



City of Bunbury Council

Minutes

19 September 2017



CITY OF BUNBURY

4 Stephen Street
Bunbury WA 6230
Western Australia

Correspondence to:
Post Office Box 21
Bunbury WA 6231

Table of Contents

Item No	Subject	Page
1.	Declaration of Opening / Announcements of Visitors.....	5
2.	Disclaimer	5
3.	Announcements from the Presiding Member.....	6
4.	Attendance	7
4.1	Apologies	7
4.2	Approved Leave of Absence	7
4.3	Request by Cr Giles to Participate by Phone	8
5.	Declaration of Interest.....	10
6.	Public Question Time.....	11
6.1	Public Question Time	11
6.2	Responses to Public Questions Taken ‘On Notice’	11
7.	Confirmation of Previous Minutes and other Meetings under Clause 19.1.....	11
7.1	Minutes.....	11
7.1.1	Minutes – Ordinary Council Meeting.....	11
7.1.2	Minutes – Special Meeting of Electors	12
7.1.3	Minutes – Council Advisory Committees and Working/Project Groups	13
8.	Petitions, Presentations, Deputations and Delegations.....	15
8.1	Petitions.....	15
8.2	Presentations.....	15
8.3	Deputations	15
8.4	Council Delegates’ Reports.....	19
8.4.1	Council Delegate’s Report – Councillor Murray Cook	19
8.5	Conference Delegates’ Reports	19
9.	Method of Dealing with Agenda Business.....	20
10.	Reports.....	21
10.1	Review of Code of Conduct (was listed as item 10.1.2 on the Council Agenda)	21
10.2	Review of Council Policy: Annual Performance Appraisal and Salary Review (was listed as item 10.1.4 on the Council Agenda)	24
10.3	Financial Management Systems Review (was listed as item 10.1.5 on the Council Agenda)	26
10.4	Risk Management Update – Audit Regulation 17 (was listed as item 10.1.6 on the Council Agenda)	28
10.5	Appointment of Auditor (was listed as item 10.1.7 on the Council Agenda)	32
10.6	Decisions from Bunbury RoadWise Committee Meeting 14 August 2017 - Request Main Roads WA to Install Towing Speed Signage Greater Bunbury Highways (was listed as item 10.1.8 on the Council Agenda).....	37
10.7	Proposed Alfresco (Patio) Extension – Strata Lot 2 (#149A) Ocean Drive, South Bunbury (was listed as item 10.4.1 on the Council Agenda).....	39

Table of Contents

Item No	Subject	Page
10.8	Bunbury Aged Persons Housing Collective (Inc.) - #139 Forrest Avenue, Carey Park (was listed as item 10.4.2 on the Council Agenda)	46
10.9	Proposed New Policy: Applications Lodged by Staff or Elected Members (was listed as item 10.1.1 on the Council Agenda).....	50
10.10	Leases and Licences (was listed as item 10.1.3 on the Council Agenda).....	52
10.11	Raising Koombana Footbridge and Consideration of Motion from Special Meeting of Electors 5 September 2017 (was listed as item 10.5.1 on the Council Agenda)	59
11.	Applications for Leave of Absence.....	67
12.	Motions on Notice	67
12.1	Motion on Notice – Koombana Footbridge	67
13.	Questions on Notice	68
13.1	Response to Previous Questions from Members taken on Notice.....	68
13.2	Questions from Members.....	68
14.	New Business of an Urgent Nature Introduced by Decision of the Meeting	68
15.	Meeting Closed to Public.....	69
15.1	Matters for which the Meeting may be Closed	69
15.2	Public Reading of Resolutions that may be made Public.....	69
16.	Closure	69

Vision

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

Core Values

The City of Bunbury aspires to act in accordance with the following values in all of its decisions and actions:

Leadership: empowering people to take responsibility for what they do and to strive to set an example for others to follow.

Teamwork: communicating and working co-operatively for the mutual benefit of all.

Integrity: establishing trust through openness and honesty.

Accountability: for our actions and performance.

Respect: for others by listening, understanding and responding appropriately.

Innovation: continually improving our services and processes through creative and progressive thinking and action.

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

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, 19 September 2017 at 5.30pm.

Minutes

19 September 2017

1. Declaration of Opening / Announcements of Visitors

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

2. Disclaimer

The City of Bunbury accepts no responsibility for any act, omission, statement or intimation that occurs during Council Briefings or Council Meetings. The City refuses liability for any loss caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation occurring during Council Briefings or Council Meetings. Any person or legal entity acting or failing to act in reliance upon any statement, act or omission made during a Council Briefing or Council Meeting does so at their own risk.

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

Any statement or intimation of approval regarding any planning or development application made during a Council Briefing or Council Meeting is not to be taken as notice of approval from the City. The City advises that anyone who has an application lodged with the City must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attached to the decision made by Council regarding the application.

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Recording and Webstreaming of Meetings

- All Ordinary and Special Council Meetings are electronically recorded except when Council resolves to go behind closed doors
- All recordings are retained as part of the City's records in accordance with the General Disposal Authority for Local Government Records produced by the Public Records Office
- The live stream can be accessed at <http://www.bunbury.wa.gov.au/Pages/Live-Stream.aspx>
- Recordings can be accessed at <http://www.bunbury.wa.gov.au/Pages/Council-Meeting-Videos-2017.aspx>
- Images of the public gallery are not included in the streaming, however the voices of people in attendance may be captured and streamed.
- If you have any issues or concerns regarding the live streaming and recording of meetings, please contact the City's Governance Officer on 9792 7273.

3. Announcements from the Presiding Member

Nil.

4. Attendance

Present:

Council Members:	
Presiding Member:	Mayor G Brennan
Deputy Presiding Member:	Deputy Mayor Councillor B Kelly
	Councillor S Morris
	Councillor M Cook
	Councillor M Steck
	Councillor W Giles
	Councillor J Miguel
	Councillor B McCleary
	Councillor J Hayward
	Councillor J McGuinness
	Councillor M Warnock
	Councillor K Steele
Executive Leadership Team (Non-Voting)	
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 F Anderson
City of Bunbury Officers (Non-Voting)	
Manager Corporate Governance	Mr G Golinski
Manager Information Communications and Technology	Mr M Roberts
Manager Project Planning	Mr J Shepherd
Manager Planning and Development Services	Mr T Farnworth
Acting Manager Major Projects and Property	Mrs K Mildwaters
IT Support Officer	Mr J Bruhn
Media and Communications Officer	Mr J Tatham
Council Meeting Support Officer	Ms J Earl
Others (Non-Voting)	
Members of the Public	45
Members of the Press	2

4.1 Apologies

Nil.

4.2 Approved Leave of Absence

Cr Jones is on approved leave of absence from all Council-related business from 28 July 2017 to 21 October 2017 inclusive.

4.3 Request by Cr Giles to Participate by Phone

Summary/Background

Cr Giles submitted a request to participate in tonight's Ordinary Council Meeting via telephone. In order for Cr Giles 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 Giles has advised she will be situated at 56 Williams Road, Narrogin 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 56 Williams Road, Narrogin as a suitable place for the purpose of Regulations 14A(1)(b) and 14A(4).
2. Approves the participation of Cr Giles at the Ordinary Council Meeting held 19 September 2017 via telephone pursuant to Regulation 14A(1)(c).

Executive Recommendation

That Council:

1. Approves 56 Williams Road, Narrogin as a suitable place for the purpose of Regulations 14A(1)(b) and 14A(4).
2. Approves the participation of Cr Giles at the Ordinary Council Meeting held 19 September 2017 via telephone pursuant to Regulation 14A(1)(c).

***Note: Absolute Majority Vote Required**

Outcome – Council Meeting 19 September 2017

The recommendation (as printed) was moved Cr Hayward, 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 334/17

That Council:

- 1. Approves 56 Williams Road, Narrogin as a suitable place for the purpose of Regulations 14A(1)(b) and 14A(4).***
- 2. Approves the participation of Cr Giles at the Ordinary Council Meeting held 19 September 2017 via telephone pursuant to Regulation 14A(1)(c).***

CARRIED

11 votes "for" / Nil votes "against"

5. Declaration of Interest

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

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

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

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

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

Cr Miguel declared an impartiality interest in the item titled “10.1.3 Leases and Licences” as he is President of the Colts Cricket Club. Cr Miguel will remain in the chamber for the duration of the discussion and the vote on the matter.

