to include three additional points from the new Executive Recommendation as follows:

**That Council:**

1. Recognises the contribution that the Clontarf Foundation and Newton Moore Girls Academy (Role Model and Leaders) provide to the community and the role they play in developing young people;
2. Authorises the CEO to negotiate an individual Memorandum of Understanding with each organisation for the 2017/18 financial year.
3. Council support the inclusion of \$15,000 in the draft 2017/18 Annual Budget for PR-4350 Support South West Clontarf Academy (Newton Moore College), and \$15,000 for the Girls Academy subject to funding agreements being signed between the parties and the City.
4. Note that any future contributions to either organisation will be considered on an annual basis through Council’s Budget deliberations.

The Mayor put the amendment to the vote and it was CARRIED 11 votes “for” / Nil votes “against”.  
The two amendments were incorporated into the substantive motion.

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

**Council Decision 259/17**

***That Council:***

- 1. Recognises the contribution that the Clontarf Foundation and Newton Moore Girls Academy (Role Model and Leaders) provide to the community and the role they play in developing young people;***
- 2. Authorises the CEO to negotiate an individual Memorandum of Understanding with each organisation for the 2017/18 financial year.***
- 3. Council support the inclusion of \$15,000 in the draft 2017/18 Annual Budget for PR-4350 Support South West Clontarf Academy (Newton Moore College), and \$15,000 for the Girls Academy subject to funding agreements being signed between the parties and the City.***
- 4. Note that any future contributions to either organisation will be considered on an annual basis through Council’s Budget deliberations.***

CARRIED  
12 votes “for” / Nil votes “against”

Cr Miguel returned to the chamber at 5.41pm.

**10.4 Proposed Grouped Dwellings at Strata Lot 1 and Strata Lot 2 (#2/12 and #3/12) Acacia Street, Bunbury (was listed as item 10.4.2 on the Council Agenda)**

<b>File Ref:</b>	DA/2017/57/1
<b>Applicant/Proponent:</b>	Russell Noble
<b>Responsible Officer:</b>	Martin Hughes, Planning Officer
<b>Responsible Manager:</b>	Thor Farnworth, Manager Sustainability, Planning and Development
<b>Executive:</b>	Sarah Upton, Acting Director Planning and Development Services
<b>Attachments:</b>	Appendix DPDS-2: Photographs of the Surrounding Dwellings Appendix DPDS-3: Location Plan Appendix DPDS-4: Development Plans Appendix DPDS-5: Schedule of Submissions

**Summary**

Development approval is sought for a grouped dwelling to be constructed on Strata Lot 1 and Strata Lot 2 (#2/12 and #3/12) Acacia Street, Bunbury.

The application seeks to vary the deemed-to-comply requirements of the Residential Design Codes (R-Codes) in regards to lot boundary setbacks and visual privacy. Where the deemed-to-comply provisions of the R-Codes are not met, the variations are assessed against the corresponding design principles of the R-Codes. The application received two objections from adjoining landowners.

It is considered that the variations relating to lot boundary setback and visual privacy satisfy the design principles of the R-Codes, and therefore it is recommended that development approval be granted for the development of the proposed two grouped dwellings.

**Executive Recommendation**

That Council:

1. In accordance with the *Planning & Development Act 2005* (as amended), hereby resolves to grant development approval for a grouped dwelling at Strata Lot 1 and Strata Lot 2 (#2/12 and #3/12) Acacia Street, Bunbury (application reference: DA/2017/57/1), subject to the following conditions:
  - 1.1 At all times, the development subject of this development approval must comply with the definition of ‘grouped dwelling’ as contained in State Planning Policy 3.1 Residential Design Codes (the ‘R-Codes’).
  - 1.2 All development shall be in accordance with the approved development plans (attached) which form part of this development approval.
  - 1.3 This development approval will expire if the approved development has not substantially commenced within two (2) years from the date of issue of the approval, or, within any extended period of time for which the City of Bunbury has granted prior written consent.

- 1.4 Before the development is occupied, external clothes drying facilities must be provided for each dwelling in accordance with clause 5.4.5 of the R-Codes. External clothes drying facilities must be effectively screened from public view at all times and to the satisfaction of the City of Bunbury. Details to be submitted with the building permit application.
- 1.5 Before the development is occupied, an enclosed lockable storage area, constructed in a design and material matching the dwelling, with external access and a minimum dimension of 1.5m and an internal area of at least 4m<sup>2</sup>, must be provided onsite for each dwelling in accordance with clause 5.4.5 of the R-Codes and to the satisfaction of the City of Bunbury.
- 1.6 Rubbish bin storage areas must be provided and screened from public view at all times in accordance with clause 5.4.5 of the R-Codes and to the satisfaction of the City of Bunbury.
- 1.7 The boundary (parapet) walls, including footings and associated structures, shall be constructed wholly within the lot boundaries and finished to a quality finish and professional standard, to the satisfaction of the City of Bunbury.
- 1.8 Front walls and fences within the primary street/communal street setback area shall be visually permeable above 1.2 metres of natural ground level, measured from the primary street/communal street side of the front fence, in accordance with the R-Codes and to the satisfaction of the City of Bunbury.
- 1.9 Walls and fences must be truncated or reduced to no higher than 0.75 metres above natural ground level within 1.5 metres setback of where walls and fences adjoin vehicle access points where a driveway meets a public street (lot boundary) or a communal accessway to the satisfaction of the City of Bunbury and in accordance with the R-Codes.
- 1.10 A minimum of 1m<sup>3</sup> of storm water storage for each 65m<sup>2</sup> of impervious area must be provided on site in accordance with the City of Bunbury's Information Guide – Stormwater Disposal from Private, Commercial and Industrial Properties. Detailed design plans of the proposed stormwater management must be submitted for approval prior to the development commencing, and be implemented in accordance with the approved plan prior to the development being occupied.
- 1.11 All construction activities must be undertaken so as to avoid stormwater runoff and dust nuisance to occupiers of land in the vicinity to the satisfaction of the City of Bunbury.
- 1.12 Before the development is occupied, the property must be connected to the Water Corporation reticulated sewerage system.
- 1.13 Before the development commences, the subject land parcels (Strata Lots 1 and 2) must be amalgamated/boundaries realigned into two separate strata lots (matching the configuration of the approved development plans) and the new title(s) issued, and a copy of the new title(s) provided, to the satisfaction of the City of Bunbury.

Alternatively the land owner must enter into a legal agreement with the City of Bunbury to secure the amalgamation/boundary realignment into two separate strata lots (matching the configuration of the approved development plans) within a specified time frame. The legal agreement must be at the full cost of the land owner, to the specification of the City's solicitor and to the satisfaction of the City of Bunbury.

- 1.14 The visual privacy screening, as clouded in red on the approved development plans, shall be at a minimum of 1.6m above finished floor level, at least 75% obscure and made of durable material to the satisfaction of the City of Bunbury. The screening shall be installed prior to the occupation of the dwelling and shall remain in place permanently unless otherwise approved by the City of Bunbury.

Advice Notes:

- (a) This is a development approval only. The applicant/owner is advised that it is their responsibility to ensure that the proposed development complies with all other applicable legislation, local laws and/or license requirements that may relate to the development.
- (b) Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

An application for an extension of time to an existing development approval shall require a formal written request, signed by both the land owner and applicant (if applicable) and the payment of the appropriate application fee (as per the Council's Fees & Charges Schedule), details of the relevant development approval are required (eg. DA number, date of approval, property address). An application shall be received within one month prior to the expiration of the development approval.

- (c) The development the subject of this development approval is also regulated by the *Western Australia Building Act 2011*, Building Regulations 2012 and Building Code of Australia. A separate building permit must be granted before the development commences, where offences occur statutory penalties apply. The owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.
- (d) This development approval does not remove or affect any statutory responsibility or obligation the owner may have under that *Strata Titles Act 1985* (as amended). Under the strata or survey strata plan, a requirement for consent by the strata company or other strata or survey strata owners may be required.

2. Advise the applicant, landowner and submitters of Council's decision.

**Strategic Relevance**

- Key Priority Area 3: Natural and Built Environment  
Objective 3.4 Facilitate urban design, diversity of land uses, and enabling infrastructure
- Key Priority Area 4: Regional Economy

Objective 4.3 Promote Bunbury as a place that supports commercial, residential and social development

### Background

A summary table of details relating to the subject site are as follows:

Property Address:	Strata Lot 1 and Strata Lot 2, #2/12 Acacia Street & #3/12 Acacia Street, Bunbury
Zoning:	Residential R20/40
Existing Land Use:	Vacant Land
Lot Area:	234m <sup>2</sup> (SL1) and 206m <sup>2</sup> (SL2)

The subject vacant strata lots were originally created as the result of a larger survey strata development and are bounded by established two storey grouped dwellings to the west and a single two storey dwelling to the east. The subject site adjoins an access road to the north and the common access way servicing the strata development to the south.

The applicant is proposing to reconfigure the orientation and layout of Strata Lot 1 and 2, from an east-west orientation to a north-south orientation.

The applicant has lodged an application for subdivision approval with the Western Australian Planning Commission (WAPC), which seeks to reconfigure the lots in accordance with the proposed layout plan. A condition of development approval has been applied to require the lots to be re-subdivided or re-subdivided to reflect the proposed boundary reconfiguration prior to commencement of development.

Photographs of the surrounding dwellings and the subject lot are **attached** at Appendix DPDS-2.

A location plan showing the subject site and its surrounds is **attached** at Appendix DPDS-3.

### Legislative and Council Policy Compliance

The following statutory planning instruments of the State Planning Framework and Local Planning Framework are applicable to the assessment of this application for development approval:

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- State Planning Policy 3.1 - Residential Design Codes (R-Codes)
- City of Bunbury Town Planning Scheme No.7 (TPS7)
- Draft City of Bunbury Local Planning Strategy
- Draft City of Bunbury Local Planning Scheme No.8 (LPS8)

### Officer Comments

This proposal seeks variations to the deemed-to-comply requirements of the R-Codes for Lot Boundary Setback (clause 5.1.3) and Visual Privacy (clause 5.4.1). Development plans for the proposed development are **attached** at Appendix DPDS-4.

The proposed variations to the R-Codes are therefore assessed against the corresponding design principles.

*Clause 5.1.3 - Lot Boundary Setback*

The proposed north elevation has a wall length of 7.6m and a wall height of 5.0m. Based on Table 2b within the R-Codes, the required setback under the deemed-to-comply requirements is 2.3m. The proposed 1.95m setback therefore will need to be assessed against the corresponding design principles.

The proposal has been assessed against the design principles of clause 5.1.3 of the R-Codes, as demonstrated in the table below.

**Design Principles Assessment**

<b>Clause 5.1.3 P3.1 Design Principles</b>	<b>Assessment</b>
Buildings set back from lot boundaries so as to: <ul style="list-style-type: none"> <li>• Reduce impacts of building bulk on adjoining properties;</li> </ul>	It is considered that the proposal would not have an unreasonable adverse impact on adjoining properties in relation to building bulk. The proposal is set back from the adjoining residential lot boundary by 5.95m. This includes the building being set back 1.95m from the subject lot boundary, and a 4.0m width laneway between the subject lot and the adjoining properties to the north. The laneway (Lot 66 Acacia Street, Bunbury) is zoned as 'Access Road' under TPS7. The laneway provides vehicular access to the garage/driveway of SL4 (#19B) Upper Esplanade, and also provides pedestrian access from Acacia Street to Upper Esplanade. The laneway is Crown land that is managed by the City of Bunbury.
<ul style="list-style-type: none"> <li>• Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties;</li> </ul>	It is considered that the proposal would ensure adequate direct sun and ventilation to major openings to habitable rooms and outdoor living areas due to the north-south orientation of the lot, and the laneway separating the subject lot and adjoining properties.
<ul style="list-style-type: none"> <li>• Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</li> </ul>	It is considered that the extent of overlooking and resultant loss of privacy on adjoining properties would be minimal. The area of direct overlooking is predominantly restricted to the accessway and driveway of the adjoining properties.  Strata Lot 3 (#19A) Upper Esplanade's outdoor living area has a large roof structure over the majority of the outdoor living area, which provides a large amount of screening for the occupants of the dwelling. Furthermore, the configuration of the lot and the balcony being located to the west of the proposed dwelling, overlooking into Strata Lot 1 (#10A) Acacia Street would only be viewed at oblique angles and does not directly overlook the dwelling.