Cr Cook declared an impartiality interest in the item titled “10.1.3 Leases and Licences” as his cousin is a member of the Moorabinda Croquet Club. Cr Cook will remain in the chamber for the duration of the discussion and the vote on the matter.

Cr Cook declared an impartiality interest in the item titled “10.5.1 Raising Koombana Footbridge and Consideration of Motion from Special Meeting of Electors 5 September 2017” as he has been a guest of the Bunbury Yacht Club on a number of occasions. Cr Cook will remain in 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'

Nil.

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

7.1 Minutes

7.1.1 Minutes – Ordinary Council Meeting

The minutes of the Ordinary meeting of the City of Bunbury Council held 5 September 2017 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the City of Bunbury Council held 5 September 2017 be confirmed as a true and accurate record.

Outcome – Council Meeting 19 September 2017

The recommendation (as printed) was moved Cr McGuinness, 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 335/17

The minutes of the Ordinary meeting of the City of Bunbury Council held 5 September 2017 be confirmed as a true and accurate record.

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

7.1.2 Minutes – Special Meeting of Electors

The minutes of the Special Meeting of Electors held 5 September 2017 have been circulated.

Recommendation

The minutes of the Special Meeting of Electors held 5 September 2017 be confirmed as a true and accurate record.

Outcome – Council Meeting 19 September 2017

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

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

Council Decision 336/17

The minutes of the Special Meeting of Electors held 5 September 2017 be confirmed as a true and accurate record.

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

7.1.3 Minutes – Council Advisory Committees and Working/Project Groups

Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Various
Authority/Discretion:	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input checked="" type="checkbox"/> Information Purposes
Attachments:	Appendix MTBN-1 – Policy Review and Development Committee Minutes – 16 August 2017 Appendix MTBN-2 – Audit Committee Minutes – 31 August 2017 Appendix MTBN-3 – Youth Advisory Council Minutes – 14 August 2017

Summary

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

1. Title: Policy Review and Development Committee Minutes – 16 August 2017
Author: Greg Golinski, Manager Governance
Appendix: MTBN-1
2. Title: Audit Committee Minutes – 31 August 2017
Author: Greg Golinski, Manager Governance
Appendix: MTBN-2
3. Title: Youth Advisory Council Minutes – 14 August 2017
Author: Liz Allan, Executive Research and Project Officer
Appendix: MTBN-3

Council Committee Recommendation

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

1. Policy Review and Development Committee Minutes – 16 August 2017
2. Audit Committee Minutes – 31 August 2017
3. Youth Advisory Council Minutes – 14 August 2017

Outcome – Council Meeting 19 September 2017

The recommendation (as printed) was moved Cr Hayward, 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 337/17

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

- 1. Policy Review and Development Committee Minutes – 16 August 2017**
- 2. Audit Committee Minutes – 31 August 2017**
- 3. Youth Advisory Council Minutes – 14 August 2017**

CARRIED

12 votes "for" / Nil votes "against"

8. Petitions, Presentations, Deputations and Delegations

8.1 *Petitions*

Nil.

8.2 *Presentations*

Nil.

8.3 *Deputations*

Mr Don Punch, Member for Bunbury

Mr Don Punch requested to address item 10.1.3 titled "*Leases and Licences*".

Council Decision 338/17

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Don Punch's deputation request to address item 10.1.3 titled "Leases and Licences" and allows a period of up to 5 minutes to present to Council.

CARRIED

12 votes "for" / Nil votes "against"

Mr Alex Karatamoglou, Bunbury Tennis Club

Mr Alex Karatamoglou requested to address item 10.1.3 titled "*Leases and Licences*".

Council Decision 339/17

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Alex Karatamoglou's deputation request to address item 10.1.3 titled "Leases and Licences" and allows a period of up to 5 minutes to present to Council.

CARRIED

12 votes "for" / Nil votes "against"

Mr Graeme Miles, South West Touring Car Club

Mr Graeme Miles requested to address item 10.1.3 titled “Leases and Licences”.

Council Decision 340/17

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Graeme Miles’ deputation request to address item 10.1.3 titled “Leases and Licences” and allows a period of up to 5 minutes to present to Council.

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

Mr Ron Krikke, Bunbury Car Club

Mr Ron Krikke requested to address item 10.1.3 titled “Leases and Licences”.

Council Decision 341/17

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Ron Krikke’s deputation request to address item 10.1.3 titled “Leases and Licences” and allows a period of up to 5 minutes to present to Council.

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

Mr Lieth Spence, Bunbury BMX Club

Mr Lieth Spence requested to address item 10.1.3 titled “Leases and Licences”.

Council Decision 342/17

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Lieth Spence’s deputation request to address item 10.1.3 titled “Leases and Licences” and allows a period of up to 5 minutes to present to Council.

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

Mr John Saunders, Bunbury Geographe Chamber of Commerce and Industries

Mr John Saunders requested to address item 10.1.3 titled “Leases and Licences”.

Council Decision 343/17

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr John Saunders’ deputation request to address item 10.1.3 titled “Leases and Licences” and allows a period of up to 5 minutes to present to Council.

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

Mr Noel Seymour, 18A Ramillies Street Bunbury

Mr Noel Seymour requested to address item 10.5.1 titled “Raising Koombana Footbridge and Consideration of Motion from Special Meeting of Electors 5 September 2017”.

Council Decision 344/17

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Noel Seymour’s deputation request to address item 10.5.1 titled “Raising Koombana Footbridge and Consideration of Motion from Special Meeting of Electors 5 September 2017” and allows a period of up to 5 minutes to present to Council.

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

Mr Kim Wilkie, Boating Western Australia

Mr Kim Wilkie requested to address item 10.5.1 titled “Raising Koombana Footbridge and Consideration of Motion from Special Meeting of Electors 5 September 2017”.

Council Decision 345/17

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Kim Wilkie’s deputation request to address item 10.5.1 titled “Raising Koombana Footbridge and Consideration of Motion from Special Meeting of Electors 5 September 2017” and allows a period of up to 5 minutes to present to Council.

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

Mr Tom Dillon, 24/146 Strickland Street Bunbury

Mr Tom Dillon requested to address item 10.5.1 titled *“Raising Koombana Footbridge and Consideration of Motion from Special Meeting of Electors 5 September 2017”*.

Council Decision 346/17

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Tom Dillon’s deputation request to address item 10.5.1 titled “Raising Koombana Footbridge and Consideration of Motion from Special Meeting of Electors 5 September 2017” and allows a period of up to 5 minutes to present to Council.

CARRIED

12 votes “for” / Nil votes “against”

Mr Don Punch, Member for Bunbury

Mr Don Punch requested to address item 10.5.1 titled *“Raising Koombana Footbridge and Consideration of Motion from Special Meeting of Electors 5 September 2017”*.

Council Decision 347/17

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Don Punch’s deputation request to address item 10.5.1 titled “Raising Koombana Footbridge and Consideration of Motion from Special Meeting of Electors 5 September 2017” 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

8.4.1 Council Delegate's Report – Councillor Murray Cook

Applicant/Proponent:	Internal Report
Author	Cr Murray Cook
Executive:	Mal Osborne, Acting Chief Executive Officer
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input checked="" type="checkbox"/> Information Purposes
Attachments:	Appendix DEL-1: Report – WALGA Container Deposit Scheme Policy Forum

Cr Murray Cook represented the City of Bunbury at the WALGA Container Deposit Scheme Policy Forum held on 1 September 2017 in Perth. A report is **attached** at Appendix DEL-1.

Recommendation

The report from Cr Murray Cook on the WALGA Container Deposit Scheme Policy Forum be received and noted.

Outcome – Council Meeting 19 September 2017

The recommendation (as printed) 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 348/17

The report from Cr Murray Cook on the WALGA Container Deposit Scheme Policy Forum be received and noted.

CARRIED
12 votes "for" / Nil votes "against"

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 10.1.2, 10.1.4, 10.1.5, 10.1.6, 10.1.7, 10.1.8, 10.4.1 and 10.4.2.

Items 10.1.1, 10.1.3 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 Hayward.