*Clause 5.4.1 - Visual Privacy*

Based on the above the deemed-to-comply requirement of R-Code clause 5.4.1 for the setback of an outdoor living area (balcony) is 7.5m. The proposed visual privacy setback is 6.0m in lieu of required 7.5m. As such, the visual privacy variation is therefore assessed against the corresponding design principles.

The Explanatory Guidelines (Page 60) of the R-Codes state that *‘With reference to the application of the design principles the focus should be on what constitutes a reasonable level of privacy in the circumstances, and what is realistically achievable’*.

The proposal has been assessed against the design principles of clause 5.4.1 of the R-Codes, as demonstrated in the table below.

**Design Principles Assessment**

<b>Clause 5.4.1 Design Principles</b>	<b>Assessment</b>
<p>P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:</p> <ul style="list-style-type: none"> <li>• building layout and location;</li> <li>• design of major openings;</li> <li>• landscape screening of outdoor active habitable spaces; and/or</li> <li>• location of screening devices.</li> </ul> <p>P1.2 Maximum visual privacy to side and rear boundaries through measures such as:</p> <ul style="list-style-type: none"> <li>• offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;</li> <li>• setting back the first floor from the side boundary;</li> <li>• providing higher or opaque and fixed windows; and/or</li> <li>• screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).</li> </ul>	<p>The development plans provides a cone of vision (7.5m) diagram for the proposed balcony. The cone of vision predominantly overlooks the adjoining access road and the driveway of Strata Lot 4 #19B Upper Esplanade. There is a small amount of the cone of vision which overlooks the outdoor living area of Strata Lot 3 (#19A) Upper Esplanade, and the garden area of Strata Lot 1 (#10A) Acacia Street.</p> <p>It is considered that the overlooking from the balcony on to the adjoining properties outdoor living areas would be oblique rather than direct, which therefore reduces the impact of overlooking on the adjoining properties. In addition, Strata Lot 3 (#19A) Upper Esplanade’s outdoor living area has a large roof structure which covers the majority of the outdoor living area, and the outdoor living area is bounded by a high wall, which both help to reduce viewing from any adjoining property.</p> <p>The applicant has proposed a 1.65m high screen on the other side of the proposed balcony, which ensures visual privacy directly west of the subject site, ensuring no overlooking into Strata Lot 3 (#21C) Upper Esplanade, consequently, a condition of development approval (condition 14) has been applied to ensure visual privacy to the immediately adjoining landowner.</p> <p>On balance, it is considered that the variation meets the design principles as there is sufficient distance between the balcony and the adjoining lot(s), the overlooking is mostly located on the access road and vehicle driveway of the adjoining lot, and any overlooking of outdoor living areas will be at an oblique angle, and is minimal in amount based on the cone of vision diagram.</p>

Based on the above, it is considered that the visual privacy variation satisfies the design principles of clause 5.4.1 of the R-Codes.

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

This proposed development application relates to private property, and therefore, the effect of the recommendation has no direct budgetary or financial implications for the City of Bunbury.

### **Community Consultation**

The development application was advertised for public comment from 28 April 2017 to 18 May 2017. The City of Bunbury sent letters to the adjoining landowners and occupiers at Strata Lot 3 and Strata Lot 4 (#19A),(#19B) Upper Esplanade, Bunbury and Strata Lot 1 and Strata Lot 2 (#10A and #10B) Acacia Street, Bunbury.

In total, two submissions were received, of which both were objections. Both objections related to the lot boundary setback and visual privacy variations.

In response to the two objections, the assessing Planning Officer contacted the applicant to discuss potential options for amending the proposal in order to address the design concerns of overlooking. However, the applicant expressed the desire for the proposal to be determined by Council as submitted. The assessing Planning Officer then contacted the submitters to advise them of the process in relation to when the City receives an objection and the opportunity to provide a deputation at the ordinary meeting of Council.

The two submitters were formally advised in writing of the development application being listed on the Council Agenda (4/11 July) on Wednesday 28 June 2017.

Refer to the Schedule of Submissions attached at Appendix DPDS-5.

### **Consultation with the Applicant**

The draft officer's recommendation has been communicated with the applicant.

### **Councillor/Officer Consultation**

The proposal has been referred to the City of Bunbury's Development Coordination Unit (DCU) for professional advice and technical assessment prior to the finalisation of this report.

### **Outcome – Council Meeting 11 July 2017**

Mr Shane Garton addressed Council in relation to this item.

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

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

**Council Decision 260/17**

***That Council:***

- 1. In accordance with the Planning & Development Act 2005 (as amended), hereby resolves to grant development approval for a grouped dwelling at Strata Lot 1 and Strata Lot 2 (#2/12 and #3/12) Acacia Street, Bunbury (application reference: DA/2017/57/1), subject to the following conditions:***
- 1.1 At all times, the development subject of this development approval must comply with the definition of 'grouped dwelling' as contained in State Planning Policy 3.1 Residential Design Codes (the 'R-Codes').***
- 1.2 All development shall be in accordance with the approved development plans (attached) which form part of this development approval.***
- 1.3 This development approval will expire if the approved development has not substantially commenced within two (2) years from the date of issue of the approval, or, within any extended period of time for which the City of Bunbury has granted prior written consent.***
- 1.4 Before the development is occupied, external clothes drying facilities must be provided for each dwelling in accordance with clause 5.4.5 of the R-Codes. External clothes drying facilities must be effectively screened from public view at all times and to the satisfaction of the City of Bunbury. Details to be submitted with the building permit application.***
- 1.5 Before the development is occupied, an enclosed lockable storage area, constructed in a design and material matching the dwelling, with external access and a minimum dimension of 1.5m and an internal area of at least 4m<sup>2</sup>, must be provided onsite for each dwelling in accordance with clause 5.4.5 of the R-Codes and to the satisfaction of the City of Bunbury.***
- 1.6 Rubbish bin storage areas must be provided and screened from public view at all times in accordance with clause 5.4.5 of the R-Codes and to the satisfaction of the City of Bunbury.***
- 1.7 The boundary (parapet) walls, including footings and associated structures, shall be constructed wholly within the lot boundaries and finished to a quality finish and professional standard, to the satisfaction of the City of Bunbury.***
- 1.8 Front walls and fences within the primary street/communal street setback area shall be visually permeable above 1.2 metres of natural ground level, measured from the primary street/communal street side of the front fence, in accordance with the R-Codes and to the satisfaction of the City of Bunbury.***
- 1.9 Walls and fences must be truncated or reduced to no higher than 0.75 metres above natural ground level within 1.5 metres setback of where walls and fences adjoin vehicle***

*access points where a driveway meets a public street (lot boundary) or a communal accessway to the satisfaction of the City of Bunbury and in accordance with the R-Codes.*

**1.10** *A minimum of 1m<sup>3</sup> of storm water storage for each 65m<sup>2</sup> of impervious area must be provided on site in accordance with the City of Bunbury's Information Guide – Stormwater Disposal from Private, Commercial and Industrial Properties. Detailed design plans of the proposed stormwater management must be submitted for approval prior to the development commencing, and be implemented in accordance with the approved plan prior to the development being occupied.*

**1.11** *All construction activities must be undertaken so as to avoid stormwater runoff and dust nuisance to occupiers of land in the vicinity to the satisfaction of the City of Bunbury.*

**1.12** *Before the development is occupied, the property must be connected to the Water Corporation reticulated sewerage system.*

**1.13** *Before the development commences, the subject land parcels (Strata Lots 1 and 2) must be amalgamated/boundaries realigned into two separate strata lots (matching the configuration of the approved development plans) and the new title(s) issued, and a copy of the new title(s) provided, to the satisfaction of the City of Bunbury.*

*Alternatively the land owner must enter into a legal agreement with the City of Bunbury to secure the amalgamation/boundary realignment into two separate strata lots (matching the configuration of the approved development plans) within a specified time frame. The legal agreement must be at the full cost of the land owner, to the specification of the City's solicitor and to the satisfaction of the City of Bunbury.*

**1.14** *The visual privacy screening, as clouded in red on the approved development plans, shall be at a minimum of 1.6m above finished floor level, at least 75% obscure and made of durable material to the satisfaction of the City of Bunbury. The screening shall be installed prior to the occupation of the dwelling and shall remain in place permanently unless otherwise approved by the City of Bunbury.*

**Advice Notes:**

**(a)** *This is a development approval only. The applicant/owner is advised that it is their responsibility to ensure that the proposed development complies with all other applicable legislation, local laws and/or license requirements that may relate to the development.*

**(b)** *Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.*

*An application for an extension of time to an existing development approval shall require a formal written request, signed by both the land owner and applicant (if applicable) and the payment of the appropriate application fee (as per the Council's Fees & Charges Schedule), details of the relevant development approval are required (eg. DA number, date of approval, property address). An application shall be received within one month prior to the expiration of the development approval.*

**(c)** *The development the subject of this development approval is also regulated by the Western Australia Building Act 2011, Building Regulations 2012 and Building Code of*

***Australia. A separate building permit must be granted before the development commences, where offences occur statutory penalties apply. The owner is advised to liaise further with the City of Bunbury’s Building Services on (08) 9792 7000.***

***(d) This development approval does not remove or affect any statutory responsibility or obligation the owner may have under that Strata Titles Act 1985 (as amended). Under the strata or survey strata plan, a requirement for consent by the strata company or other strata or survey strata owners may be required.***

***2. Advise the applicant, landowner and submitters of Council’s decision.***

CARRIED  
9 votes “for” / 3 votes “against”

**10.5 Proposed Deed of Lease over Portion Lot 100 Thomas Street, Payne Park, East Bunbury to iSports (was listed as item 10.4.3 on the Council Agenda)**

<b>File Ref:</b>	L281
<b>Applicant/Proponent:</b>	iSports
<b>Responsible Officer:</b>	Jane Dawson, Senior Property Officer
<b>Responsible Manager:</b>	Kristen Mildwaters, Acting Manager Major Projects & Property
<b>Executive:</b>	Sarah Upton, Acting Director, Planning & Development Services
<b>Attachments:</b>	Appendix DPDS-6: Location Plan

**Summary**

The City of Bunbury has been approached by iSports (the “Applicant”) requesting a Deed of Lease over portion of Payne Park, for a term of three (3) years with a further option of five (5) years. A location plan is **attached** Appendix DPDS-6.

**Executive Recommendation**

Council agrees to the proposed Deed of Lease with iSports, over portion of Lot 100 Thomas Street, Payne Park, East Bunbury as shown on the attached plan subject to the terms and conditions as specified in the report, and the following:

1. The lease being prepared including the standard terms and conditions;
2. The applicant agreeing to pay all costs associated with the lease application including document preparation.

**Strategic Relevance**

Key Priority Area 1      Community and Culture  
Objective 1.4            Increase participation in sport and leisure activities

**Background**

City of Bunbury Sport and Recreation Liaison Officer, Manager Major Projects and Property and Senior Property Officer met with Mr Kris Plumb of Dreambuilders Church and representatives of the Applicant on 10<sup>th</sup> November 2016.

Officers recognised during discussions the identified use and purpose of the proposed clubrooms holds a greater community vision and goal other than sporting activities. The Applicants sports are a conduit to seek greater awareness and inclusiveness within community. The clubrooms also intend to provide people with needs a place they are comfortable with, a place to call their own and feel proud of.

The applicant currently operates from numerous facilities throughout Australind and Bunbury, they are hoping to have one main meeting place for all members somewhere reasonably central to help minimise transport and carer resource costs.

While initially locations at Hay Park were considered, members of iSports indicated they felt this was too far out and impacted on time and resources. Both Forrest Park and the Bunbury Recreation Ground were also identified as possible sites. iSports have indicated a preference for Payne Park given they already have a relationship with the Bunbury Football Club who are also located at Payne Park.