10. Reports

10.1 *Review of Code of Conduct (was listed as item 10.1.2 on the Council Agenda)*

Applicant/Proponent:	Policy Review and Development Committee
Responsible Officer:	Leanne French, Senior Governance and Risk Officer
Responsible Manager:	Greg Golinski, Manager Governance
Executive:	Mal Osborne, Acting Chief Executive Officer
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix RAC-2: Revised Code of Conduct

Summary

Under the provisions of section 5.103 of the *Local Government Act 1995*, every Local Government is to prepare and adopt a code of conduct to be observed by council members, committee members and employees.

The City of Bunbury has a current Code of Conduct, and in line with best practice and good governance, we endeavour to conduct a biennial review of the Code. The Code of Conduct was last reviewed by Council in 2015.

Committee Recommendation

That Council:

1. Pursuant to section 5.103 of the *Local Government Act 1995*, adopt the revised Code of Conduct as presented at Appendix RAC-2.
2. Request the Chief Executive Officer include a report facilitating a subsequent review of the Code of Conduct in the agenda of the first meeting of the Policy Review and Development Committee following the 2017 City of Bunbury election.
3. Request the Chief Executive Officer prepare a clause for inclusion in the next revision of the Code of Conduct governing land dealings and personal development applications by Elected Member and senior staff.

Strategic Relevance

Key Priority Area 5 Corporate
Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Background

The City's Code of Conduct communicates expected standards of conduct and integrity to all those who represent or are employed by the City of Bunbury. The Code contributes to building and sustaining a culture of integrity, and creates a robust and transparent framework in which we operate, which is fundamental to good organisational performance and public confidence.

The Code includes provisions in relation to conflicts of interest and acceptance of notifications of gifts, as required by the *Local Government (Administration) Regulations 1996* and refers to the statutory *Local Government (Codes of Conduct) Regulations 2007*.

Council Policy Compliance

There is no policy compliance consideration impacting on this report, however the Code of Conduct does refer to underpinning Council Policies and Corporate Guidelines.

Legislative Compliance

Consideration of this matter is a requirement under the provision of section 5.103 of the *Local Government Act 1995*.

Part 9 of the *Local Government (Administration) Regulations 1996* details requirements to be included in a Code of Conduct.

Officer Comments

A revised version of the Code has been prepared to take into consideration amended legislation such as the *Corruption Crime and Misconduct Act 2003*, and the requirements of acceptance and notifications of gifts.

The Code provides a framework supporting ethical and accountable standards of conduct and decision making, and has been reworked in line with contemporary standards, addressing integrity topics that elected members, committee members and employees will likely encounter.

The framework is supported by electronic links to enabling legislation and regulations, whole-of-sector governance instruments, supporting Council Policies and Corporate Guidelines and includes relevant procedures for reporting and breach management.

Analysis of Financial and Budget Implications

There are no budget implications resulting from the recommendations in this item.

Community Consultation

Not applicable.

Councillor/Officer Consultation

This matter is presented to Council for consideration by the Policy Review and Development Committee.

Applicant Consultation

Not applicable.

Outcome – Council Meeting 19 September 2017

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

Council Decision 349/17

That Council:

- 1. Pursuant to section 5.103 of the Local Government Act 1995, adopt the revised Code of Conduct as presented at Appendix RAC-2.***
- 2. Request the Chief Executive Officer include a report facilitating a subsequent review of the Code of Conduct in the agenda of the first meeting of the Policy Review and Development Committee following the 2017 City of Bunbury election.***
- 3. Request the Chief Executive Officer prepare a clause for inclusion in the next revision of the Code of Conduct governing land dealings and personal development applications by Elected Member and senior staff.***

CARRIED

12 votes "for" / Nil votes "against"

10.2 Review of Council Policy: Annual Performance Appraisal and Salary Review (was listed as item 10.1.4 on the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Responsible Officer:	Odetta Robertson, Manager Human Resources
Responsible Manager:	Odetta Robertson, Manager Human Resources
Executive:	Mal Osborne, Acting Chief Executive Officer
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix RAC-3: Council Policy Annual Performance Appraisal and Salary Review

Summary

The purpose of this report is for Council to review its current policy – Annual Performance Appraisal and Salary Review.

Committee Recommendation

That Council note the review of Council Policy Annual Performance Appraisal and Salary review with no changes recommended.

Strategic Relevance

Key Priority Area 5 Corporate
Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Background

This policy was reviewed by the Policy Review and Development Committee (PRDC) at its last meeting held on 16 August 2017, and is now presented to Council for consideration.

Council Policy Compliance

The report facilitates a review of the City’s current policy Annual Performance Appraisal and Salary Review.

Legislative Compliance

N/A

Officer Comments

The PRDC have undertaken a review of the current policy as attached at Appendix RAC-3. The policy is considered relevant in its current form and as such no amendments are recommended

Analysis of Financial and Budget Implications

There are no budget implications resulting from the recommendations of this item.

Community Consultation

N/A

Councillor/Officer Consultation

This matter is presented to Council for consideration by the Policy Review and Development Committee.

Applicant Consultation

Not applicable.

Outcome – Council Meeting 19 September 2017

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

Council Decision 350/17

That Council note the review of Council Policy Annual Performance Appraisal and Salary review with no changes recommended.

CARRIED

12 votes "for" / Nil votes "against"

10.3 Financial Management Systems Review (was listed as item 10.1.5 on the Council Agenda)

Applicant/Proponent:	Audit Committee
Responsible Officer:	David Ransom, Manager Finance
Responsible Manager:	David Ransom, Manager Finance
Executive:	Mal Osborne, Acting Chief Executive Officer
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input checked="" type="checkbox"/> Information Purposes
Attachments:	Appendix RAC-4: Financial Management Systems Review Report

Summary

The purpose of this report is for Council to receive the Financial Management Systems and Procedures Review report, which is undertaken annually by the City's auditors.

Committee Recommendation

That Council receive the Financial Management Systems and Procedures Review report as presented, and note that no financial management control weakness were identified.

Strategic Relevance

Key Priority Area 5 Corporate
Objective 5.3 Ensure financial sustainability

Background

During May 2017, the City's auditors (Grant Thornton) undertook a financial management systems and procedures review in accordance with Regulation 5(1) of the *Local Government (Financial Management) Regulations 1996*.

The resulting report has now been completed and is presented to Council by the Audit Committee for information. A copy of the report is **attached** at Appendix RAC-4.

Council Policy Compliance

There are no Council policies relating to this report.

Legislative Compliance

Regulation 5(1) of the Local Government (Financial Management) Regulations 1996 outlines the Chief Executive Officer's duties as to financial management.

Officer Comments

The areas that were reviewed as part of the financial management systems and procedures review included:

- * Purchases/Payments/Payables
- * Receipts/Receivables/Cash Management
- * Payroll
- * Rates
- * Other Revenue; and
- * Fixed Assets

The report as **attached** at Appendix RAC-4 is self-explanatory, and indicates that no areas of concern or weakness were identified across any of the areas audited.

Analysis of Financial and Budget Implications

Nil

Community Consultation

Not applicable.

Councillor/Officer Consultation

This report is presented to Council by the Audit Committee.

Outcome – Council Meeting 19 September 2017

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

Council Decision 351/17

That Council receive the Financial Management Systems and Procedures Review report as presented, and note that no financial management control weakness were identified.

CARRIED

12 votes "for" / Nil votes "against"

As well as identifying the City's strategic and operational risks, the register will also capture controls for each risk identified, including what controls are currently in place, their criticality, and how effective these controls are at reducing the likelihood of these risks occurring. It is a fundamental principle that we cannot manage risk without understanding the effectiveness of our critical controls. Consequently, the critical controls identified in the risk register will form the basis of an internal audit program for the City.

As an example, it has already been identified that a critical control is the City's legislative compliance register. For that reason our register will be developed to enable officers to measure, assess and report on its effectiveness to the Audit Committee.

Officers believe the process being undertaken will enable the City to meet its legislative requirements under Audit Regulation 17, provide identified risks that can actually be managed, facilitate more robust and accurate reporting, enable greater capacity for allocation of responsibility and accountability and result in decision-making based on sound risk information.

Although the register will be a "living" document, the first iteration will be provided to the Audit Committee at its next meeting."

Council Policy Compliance

The City's Risk Management process is guided by the Council Policy: Risk Management and supported by two corporate guidelines in relation to internal control and legislative compliance.