The proposed lease term has been agreed to in order to coincide with the existing lease term of the Bunbury Football Club.

The intended purpose of the clubrooms is to assist with independent living skills, e.g. cooking, cleaning, sports, a meeting place etc for people with a disability and eventually a place to invite members of the greater community to share their space and vision for inclusiveness.

The requirement for the clubrooms is to be central, have easy access, requirement for toilet facilities (accessible toilets), accessibility for buses and close to public transport.

Dreambuilders Church will be providing the financial resources to complete the community project. However, the initial set up will be of a temporary nature due to considerations of future uses at Payne Park.

#### *Proposed New Lease Details*

Commencement:	To be determined
Term:	Three (3) years with a further option of five (5) years
Expiry Date:	To be determined
Lease Area:	Club rooms
Rental:	\$180.00 + GST per annum, CPI annually and Market Rent Review as applicable (based on 300m <sup>2</sup> ). The fee will increase should the m <sup>2</sup> increase.
Ground Fees:	Per member and invoice issued separately
Outgoings:	Responsibility of the Lessee
Insurance Requirements:	The applicants to maintain Public Risk Insurance and General Insurance cover over the premises with Public Liability to be set at \$10(M).
Ground Use:	Separate application to be made by the Lessee to the City's Events Officer each season for approval.
Preparation of Lease:	The Lessee to pay the full cost of the lease application including document preparation.

#### **Council Policy Compliance**

Leasing and Licensing Policy.

#### **Legislative Compliance**

Disposal of Land under *Section 3.58 of the Local Government Act 1995* is exempt under Regulation 30 of the *Local Government Functions and General Regulations 1996* for not for profit, incorporated groups.

### **Officer Comments**

The Applicant is a non-profit organisation and offer to people with a disability the opportunity to participate in sports or activities.

A Deed of Lease is proposed as this is the most appropriate agreement type for this length term and for a temporary building to be constructed which will not be publicly accessible without invite.

The preferred location for clubrooms by the Applicant is Payne Park due to the requirement for:

- Easy accessibility;
- Close to public transport and CBD;
- Parking with enough perimeter for disabled access;
- Near Oval;
- Existing toilet blocks (sewerage can be connected to);

The proposed development will include:

- Stage 1 structure being 12m x 12m;
- Stage 2 structure will require a further 12m x 12m space directly adjacent to Stage 1;
- Sewerage/septic, mains water and mains power connections are required;
- Structure will be made from 3 x 40ft standard height shipping containers, with one large skillion roof covering all areas.

The clubrooms will be used all year round, with weekly use at a minimum most likely multiple days in a week.

The Officer sought preliminary advice on the proposed location and type of development from the City's Development Coordination Unit. Those potential conditions have been relayed back to the Applicant and they are still happy to proceed.

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

Based on the current rent modelling under the Leasing and Licensing Policy and approximate 300m<sup>2</sup> for the sea containers the annual lease rental would be \$180.00 per annum plus GST, outgoings and applicable City of Bunbury rates. The total m<sup>2</sup> will be determined on submission of plans and lodgement of a building development application.

### **Community Consultation**

The existing users of Payne Park have been made aware of the proposed development, with the Bunbury Football Club being the largest stakeholder at Payne Park, working with the Applicants to share facilities where needed.

### **Councillor/Officer Consultation**

The proposal has been presented to the Development Coordination Unit and has been assessed by relevant officers.



**Outcome – Council Meeting 11 July 2017**

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

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

**Council Decision 261/17**

***Council agrees to the proposed Deed of Lease with iSports, over portion of Lot 100 Thomas Street, Payne Park, East Bunbury as shown on the attached plan subject to the terms and conditions as specified in the report, and the following:***

- 1. The lease being prepared including the standard terms and conditions;***
- 2. The applicant agreeing to pay all costs associated with the lease application including document preparation.***

CARRIED

11 votes "for" / 1 vote "against"

## **10.6 Civic and Cultural Precinct (was listed as item 10.5.1 on the Council Agenda)**

<b>Applicant/Proponent:</b>	Internal Report
<b>Responsible Officer:</b>	James Shepherd, Manager Project Planning
<b>Responsible Manager:</b>	James Shepherd, Manager Project Planning
<b>Executive:</b>	Gavin Harris, Director Works and Services
<b>Attachments:</b>	Nil.

### **Summary**

The Civic and Cultural Precinct design project has reached the point at which a number of key design decisions are required to inform the final design scope for the project. This will determine the final design mix and associated business case.

### **Executive Recommendation**

That Council confirm the following key elements for the Civic and Cultural precinct to be incorporated into the design process:

1. The provision for a multi deck car park on Lot 5, Wellington Street with staging of works from a 300 bay initial facility to an ultimate design providing 600 bays.
2. Include a Civic Square and passive space encompassing part of the Wittenoom Street (South's) Car Park site and Lot 4, Wellington Street that includes flexible outdoor spaces and a potential civic anchor.
3. Include new Gallery and storage space to provide additional, flexible exhibition and storage space to complement the existing art gallery.
4. Investigate the connection of the Centenary Gardens into the proposed Civic Square and include shared space on sections of both Wittenoom Street and Prinsep Street.
5. Develop a place making and activation strategy for the precinct to be included within the project scope to provide flexible, multi-use spaces.
6. Develop a business case for commercial, retail and food and beverage opportunities within the precinct (both periodic and permanent).
7. Develop a business case for public private partnership (PPP) opportunities including parking, residential, commercial and tertiary education.

### **Strategic Relevance**

Key Priority Area 1	Community & Culture.
Objective 1.1	Establish Bunbury as the most accessible regional city in Australia by 2020.
Key Priority Area 1	Community & Culture.
Objective 1.4	Increase participation in sport and leisure activities.
Key Priority Area 2	Transport & Infrastructure.
Objective 2.2	Maintain a high standard of recreational open space and facilities.
Key Priority Area 2	Transport & Infrastructure.
Objective 2.3	Maintain a high standard of community infrastructure.
Key Priority Area 3	Natural & Built Environment.

Objective 3.1	Undertake assessments of the City’s key natural areas, activity centres and streetscapes to identify opportunities to improve biodiversity.
Key Priority Area 3	Natural & Built Environment.
Objective 3.4	Facilitate urban design, diversity of land uses, and enabling infrastructure.

### **Background**

In 2015 a working group was formed comprising key stakeholders including the South West Development Commission, developers, real estate agencies and construction and retail industry representatives to develop a vision for a civic and cultural precinct.

The working group identified a perceived lack of car parking within the CBD as the key issue impacting the viability of existing businesses as well as creating an impediment to new development.

It was determined that the development of a creatively designed decked car park as part of a civil and cultural precinct would provide a long term parking solution for the CBD, as well as providing parking for those making use of the activated community space to be created within the precinct.

Key features identified included a multi deck car park, shared space on Wittenoom Street between Prinsep Street and Wellington Street, public parkland and gallery space with the precinct aiming to:

- Increase social and economic vibrancy within the CBD.
- Activate community spaces.
- Provide a pedestrian friendly east west connection between the beach and the inlet as well as a north south connection between Stirling Street and the Waterfront.
- Provide a long term CBD parking solution.
- Encourage development and new business through onsite car parking policy changes.

### **Council Policy Compliance**

N/A

### **Legislative Compliance**

N/A

### **Officer Comments**

With the recent inclusion of Lot 5, Wellington St as a car park site option the remainder of the project site is freed up for community and commercial activity development. This includes the potential to open up the connection across Prinsep Street between the Wittenoom Street car park and Centenary Gardens.

For the consultant, Bollig Design Group, to continue with the development of the Civic and Cultural Precinct a number of key elements need to be decided for the development of the concept design and associated business case. These elements include -

1. *The provision for a multi deck car park on Lot 5, Wellington Street with staging of works from a 300 bay initial facility to an ultimate design providing 600 bays.*  
This will allow for the immediate replacement of the car bays that will be lost with the redevelopment of the South's Carpark site with some capacity for the future with the staging of a further 300bays to be built at a later date when required.
2. *Include a Civic Square and passive space encompassing part of the Wittenoom Street (South's) Car Park site and Lot 4, Wellington Street that includes flexible outdoor spaces and a potential civic anchor.*  
The area adjacent to the BRAG is an ideal place to develop further civic buildings/space that could act as a catalyst for activation of the area.
3. *Include new Gallery and storage space to provide additional, flexible exhibition and storage space to complement the existing art gallery.*  
This would allow the continued development of the cultural aspects of Bunbury with a space that is practical, user friendly and integrates with the existing facility.
4. *Investigate the connection of the Centenary Gardens into the proposed Civic Square and include shared space on sections of both Wittenoom Street and Prinsep Street.*  
This is seen as a major opportunity to ensure the integration of the current Centenary Gardens into the proposed Civic and Cultural Precinct.
5. *Develop a place making and activation strategy for the precinct to be included within the project scope to provide flexible, multi-use spaces.*  
It is critical to ensure that any space that is created is an activated space that draws people to the site and an activation strategy will give clear direction on how this could occur.
6. *Develop a business case for commercial, retail and food and beverage opportunities within the precinct (both periodic and permanent).*  
There is a need to ensure that the new space is diverse in its nature and that there are a variety of opportunities to create an activated space. The business case will ensure that the space provides the opportunity for the development of a number of options for the local community.
7. *Develop a business case for public private partnership (PPP) opportunities including parking, residential, commercial and tertiary education.*  
A private public partnership may be an option in regards to the development of a number of different spaces in the precinct. The business case will allow a PPP to be considered by both Council and private enterprise.

Once the general strategic direction is set by Council through this agenda item the Project Control Group and consultants will work together to ensure the final design and associated business assessment meets these objectives, maximises development opportunities and takes into account the requirements for modelling traffic impacts throughout the CBD, potential for the inclusion of external grant funding to support the project, opportunities for innovative design and any potential heritage impacts.

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

No budget implications as this falls within the budget for project design.

#### **Community Consultation**

Consultation has been conducted through the working party and most recently with a number of key stakeholders including:

Don Punch MLA – Member for Bunbury Dalyellup

David Kerr, Steven Down, Katie Van Den Brand and Ray Philp – BCCI  
Craig Pettit - Principal Bunbury Senior High School

Further consultation with relevant stakeholders and the community will be undertaken as the project progresses.

### **Councillor/Officer Consultation**

A Project Control Group has been established and consists of the City's Executive Leadership Team.

Most recently the consultant team presented initial concepts to Elected Members at the Briefing held on Tuesday 20 July, this was attended by 7 Elected Members including the Mayor.

### **Outcome – Council Meeting 11 July 2017**

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

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

#### **Council Decision 262/17**

***That Council confirm the following key elements for the Civic and Cultural precinct to be incorporated into the design process:***

- 1. The provision for a multi deck car park on Lot 5, Wellington Street with staging of works from a 300 bay initial facility to an ultimate design providing 600 bays.***
- 2. Include a Civic Square and passive space encompassing part of the Wittenoom Street (South's) Car Park site and Lot 4, Wellington Street that includes flexible outdoor spaces and a potential civic anchor.***
- 3. Include new Gallery and storage space to provide additional, flexible exhibition and storage space to complement the existing art gallery.***
- 4. Investigate the connection of the Centenary Gardens into the proposed Civic Square and include shared space on sections of both Wittenoom Street and Prinsep Street.***
- 5. Develop a place making and activation strategy for the precinct to be included within the project scope to provide flexible, multi-use spaces.***
- 6. Develop a business case for commercial, retail and food and beverage opportunities within the precinct (both periodic and permanent).***
- 7. Develop a business case for public private partnership (PPP) opportunities including parking, residential, commercial and tertiary education.***

CARRIED

11 votes "for" / 1 vote "against"

## 11. Applications for Leave of Absence

No requests for Leave of Absence had been received at the time of printing.