Legislative Compliance

This report relates to Regulation 17 of the *Local Government (Audit) Regulations 1996*, which reads as follows:

17. CEO to review certain systems and procedures

- (1) *The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to –
 - (a) risk management; and
 - (b) internal control; and
 - (c) legislative compliance.*
- (2) *The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.*
- (3) *The CEO is to report to the audit committee the results of that review.*

Officer Comments

Since February the Risk Management Working Group has been meeting regularly and the first iteration of the Strategic Risk Register and Operational Risk Register have now been completed. As outlined in the background to this report, the City has developed a Risk Management Strategy which establishes the broad process of the risk management framework within the City, and provides an overview of the key concepts for how the City will approach risk management. The Risk Management Strategy is attached at Appendix RAC-5.

To clearly define the procedures, roles and responsibilities, monitoring and reporting requirements for the management of risks within the City of Bunbury, Officers have also developed a Risk Management Plan, which is attached at Appendix RAC-6.

In consultation with the Audit Committee, Executive Leadership Team and the Senior Occupational Safety and Health Coordinator, Officers have also reviewed the Risk Management Policy and associated risk matrix. The Critical Success Factors (consequences) have been revised and the target level of risk for each category expressed. The revised Risk Management Policy and matrix is attached at Appendix RAC-7.

These three documents collectively complete the City's Risk management Framework. The Policy defines what risk management is, the Strategy provides why it's important that we manage our risk, and the Plan explains how we manage our risk.

Officers discussed with the Audit Committee the City's action/improvement plan for risk management, which outlines objectives and deliverables as the City moves forward in an effort to reach our goal of Level 3 in the risk management maturity scale, as outlined on pages 21-22 of the Risk Management Strategy.

Analysis of Financial and Budget Implications

The Executive Leadership Team is currently reviewing the resources allocated to the coordination of risk management for the city.

Community Consultation

Not applicable

Councillor/Officer Consultation

Comprehensive consultation has been undertaken with the Risk Management Working Group and Executive Leadership Team. The item is presented to Council by the Audit Committee.

Applicant Consultation

Not applicable

Outcome – Council Meeting 19 September 2017

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

Council Decision 352/17

That Council:

- 1. Adopt the revised Risk Management Policy as presented; and***
- 2. Receive the Risk Management Strategy and Risk Management Plan as presented, noting that together with the Risk Management Policy, these documents comprise the City's Risk Management Framework.***

CARRIED

12 votes "for" / Nil votes "against"

10.5 Appointment of Auditor (was listed as item 10.1.7 on the Council Agenda)

Applicant/Proponent:	Audit Committee
Responsible Officer:	Greg Golinski, Manager Governance
Responsible Manager:	Greg Golinski, Manager Governance
Executive:	Mal Osborne, Acting Chief Executive Officer
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input checked="" type="checkbox"/> Information Purposes
Attachments:	Nil

Summary

The purpose of this report is to provide Council with information regarding the appointment of auditors for the City.

Committee Recommendation

That Council:

1. Note that the A/Chief Executive Officer will be seeking quotes for the provision of financial audit services for the 2017/18 financial year audit;
2. Endorse the objectives, scope and methodology for the 2017/18 audit as detailed within this report ;
3. Request the A/Chief Executive Officer present all quotes to the Audit Committee for consideration, with sufficient lead time for Council to appoint an Auditor prior to 30 November 2017 as required in accordance with section 7.7 of the *Local Government Act 1995*.

Strategic Relevance

Key Priority Area 5 Corporate
Objective 5.2 Maintain a high standard of Corporate Governance and improve access to information.

Background

The *Local Government Act 1995* (the Act) requires the accounts and annual financial report of a local government for each financial year be audited by an auditor appointed by the local government.

The contract of the City's current auditor (Grant Thornton) expires following the audit of the 2016/17 financial statements.

Audit Committee noted that the original 5 year contract with Grant Thornton was extended by 1 year (for the 2016/17 financial year audit) following the introduction of the *Local Government Amendment (Auditing) Bill 2016*, which will result in the Office of the Auditor General (OAG) taking responsibility for local government audits from 1 July 2017.

The Bill did not pass before to the dissolution of Parliament prior to the 2017 WA election, however the incumbent Government has indicated its willingness to pursue the passage of the Bill during 2017. Accordingly, the Department of Local Government (DLG) has advised local governments that it should only renew or extend audit contracts until the 2017/18 financial year audit.

Council Policy Compliance

Council's current Purchasing Policy applies, which authorises the Chief Executive Officer to approve "purchases" up to \$150,000 subject to a request for quote process.

Legislative Compliance

The *Local Government Act 1995*, *Local Government (Audit) Regulations 1996*, and *Local Government (Financial Management) Regulations 1996* apply.

Officer Comments

Given the advice from DLG and the pending proclamation of the Bill, there are effectively two options in relation to dealing with the matter of the City's 2017/18 audit:

1. Test the market and seek quotes for the provision of audit services for the 2017/18 year; or
2. Extend the contract with Grant Thornton for an additional year.

Grant Thornton have been the City's auditors for the past 6 financial years.

It is considered that there is "nothing to lose" and "everything to gain" by selecting option 1 and going to market for the provision of audit services for 2017/18. The City's current auditor will be given the opportunity to provide a submission, as will other providers of audit services currently on the WALA preferred supplier list.

When seeking quotes, Officers propose to use the Standard Audit Specification provided by DLG, which is consistent with the terms of conditions of the current contract with Grant Thornton, as follows:

Objectives of the Audit

1. *To provide an independent audit opinion of the accounts and annual financial reports of the City of Bunbury for each financial year covered by the term of the audit appointment.*
2. *To provide an annual review of the appropriateness and effectiveness of financial management systems of the City of Bunbury for each financial year covered by the term of the audit appointment.*

Term of Audit Appointment

For the financial year commencing 1 July 2017.

Scope of the Audit

The auditor is to carry out such work as is necessary to form an opinion as to whether –

- a) *the accounts are properly kept; and*
- b) *the annual financial report –*
 - i. *is prepared in accordance with the financial records; and*
 - ii. *represents fairly the results of the operations of the local government and the financial position of the local government at 30 June in accordance with the Australian Accounting Standards, the Local Government Act 1995 (as amended) (the Act), the Local Government (Financial Management) Regulations 1996 (as amended) and other mandatory professional reporting requirements.*

Give an opinion in his or her audit report on –

- a) *the financial position of the local government; and*
- b) *the results of the operation of the local government.*

Include in his or her audit report –

- a) *any material matters that indicate significant adverse trends in the financial position or the financial management practices of the local government;*
- b) *any matters indicating non-compliance with financial management or control requirements of the Act, Regulations and any other written law;*
- c) *details of whether information and explanations were obtained by the auditor;*
- d) *a report on the conduct of the audit; and*
- e) *the opinion of the auditor as to whether or not the specific financial ratios reported are supported by verifiable information and reasonable assumptions.*

Audit Methodology and Approach

Other requirements of the Auditor –

- a) *The auditor is required to comply with the requirements of section 7.9 of the Local Government Act 1995 and the Local Government (Audit) Regulations 1996;*
- b) *An audit is to be carried out in accordance with accounting standards adopted from time to time by the Australian Government Auditing and Assurance Standards Board (AuASB);*
- c) *The auditor is to provide the local government with a general outline of his/her methodology;*
- d) *The auditor is to provide the local government with a plan for the audit including –*
 - *timing of interim audit visits;*
 - *final audit visit (within 30 days of being advised that the accounts and annual financial report are available for audit);*
 - *timing of the legislative requirement to meet with the local government and whether that meeting will be in person or by some other means;*
 - *the method to be used to communicate with, and provide advice and information to, the local government; and*
- e) *The auditor is required to produce an audit report as required by section 7.9 of the Local Government Act 1995 and, if considered appropriate by the auditor, a management report.*

Critical Matters to be Audited

The auditor is to include in his or her application the extent to which the critical matters outlined below will be audited so as to form an opinion on the manner in which they have been maintained.