## 12. Motions on Notice

### 12.1 Motion on Notice – Bunbury Wildlife Park

<b>Author:</b>	Councillor Michelle Steck
<b>Executive:</b>	Stephanie Addison-Brown, Director Corporate and Community Services
<b>Attachments:</b>	Nil

Cr Steck has submitted the following motion for the Ordinary Council Meeting of 11 July 2017:

*Council endorse **Option 3** as presented to send out with the 2017/18 rate notices for the purpose of stimulating visitors and raising awareness of the Wildlife Bird Park.*

#### Comments – Cr Steck

The Bird Wildlife Park is one of the premier tourist sites within the City of Bunbury. Staff have constantly strived to increase income to lessen the costs of operation and to add to the experience upon visiting the park. Many community members have not yet visited the park and are unfamiliar with its attractions.

In the near future it is envisaged that along with the existing children's birthdays occurring, the opportunity for developing wedding packages provides for an alternative experience and income generating stream for the park. The more visitations and familiar the community are with the park products, the greater the opportunity exists for expansion of the park.

This motion on notice is designed to increase community awareness of the park and encourage visitations, to maximise the parks potential.

#### Executive Comment

In 2015/16 15,585 free Bunbury Wildlife Park family passes were issued with that years rates notices. A little over 20% of the passes were utilised (3,207) resulting in a loss of \$80,175 in the Park's admissions income. Unfortunately the provision of the free passes did not result in a significant increase in café and merchandise sales over the year; café sales grew 2.3% from 2014/15 and merchandise sales experienced a 2.5% increase, both of which are annual increases expected as the Park grows its core business and without any special offers being in place.

In light of this, it is proposed that any special offers to the Bunbury Wildlife Park included in the 2017/18 rates notices incorporate a paid element to ensure the initiative still drives income. Four options are presented below:

**Option One: Half-Price Family Pass @ \$28.50 each**

Total potential loss to Park if all passes were utilised = \$233,155.75

Potential loss to Park if 20% were utilised (same percentage that were utilised last time) = \$46,623.15

**Option Two: Bring a Friend for Free @ \$10.50 each**

Total potential loss to Park if all passes were utilised = \$171,769.50

Potential loss to Park if 20% were utilised = \$34,353.90

**Option Three: Bring a Child for Free (3-16yo) @ \$5.50 each**

Total potential loss to Park if all passes were utilised = \$89,974.50

Potential loss to Park if 20% were utilised = \$17,994.90

**Option Four: Free Standard Coffee with Park Entry (valid for one use only) @ \$4 each**

Total potential loss to Park if all passes were utilised = \$65,436.00

Potential loss to Park if 20% were utilised = \$13,087.20

Most visitors to the Park come with their families and children. Therefore despite the fact that Option Four presents the least financial risk to the Park, it is suggested that Option Three would be most popular whilst also presenting the 2nd least financial risk of all four options. This therefore is the preferred should such an offer be approved by Council.

It is noted that in 2017/18 staff will be reviewing and expanding function opportunities at the Park; including birthday and Christmas parties; with a view to diversify income streams and develop the Park as a function space for events such as weddings in the long term.

Finally, it is also noted that the regular provision of free passes for Bunbury residents may result in reliance on this continued service, meaning that residents only visit the Park with their free tickets and not in a paid capacity.

**Outcome – Council Meeting 11 July 2017**

The motion on notice (as printed) was moved Cr Steck, seconded Cr Steele.

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

**Council Decision 263/17**

***Council endorse Option Three (Bring a Child for Free) to send out with the 2017/18 rate notices for the purpose of stimulating visitors and raising awareness of the Wildlife Bird Park.***

CARRIED

7 votes "for" / 5 votes "against"

**13. Questions on Notice**

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

Nil

### **13.2 Questions from Members**

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

### **14.1 Amendment to Delegation DAG02 – Contract Price Variations**

It is requested that this matter be dealt with as urgent business, as the current level of delegation for contract price variations is considered inadequate given the high value of some projects currently underway. There are a number of variations currently waiting endorsement.

An affirmative Council Decision is required before this matter can be considered.

#### **Recommendation**

That Council pursuant to section 5.4 of Council's Standing Orders, agree to receive the item titled "Amendment to Delegation DAG02 – Contract Price Variations" as a matter of urgent business.

<b>Applicant/Proponent:</b>	Internal
<b>Author:</b>	Greg Golinski, Manager Governance
<b>Responsible Manager:</b>	Greg Golinski, Manager Governance
<b>Executive:</b>	Mal Osborne, Acting Chief Executive Officer
<b>Attachments:</b>	Nil

#### **Summary**

The purpose of this report is for Council to consider an amendment to Delegation DAG02 – Contract Price Variations.

#### **Executive Recommendation**

That Council amends Delegation DAG02 – Contract Price Variations to read:

#### *Power or Duty:*

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



*Conditions:*

*Each delegated officer's capacity to approve a variation to a contract is limited to 10% of the contract value, or the value of their purchasing authority, whichever is the lesser amount (to a maximum of \$150,000).*

**Note: Absolute Majority Required**

**Strategic Relevance**

Key Priority Area 5      Corporate  
Objective 5.5            Ensure organisational capability

**Background**

A local government the size of the City of Bunbury cannot operate without utilising Council's power under the Act to delegate certain functions to either a committee of Council or the Chief Executive Officer. Delegations free up Council time to enable Elected Members to focus on representation, strategic planning, and community leadership, thereby enabling the Chief Executive Officer to efficiently implement Council resolutions and policy. The use of delegated authority means a large volume of routine work can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community.

This particular delegation enables the Chief Executive Officer to approve price variations for an existing contract, subject to sufficient funds being available within the approved expenditure budget for that project or line item.

**Council Policy Compliance**

Not applicable

**Legislative Compliance**

Sections 5.16, 5.17, 5.18, 5.42, 5.43, 5.44, 5.45 and 5.46 of the *Local Government Act 1995*, govern delegation of power.

**Officer Comments**

The 2016/17 annual review of the Delegation Register amended this delegation to clearly identify a delegated officer's financial capacity to approve price variations for approved contracts. The delegation was however qualified by the addition of a condition, where price variations are limited to \$10,000 or 10% of the delegated officers purchasing authority as detailed below:

*Condition:*

*Each delegated officer's capacity to approve a variance to a contract is limited to 10% of their purchasing authority in accordance to the schedule of purchasing.*

*Price variations are limited to a maximum amount of \$10,000 excluding GST or 10% of the contract value, whichever is the greater amount.*

The City is currently undertaking the Koombana Bay Redevelopment project, which has a construction cost of \$10.8 million. The current condition on the existing delegation limits price variations to \$25,000 (being 10% of the Chief Executive Officers purchasing authority of \$250,000).