1. *Revenue*
 - *Rates revenue*
 - *Government grants*
 - *User pays revenue*
 - *Profit on sale of non-current assets*
 - *Other income*
2. *Expenditure*
 - *Salary and wage costs*
 - *Depreciation*
 - *Materials and contract expenditure*
 - *Loss on sale of non-current assets*
 - *Insurances*
 - *Bad debts*
 - *Other expenditure*
3. *Current Assets*
 - *Bank and short term investments*
 - *Receivables and prepayments*
 - *Inventory*
4. *Non-Current Assets*
 - *Property, plant, furniture and equipment*
 - *Infrastructure and depreciation*
 - *Other receivables*
5. *Liabilities (Current and non-current)*
 - *Creditors and accruals*
 - *Loan borrowings including new loans raised*
 - *Provision for annual and long service leave entitlements*
6. *Reserve Funds*
7. *Contingent Liabilities*
8. *Capital Commitments*
9. *Accounting Policies and Notes to the Financial Statements*
10. *Cash Flow Statement*
11. *The financial ratios required by the Local Government (Financial Management) Regulations 1996*

Analysis of Financial and Budget Implications

Audit fees form part of the City's Annual Budget.

Community Consultation

Not applicable.

Councillor/Officer Consultation

This report is presented to Council by the Audit Committee for consideration.

Outcome – Council Meeting 19 September 2017

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

Council Decision 353/17

That Council:

- 1. Note that the A/Chief Executive Officer will be seeking quotes for the provision of financial audit services for the 2017/18 financial year audit;***
- 2. Endorse the objectives, scope and methodology for the 2017/18 audit as detailed within this report ;***
- 3. Request the A/Chief Executive Officer present all quotes to the Audit Committee for consideration, with sufficient lead time for Council to appoint an Auditor prior to 30 November 2017 as required in accordance with section 7.7 of the Local Government Act 1995.***

CARRIED

12 votes "for" / Nil votes "against"

10.6 Decisions from Bunbury RoadWise Committee Meeting 14 August 2017 - Request Main Roads WA to Install Towing Speed Signage Greater Bunbury Highways (was listed as item 10.1.8 on the Council Agenda)

File Ref:	A04616		
Applicant/Proponent:	Bunbury RoadWise Committee		
Responsible Officer:	Amanda Blunsdon, Engineering Technical Officer		
Responsible Manager:	Shaun Millen, Manager of Engineering		
Executive:	Gavin Harris, Director Works and Services		
Authority/Discretion	<input type="checkbox"/> Advocacy	<input type="checkbox"/> Review	<input type="checkbox"/> Quasi-Judicial
	<input checked="" type="checkbox"/> Executive/Strategic	<input type="checkbox"/> Information Purposes	
	<input type="checkbox"/> Legislative		
Attachments:	Nil		

Summary

The purpose of this report is for Council to consider the recommendation from the Bunbury RoadWise Committee Meeting 14 August 2017.

Committee Recommendation

Council request Main Roads WA to install towing speed signage on Bussell Highway, Forrest Highway and South Western Highway where the speed limit is above 100km/hr.

Strategic Relevance

Key Priority Area 2 Transport and Infrastructure
Objective 2.1 Maintain transport infrastructure at levels consistent with community expectations.

Key Priority Area 5 Corporate
Objective 5.1 Facilitate community and stakeholders participation in decision making

Background

There is anecdotal evidence from Committee Members that towing vehicles do not appear to be adhering to the 100km/hr speed restriction on highways around Bunbury. It is suspected that many motorists may simply be unaware of the limit. Multinovas are not capable of differentiating towing vehicles or a separate speed limit. It is believed that installing information signage may assist in educating / reminding motorists of the towing limits. These signs are very common in the north of Western Australia.

Council Policy Compliance

Nil

Legislative Compliance

Nil

Officer Comments

This recommendation is within the Bunbury RoadWise Committee Action Plan 2017 – Speeding and Safe Speeds.

Analysis of Financial and Budget Implications

If Main Roads WA are supportive of the initiative, the signs would be installed by Main Roads WA.

Community Consultation

Nil

Councillor/Officer Consultation

The matter is presented to Council by the Roadwise Committee.

Applicant Consultation

Nil

Outcome – Council Meeting 19 September 2017

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

Council Decision 354/17

Council request Main Roads WA to install towing speed signage on Bussell Highway, Forrest Highway and South Western Highway where the speed limit is above 100km/hr.

CARRIED

12 votes "for" / Nil votes "against"

10.7 Proposed Alfresco (Patio) Extension – Strata Lot 2 (#149A) Ocean Drive, South Bunbury (was listed as item 10.4.1 on the Council Agenda)

File Ref:	P07126, DA/2017/140/1
Applicant/Proponent:	Aaron Robert May
Responsible Officer:	Martin Hughes, Planning Officer
Responsible Manager:	Thor Farnworth, Manager Sustainability, Planning and Development
Executive:	Felicity Anderson, Acting Director Planning and Development Services
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix DPDS-1: Photographs of Development Site Appendix DPDS-2: Location Plan Appendix DPDS-3: Development and Site Plans Appendix DPDS-4: Schedule of Submissions

Summary

Development approval is sought for an alfresco (patio) extension to an existing grouped dwelling at Strata Lot 2 (#149A) Ocean Drive, South Bunbury.

The application seeks to vary the deemed-to-comply requirements of the Residential Design Codes (R-Codes) in regards to lot boundary setbacks. 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 an objection from the adjoining landowner, and for this reason the matter is to be determined by Council.

It is considered that the variations relating to lot boundary setback satisfy the design principles of the R-Codes, and therefore it is recommended that development approval be granted for the development of the proposed alfresco (patio) extension.

Executive Recommendation

In accordance with the *Planning and Development Act 2005* (as amended), hereby resolves to grant development approval for a proposed alfresco (patio) extension at Strata Lot 2 (#149A) Ocean Drive, South Bunbury (application reference: DA/2017/140/1), subject to the following conditions:

1. At all times, the development subject of this development approval must comply with the definition of ‘Patio’ as contained in State Planning Policy 3.1 Residential Design Codes.
2. All development shall be in accordance with the approved development plans (attached) which form part of this development approval.
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.
4. 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.

5. All water draining from roofs or other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the subject lot, to the satisfaction of 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 Certification Team 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.

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 2 (#149A) Ocean Drive, South Bunbury
Zoning:	Residential R40/60
Existing Land Use:	Grouped Dwelling
Lot Area:	971m ²

The subject lot is accessed via a battle-axe driveway from Ocean Drive, with Strata Lot 1 #149 Ocean Drive situated immediately to the west. The subject lot is bounded within the immediate vicinity by established single storey dwellings.

Photographs of the surrounding dwellings and the subject lot are **attached** at Appendix DPDS-1.

A location plan showing the subject lot and its surrounds is **attached** at Appendix DPDS-2.

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 a variation to the deemed-to-comply requirements of the R-Codes for an over-height parapet wall situated on the lot boundary, adjacent to Lot 47 (#147) Ocean Drive, South Bunbury.

Development plans consisting of a Site Plan, Floor Plan, Elevation Plan, Section Plan and 3D Plan showing the proposed development are **attached** at Appendix DPDS-3.

The proposed variation to the R-Codes is therefore assessed against the corresponding design principle.

Clause 5.1.3 - Lot Boundary Setback

The proposed northern facing parapet wall, adjacent to Lot 47 (#147) Ocean Drive, has a proposed maximum wall height of 3.85m and an average wall height of 3.3m from natural ground level. The gable parapet wall is to be constructed with a 25 degree pitch to the apex, including a portion of opaque glass blocks to provide light into the alfresco area.

Based on the site visit and site photographs, there is a difference of levels between the two properties, with #147 Ocean Drive being approximately 0.5m lower than the natural ground level of #149A Ocean Drive. The definition of natural ground level (NGL) within the R-Codes is *“the levels on a site which precede the proposed development, excluding any site works approved by the decision-maker or established as part of subdivision preceding development”*. As such, deemed natural ground level is to be taken from the ground levels of the subject site as the ground levels precede the proposed development.

The R-Codes deemed to comply requirements specify that walls may be built *‘not higher than 3.5m with an average of 3.0m or less, for two-thirds the length of the balance of the lot boundary behind the front setback’*.

As such, the proposed parapet wall does not meet the maximum permitted parapet wall height under the deemed-to-comply provisions and needs to be assessed against the corresponding design principles.