It is suggested that the parameters of the current delegation for a project of this magnitude are impractical, and will cause unnecessary delays in construction when Council's permission is required to be sought to approve contract price variations exceeding the parameters of the delegation.

Following consultation with the Chief Executive Officer and Director Works and Services, Officers seek to amend the condition to read:

*Each delegated officer's capacity to approve a variation to a contract is limited to 10% of the contract value, or the value of their purchasing authority, whichever is the lesser amount (to a maximum of \$150,000).*

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

Variations for approved contracts are subject to sufficient funds being available within the approved expenditure budget for that project or line item.

#### **Community Consultation**

Not applicable.

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

This item is presented to Council for consideration.

#### **Outcome – Council Meeting 11 July 2017**

The recommendation to accept the item as a matter of urgent business was moved Cr Cook, seconded Cr Miguel.

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

#### **Council Decision 264/17**

***That Council pursuant to section 5.4 of Council's Standing Orders, agree to receive the item titled "Amendment to Delegation DAG02 – Contract Price Variations" as a matter of urgent business.***

CARRIED

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

Cr Cook moved, Cr McCleary seconded an amendment as follows:

*That Council amends Delegation DAG02 – Contract Price Variations to read:*

***Power or Duty:***

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

***Conditions:***

*Each delegated officer’s capacity to approve a variation to a contract is limited to 10% of the contract value, or the value of their purchasing authority, whichever is the lesser amount (to a maximum of ~~\$150,000~~ **\$50,000**).*

The Mayor put the amendment to the vote and it was CARRIED 7 votes “for” / 5 votes “against”.

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

**Council Decision 265/17**

***That Council amends Delegation DAG02 – Contract Price Variations to read:***

***Power or Duty:***

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

***Conditions:***

***Each delegated officer’s capacity to approve a variation to a contract is limited to 10% of the contract value, or the value of their purchasing authority, whichever is the lesser amount (to a maximum of **\$50,000**).***

CARRIED

11 votes “for” / 1 vote “against”

**ABSOLUTE MAJORITY ATTAINED**

## 15. Meeting Closed to Public

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

This report is confidential in accordance with section 5.23(2)(e) of the Local Government Act 1995, which permits the meeting to be closed to the public for business relating to the following:

- (e) *a matter that if disclosed, would reveal –*
  - (i) *a trade secret; or*
  - (ii) *information that has a commercial value to a person; or*
  - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government*

#### **Recommendation**

In accordance with section 5.23(2)(e) of the *Local Government Act 1995* and clause 6.2 of the City of Bunbury's Standing Orders Local Law 2012, Council resolves to close the meeting to members of the public to consider the items titled:

*"15.1.1 Tender – Operations Depot Construction"*

#### **Outcome – Council Meeting 11 July 2017**

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

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

#### **Council Decision 266/17**

***In accordance with section 5.23(2)(e) of the Local Government Act 1995 and clause 6.2 of the City of Bunbury's Standing Orders Local Law 2012, Council resolves to close the meeting to members of the public to consider the items titled:***

- a) "15.1.1 Tender – Operations Depot Construction***

CARRIED

12 votes "for" / Nil votes "against"

The meeting was closed to all members of the public and press at 6.06pm. At this time Cr Hayward ended his telephone link up.

### 15.1.1 Tender – Operations Depot Construction

<b>File Ref:</b>	RFT1617-00015
<b>Applicant/Proponent:</b>	Internal
<b>Responsible Officer:</b>	David Russell, Senior Contracts and Procurement Officer
<b>Responsible Manager:</b>	Greg Golinski, Manager Governance
<b>Executive:</b>	Gavin Harris, Director Works and Services
<b>Attachments:</b>	Confidential Report CRUSC-1

This report is confidential in accordance with section 5.23(2)(e) of the Local Government Act 1995, which permits the meeting to be closed to the public for business relating to the following:

- (e) *a matter that if disclosed, would reveal –*
- (i) *a trade secret; or*
  - (ii) *information that has a commercial value to a person; or*
  - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government*

A confidential report and recommendation has been circulated to members under separate cover (Confidential Report CRUSC-1). The report is not for circulation.

#### **Outcome – Council Meeting 11 July 2017**

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

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

#### **Council Decision 267/17**

##### ***That Council:***

- 1. *Recognise Civilcon (WA) Pty Ltd as the preferred tenderer for the construction of the Operations Depot.***
- 2. *Authorise the Chief Executive Officer to enter into negotiations with Civilcon (WA) Pty Ltd to reduce the contract price of the Operations Depot.***
- 3. *Authorise the Chief Executive Officer to enter into a contract with Civilcon (WA) Pty Ltd for the Operations Depot Construction, subject to PR-1248 being approved in the 2017/18 Annual Budget.***

CARRIED

11 votes “for” / Nil votes “against”

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

Cr Cook moved, Cr Kelly seconded that the meeting be reopened to the public and press.

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

### **Council Decision 268/17**

***Council resolves that the meeting be reopened to members of the public and press.***

CARRIED

11 votes "for" / Nil votes "against"

The meeting was reopened to public and press at 6.09pm.

The Mayor read aloud Council Decision 267/17 for Item 15.1.1 "*Tender – Operations Depot Construction*".

*That Council:*

1. *Recognise Civilcon (WA) Pty Ltd as the preferred tenderer for the construction of the Operations Depot.*
2. *Authorise the Chief Executive Officer to enter into negotiations with Civilcon (WA) Pty Ltd to reduce the contract price of the Operations Depot.*
3. *Authorise the Chief Executive Officer to enter into a contract with Civilcon (WA) Pty Ltd for the Operations Depot Construction, subject to PR-1248 being approved in the 2017/18 Annual Budget.*

## **16. Closure**

The meeting was declared closed at 6.10pm.