Extract of Clause 5.1.3 – Lot Boundary Setback from State Planning Policy 3.1 Residential Design Codes (Page 19)

R-Codes Design Principle 5.1.3 P3.2
<p><i>P3.2 Buildings built up to boundaries (other than the street boundary) where this:</i></p> <ul style="list-style-type: none"> • <i>makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;</i> • <i>does not compromise the design principle contained in clause 5.1.3 P3.1;</i> • <i>does not have any adverse impact on the amenity of the adjoining property;</i> • <i>ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining owners is not restricted; and</i> • <i>positively contributes to the prevailing development context and streetscape.</i>

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

Clause 5.1.3 P3.2 Design Principles	Assessment
Buildings built up to boundaries (other than the street boundary) where this: (a) makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;	The parapet wall situated on the boundary provides an effective use of space, and provides enhanced privacy for the adjoining lot due to not having any major openings or windows. The proposed glass blocks are to be opaque and does not allow views through the blocks therefore has no impact on the adjoining properties privacy.
(b) does not compromise the design principle contained in clause 5.1.3 P3.1;	It is considered that the proposed variation of 0.35m is considered minor and does not compromise the design principle contained in clause 5.1.3 P3.1, which broadly states that buildings should seek to reduce impacts of building bulk on adjoining properties, provide adequate sunlight and ventilation, and to minimise the extent of overlooking.
(c) does not have any adverse impact on the amenity of the adjoining property;	It is considered that the proposed parapet wall would not have any adverse impact on the amenity of adjoining properties due to height, scale or impact of the proposal. The maximum parapet wall length under the deemed-to-comply requirements is 11.48m; therefore a parapet wall length of 4.94m with a minor variation of 0.35m to the maximum permissible parapet wall height, and a 0.3m variation to the average wall height is considered an appropriate scale and would not

	contribute to excessive building bulk.
(d) ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining owners is not restricted; and	It is considered that the proposed parapet wall would not compromise direct solar access to major openings to habitable rooms and outdoor living areas for the adjoining property. The proposed parapet wall is located towards the rear of the property on the southern boundary of the adjoining lot, and therefore does not directly adjoin any habitable rooms or alfresco areas and will not block northern sunlight.
(e) positively contributes to the prevailing development context and streetscape.	The proposed parapet wall does not negatively impact the prevailing development context or streetscape of the surrounding locality.

It is considered that the proposal adequately meets the Design Principles of Clause 5.1.3 – Lot Boundary Setback within 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.

If the applicant is aggrieved by Council’s decision they may apply for a review of the decision through SAT. If the decision is forwarded to SAT for appeal, the City of Bunbury may incur legal costs.

Community Consultation

The development application was advertised for public comment from 5 July 2017 to 24 July 2017. The City of Bunbury sent letters to the adjoining landowners and occupiers at Lot 47 (#147) Ocean Drive, South Bunbury.

In total, 1 submission was received, which was an objection.

The adjoining landowner’s objections were in relation to the shape of the gable (parapet wall), overall height and average height of the proposed gable (parapet wall) situated on the lot boundary.

Refer to the Schedule of Submissions **attached** at Appendix DPDS-4.

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

Applicant Consultation

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

Outcome – Council Meeting 19 September 2017

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

Council Decision 355/17

In accordance with the Planning and Development Act 2005 (as amended), hereby resolves to grant development approval for a proposed alfresco (patio) extension at Strata Lot 2 (#149A) Ocean Drive, South Bunbury (application reference: DA/2017/140/1), subject to the following conditions:

- 1. At all times, the development subject of this development approval must comply with the definition of 'Patio' as contained in State Planning Policy 3.1 Residential Design Codes.***
- 2. All development shall be in accordance with the approved development plans (attached) which form part of this development approval.***
- 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.***
- 4. 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.***
- 5. All water draining from roofs or other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the subject lot, to the satisfaction of 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 Certification Team 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.***

CARRIED

12 votes “for” / Nil votes “against”

10.8 Bunbury Aged Persons Housing Collective (Inc.) - #139 Forrest Avenue, Carey Park
(was listed as item 10.4.2 on the Council Agenda)

File Ref:	A06454
Applicant/Proponent:	Bunbury Aged Persons Housing Collective
Responsible Officer:	Jane Dawson, Senior Property Officer
Responsible Manager:	Kristen Mildwaters, Acting Manager Major Projects & Property
Executive:	Malcolm Osborne, Acting Chief Executive Officer
Authority/Discretion	<input checked="" type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix DPDS-5: Location Plan Appendix DPDS-6: Deed of Covenant Appendix DPDS-7: Bunbury Aged Persons Housing Collective Letter Appendix DPDS-8: Bunbury Aged Persons Housing Collective Constitution Appendix DPDS-9: Land Gift and Rates Deed

Summary

Bunbury Aged Persons Housing Collective (Inc.) (“the Applicant”) have requested the City of Bunbury forward confirmation, in writing, to the Bunbury Aged Persons Housing Collective, stating that the City will support the proposed transfer of assets to Alliance Housing and that the City not cast their ‘Veto Vote’ to hinder the transfer of the Bunbury Aged Housing assets to Alliance Housing. A location plan is **attached** at Appendix DPDS-5.

Executive Recommendation

Council agrees that the City will not use its veto vote in relation to the transfer of all Bunbury Aged Persons Housing Assets and liabilities to Alliance Housing over 139 Forrest Avenue, Bunbury.

Strategic Relevance

Key Priority Area 2 Transport and Infrastructure
Objective 2.3 Maintain a high standard of community infrastructure

Background

Lot 27 and Lot 28 on Plan 344, being the whole of the land comprised in Certificate of Title Volume 1166 Folio 344, was gifted to the City of Bunbury on 28 June 1976 by Mrs Marjorie Joy Verran, see **attached** Land Gift and Rates Deed – Mrs Verran at Appendix DPDS-9.

The subject land is now comprised in Certificate of Title Volume 1920 Folio 465 on Diagram 82073.

The Land was gifted to the City subject to the following principal conditions as detailed in the 1995 Deed of Covenant see **attached** at Appendix DPDS-6.

- (1) That after the Deceased’s death the City would not sell, give or otherwise dispose of the Land or any part thereof unless it be to a civic or charitable organisation and unless that civic or

charitable organisation covenants to use the Land for its principal objectives and also covenants not to sell or lease the Land except to another civic or charitable organisation; and

- (2) That nothing should prevent the City from allowing the Land to be utilised as a residence for poor and needy persons after the Deceased's death under the supervision of a recognised charitable organisation, nor shall anything prevent or restrict the City from demolishing the buildings on the Land or from erecting on the Land buildings to be used for civic or charitable purposes.

The Deceased died on 26 July 1979.

Council resolved at its meeting on 4 October 1994 (in part):

"d Council agrees to transfer the title of Lots 27 and 28 Forrest Avenue to the City of Bunbury Aged Persons accommodation and that the Trust be made aware of the terms in Mrs Verran's deed.

- e) A constrictive covenant be placed on the Title of Lots 27 and 28 Forrest Avenue to protect the Deed on the properties in ensuring future use is for Charitable purposes only.*

The Collective has since obtained Planning approval to build 8 x 2 bedroom units and secured a \$400,000 loan from Home Building Society on favourable terms.

Home Building Society and other banks contacted, advise the covenant (which is required under the terms of the bequest) makes it impossible for them to mortgage the property.

They have indicated two options are available:

- 1. Council guarantee the loan, Collective borrow the money.*
- 2. Council borrow the money and on-loan it to the Collective.*

Mr Brian Jones, Chairman of the Collective, has indicated the most cost effective option is for Council to retain ownership of the property (therefore avoiding transfer costs) and for Council to borrow the money – presumably from Home Building Society (avoiding mortgage costs) and for the Collective to pay it back as a self-supporting loan.

Resolved: Mover Cr Jones Seconder Cr Major

Council agree to a self-supporting loan of up to \$400,000 to the Bunbury Aged Persons Housing Collective.

CARRIED

Council at its meeting of 29 May 1995 resolved (in part):

"Council agree to a self-supporting loan of up to \$400,000 to the Bunbury Aged Persons Housing Collective."

The Collectives constitution does not make allowances for banking with Building Societies. Clause 246 provides to "pay all monies into such account or accounts in the name of the Association at such bank or banks as the Board may from time to time direct."

The Collective is also having problems in achieving its quorum of 4 of the 6 Board members as 2 of the tenants representative Board members cannot be appointed until the units at Lot 7 Forrest Avenue are completed (February 1996). As two Councillors are appointed by the City of Bunbury, and the Director Community Services is currently Secretary to the Board, the Collective has asked that the Constitution be amended to allow a Councillor to appoint a proxy, who may be a Councillor or Officer of the City of Bunbury.

Resolved: Mover Cr Sullivan Seconder Cr Castrilli

The Bunbury Aged Persons Housing Collective be allowed to change their constitution to provide for:

- 1. Financial dealings with a Building Society; and*
- 2. For the Councillors appointed to the Board to nominate a proxy who can be either a Councillor or Officer of the City of Bunbury.*

CARRIED

Further to the above, on:-

18 May 2017 letter was sent by mail from Bunbury Aged Persons Housing Collective to the City requesting the City forward a letter to Bunbury Aged Persons Housing Collective stating the City would not cast their 'Veto Vote' to hinder the transfer of the Bunbury Aged Housing assets to Alliance Housing. Note this letter was not received by the City until 18 August via email.

15 August 2017 notification was received from Bunbury Aged Housing Collective that they are winding down and that the City needs to approve this and the transfer of all assets and liabilities to Alliance Housing.

16 August 2017 an email request was received from Bunbury Aged Housing Collective Holdings advising of the move to Surrender the Bunbury Aged Persons Housing , all Assets and Liabilities over to Alliance Housing.

In discussion with Officers Mr Kim Rudd, Chairman of the Bunbury Aged Persons Housing Collective Inc. has requested that the City support and approve the proposed transfer and has asked that the City do not use their veto vote so that the relevant board members are able to vote on the topic.

The proposed transfer of the assets to Alliance Housing will still be subject to the covenants and requirements of Bunbury Aged Persons Housing Collective (Inc.) in that the land will still be held by the City and its use must be for the purpose of a civic or charitable organisation.

Alliance Housing are deemed by Bunbury Aged Persons Housing Collective (Inc.) as an appropriate, charitable organisation.

16 August 2017 Alliance Housing have advised they are more than pleased to accept the management of the accommodation presently managed by the Bunbury Aged Persons Housing Collective(BAPHC) with all tenants agreements currently in place to remain the same. Alliance Housing understands that further memorials will need to be placed over some of the existing property.

Bunbury Aged Housing Collective are to supply to Alliance Housing with a copy of the Constitution and a copy of any Life Tenancy Agreements.

Council Policy Compliance

Not applicable.

Legislative Compliance

Not applicable.

Officer Comments

As noted by the Bunbury Aged Persons Housing Collective (Inc.) in their letter dated 18 May 2017, **attached** at Appendix DPDS-7 reference to the City's Veto Vote is referred to in Section 20 of the Bunbury Aged Housing Collective Constitution **attached** at Appendix DPDS-8.

The land will remain gifted to the City for the purpose of a civic or charitable organisation and the caveat or conditions will be transferred to Alliance Housing should Council support the proposal and not use its Veto Vote.

Analysis of Financial and Budget Implications

There will be no effect to the existing annual budget and no expenses will be incurred by the City.

Community Consultation

Not applicable.

Councillor/Officer Consultation

The Acting Director Planning & Development Services and Acting Manager Major Projects & Property have been involved in the discussions with the Applicant and the preparation of this item.

Applicant Consultation

The Acting Manager Major Projects and Property has consulted with the Chairman, Mr Kim Rudd, of the Bunbury Aged Housing Collective and the City is actioning this request on their behalf.

Outcome – Council Meeting 19 September 2017

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

Council Decision 356/17

Council agrees that the City will not use its veto vote in relation to the transfer of all Bunbury Aged Persons Housing Assets and liabilities to Alliance Housing over 139 Forrest Avenue, Bunbury.

CARRIED

12 votes "for" / Nil votes "against"

10.9 Proposed New Policy: Applications Lodged by Staff or Elected Members (was listed as item 10.1.1 on the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Responsible Officer:	Greg Golinski, Manager Governance
Responsible Manager:	Greg Golinski, Manager Governance
Executive:	Mal Osborne, Acting Chief Executive Officer
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix RAC-1: Draft Policy – Development Applications Lodged by Staff or Elected Members

Summary

The purpose of this report is for Council to consider a new policy relating to how the City will deal with development applications (or similar) that are lodged by staff and/or Elected Members.

Committee Recommendation

That Council adopt a new policy entitled *Applications Lodged by Staff or Elected Members* as presented at Appendix RAC-1.

Strategic Relevance

Key Priority Area 5 Corporate
Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Background

The City of Bunbury does not currently have a policy in place to deal with development applications if they were to be received from either an Elected Member or a senior staff member.

Council Policy Compliance

This report proposes the adoption of a new Council policy.

Legislative Compliance

Not applicable.

Officer Comments

The proposed policy requires that applications for development, land use or subdivision lodged by a member of the Executive Leadership Team, assessing officer, or Elected Member are referred to Council for consideration. The only exceptions are for an application that is:

- a) For that person's own place of residence or is an expansion/upgrading of a place of business that was previously granted development approval and complies with the following:
 - i. the provisions of the Local Planning Scheme;
 - ii. the deemed-to-comply provisions of State Planning Policy 3.1 Residential Design Codes (the 'R-Codes'); and
 - iii. the provisions of any relevant adopted Local Planning Policy and/or Local Law.
- b) For a minor modification to an approved plan of development;
- c) An extension of time for a development approval when there has been no significant or substantial change other than the expiration of time;
- d) For the amalgamation of lots or realignment of lot boundaries; or
- e) For certifying the clearance of freehold or survey strata subdivision conditions in accordance with the conditions of approval.

Adopting such a policy is considered beneficial in the interests of openness and transparency. From the perspective of the general public, this will result in greater probity, with no ability for there to be a perception of bias or undue influence for the determination of any applications that might currently be approved by an Officer under delegation.

Analysis of Financial and Budget Implications

There are no budget implications resulting from the recommendations in this item.

Community Consultation

Not applicable.

Councillor/Officer Consultation

This matter is presented to Council for consideration by the Policy Review and Development Committee.

Applicant Consultation

Not applicable.

Outcome – Council Meeting 19 September 2017

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

The Mayor put the motion to the vote and it was LOST 3 votes "for" / 9 votes "against".

10.10 Leases and Licences (was listed as item 10.1.3 on the Council Agenda)

Applicant/Proponent:	Policy Review and Development Committee
Responsible Officer:	Kristen Mildwaters, Acting Manager Major Projects and Property John Kowal, Manager Sport and Recreation
Responsible Manager:	Kristen Mildwaters, Acting Manager Major Projects and Property
Executive:	Felicity Anderson, Acting Director Planning and Development Services
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Confidential Appendix CRUSC-1: Financial Modelling

Summary

Following Council Decision 182/17 on 16 May 2017, the policy relating to Leases and Licences was referred back to the Policy Review and Development Committee (PRDC) at its August 2017 meeting for consideration. The PRDC have recommended retention of the status quo in terms of how lease and licence fees are applied.

Committee Recommendation

That Council:

1. Note its request for the Policy Review and Development Committee to provide a proposal containing specific guidelines and objectives for community leases at the August 2017 Policy Review Committee Meeting for consideration of Council;
2. Note the information provided as part of this review.

Executive Recommendation

That Council:

1. Note that the Policy Review and Development Committee has reviewed the guidelines and objectives contained within Council Policy Leases and Licences at its August 2017 meeting pursuant to Council Decision 182/17;
2. Agree to retain the status quo regarding the content and application of Council Policy Leases and Licences.

Strategic Relevance

Key Priority Area 5 Corporate
Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Background

On a number of occasions the issue of how to charge sporting and community groups a rent fee for the use of City owned, managed or maintained facilities or land has been reviewed both via

Council, Executive Leadership Team (ELT), the PRDC and via workshops with the sporting and community groups themselves.

Prior to the Council Meeting held 16 May 2017, the Major Projects and Property Department and the Sport and Recreation Department consulted with a number of sporting and community groups who are due for the current policy to be applied.

The current policy is applicable to these groups due to one of the following reasons:

- Their lease has been in ‘holding over’ awaiting the adoption of a policy;
- Their lease stipulates they are due for a rent review; or
- Their current lease has expired.

Council Decision 182/17

That Council:

- 1. Note the information as provided by each group through the consultation process.*
- 2. Request the Policy Review & Development Committee to provide a proposal containing specific guidelines and objectives for the community leases at the August 2017 Policy Review Committee Meeting for consideration of Council.*
- 3. Agree that the status quo in relation to licence, lease and rents continues to apply pending the review.*

Officers have since met with and obtained legal advice from the City’s solicitor, Peter Ray of Slee Anderson and Pidgeon, in relation to whether the ‘ownership’ of a building can be transferred to another party.

The discussion highlighted a number of issues in what could be considered a complex legal dealing should the City attempt this process.

The first issue Peter discussed was that we need to separate out what is Crown and what is freehold. Land that is Crown, the City has no right to approve the severance of a fixed or permanent structure to the land, where it is owned by the Crown.

Under common law, unless acknowledgement of ownership over buildings and improvements is declared prior to it being built, then it becomes the property of the land owner. This scenario applies to both freehold and Crown.

A clause in a lease of a building already built does not suffice. In essence, the present situation is that the City ultimately owns every building built on our freehold land and the Crown (with responsibility burdened upon the City) owns every building built on Crown land. This occurred either as soon as the buildings were built or at the expiry of the first term.

Peter advised that the next issue is whether or not the City can then transfer those responsibilities and liabilities as the building owner on to another party. In short the answer is that we can mitigate the risks but we can never fully absolve ourselves from being liable.

Although we can mitigate the risks by contracting out maintenance responsibilities, require regular inspections and require the lessees to produce insurances, a third party entering upon that property who is not a party to the contract can still hold the ‘owner’ liable for any loss, claim, injury or death.

In preparation of the PRDC meeting, the Major Projects and Property Department met with the Sport and Recreation Department to discuss some possible alternatives.

What was agreed between the parties is that trying to incorporate a social or community based discount was not only difficult to measure, it was also something that was voted out of previous policy recommendations by Council and not wanted by the sporting and community groups.

The current policy allows for the measure of community benefit to be considered within the appeals process and this is then reported to Council for consideration, however, is time consuming, difficult to measure and subjective. The parties also agreed that any proposed policy and modelling that is undertaken should be simple and fair across the groups.

Officers sought clarity from the PRDC on the objective of undertaking this review, and whether the officers look at methodology sympathetic to a:

- Income generating exercise;
- Cost recovery only;
- For community benefit (no cost); or
- Other defined option.

Direction on what Council’s objectives are will provide the officers with the clarity to prepare modelling that aligns with these objectives.

In the interim and for the PRDC to consider, officers prepared some alternative options and basic modelling concepts, however, note that there are many more methods and modelling options that can be explored. Modelling is **attached** under confidential cover at Appendix CRUSC-1.

Option 1:

- 1A: Overall discount to current fees of 25%;
- 1B: Overall discount to current fees of 50%; and
- 1C: Overall discount to current fees of 75%.

Option 2:

Remove all land fees for groups who built their facility and where the City supplies no maintenance. For some groups who are only charged the land fee, the overall reduction will equate to 100%.

Option 3:

Building Built		Structural Maintenance		Minor Maintenance		Discount
Club	City	Club	City	Club	City	
√		√		√		100%
	√		√	√		50%
	√		√		√	0%

To provide some background to the current income, when the policy was previously endorsed by Council, officers were given permission to reduce the rent fee for the clubs whose rent was decreasing almost immediately.

A number of clubs were able to immediately have significantly reduced rent fees that they were then able to return to their leased facilities and club operations.

Some of the feedback at the time was that they were now fairly being charged for their facility and not because it happened to be better located or because they had made large building improvements or extensions.

The increases were only to be applied to clubs when they were due for a rent review or their lease was due for renewal as their contracts allowed. This application resulted in a loss of income for the City but provided a 'quick win' for a number of the clubs and provided ample notice to the clubs receiving an increase.

The total annual rental income from sporting and community groups for 2015/16 was \$114,655.82. For 2016/17 this was calculated at \$99,353.71 ex GST with the immediate decrease in rent applied. This was a total loss from the previous year of \$15,302.11 ex GST.

In 2017/18, should the policy be applied including both the decreases and increases as due, the total rental income from sporting and community groups is \$118,371.38 ex GST. This figure only just surpassed the 2015/16 amount due to CPI increases and the addition of several new leases.

Costs to the City

To assist the PRDC with their decision making process, some information on associated costs was provided as below. It is necessary to seek direction on how these costs should be recovered or whether they should be absorbed.

To prepare a lease, the cost to the City is calculated at \$2,254.15 in actual staff time and costs. The City charges a fee of \$575.00 ex GST for document preparation, resulting in a detriment of \$1,679.15 for each lease prepared. The current policy does not allow officers to charge those on a 'peppercorn' lease arrangement a document preparation fee.

In terms of 'maintenance', the City spent a total of \$97,911.41 on 'leased' building maintenance for sporting and community groups in 2016/17 and \$43,275.98 ex GST in 2015/16.

Almost two thirds of the money spent on these leased buildings in 2015/16 went into leased community facilities such as the Senior Citizens and the In Town Lunch Centre, both of which are on peppercorn leases and not subject to the increases.

In 2016/17, the trend of spending on the Senior Citizens and the In Town lunch Centre continued, however, additional works were done to the Surf Life Saving Club, calculated at \$24,698.22, as well as larger items of structural maintenance to the Michael Eastman Pavilion (Runners Club) and the Kit Keddie Pavilion (Dog Club).

It is important to note in these 'maintenance costs', expenditure on security, alarm monitoring, damage to buildings through vandalism, rodent control and fire monitoring services are included in these costs. It should also be noted that these are costs incurred for operating these facilities where items such as electrical, plumbing, programmed painting and roof repairs are just one component of 'maintenance'.

The City's Asset Management Department, have advised that at present we do not have an estimate on what needs to be or should be spent on our leased buildings, however, they are working on obtaining this data in future.

It is likely that based on the age and condition of many of the leased buildings, the required maintenance costs are likely to be higher than what is being spent. When reviewing the types of maintenance being carried out on our leased buildings, it was evident that majority of the works were reactive in nature and small repairs.

It is also to be noted that a lack of reporting from clubs and a willingness to undertake minor repairs and maintenance themselves can contribute to low expenditure.

Additional Considerations

To provide some perspective, the total lease revenue raised via leased and licenced premises in 2017/18 is projected as \$1,005,278 ex GST. The sporting and community group lease income consists of just over 11% of the City's overall lease revenue annually.

The City received rates from a number of the sporting and community groups totalling \$75,949.32 in land rates alone. With the addition of \$18,239.62 in Waste Services Rates, the City received a total of \$94,188.94. These rates have decreased in 2017/18 to \$92,247.39 due to a lower GRV rating on property values.

Not all groups pay rates due to existing lease conditions and legislative exemptions. The officers have been working to ensure every lease reflects the need to pay rates as leases are being renewed however, there are some pre-existing and long-standing leases with individual conditions.

Council Policy Compliance

The report facilitates a review of the City's current policy Leases and Licences.

Legislative Compliance

Compliance with Section 3.58 of the Local Government Act 1995 where exemptions under Regulation 30 of the Local Government (Functions and General Regulations) 1996 do not apply is applicable.

Officer Comments

To date, officers have extensively researched, consulted and modelled a number of scenarios. These proposed policies are then adopted through both the PRDC and Council.

With the adoption of a new proposed policy or where a revision is undertaken, the item has been referred back to Council and the PRDC due to an individual club or a small number of clubs that are not satisfied with the increase to their rent.

In preparation for the current policy to be adopted, the workshops showed that of the clubs that attended the workshops, 58% agreed or strongly agreed that the current process was fair and equitable, with only 21% who did not. The other 21% were neutral.

When asked if they agreed with the proposed fees, as adopted and forming the current policy, 50% of groups agreed or strongly agreed, 29% disagreed and 21% were neutral.

Of the 38 groups subject to the current policy, 57% of the groups rent decreased and an appeals process was adopted so that clubs receiving increases would obtain individual consideration of their circumstances and have Council address their rent separately to the policy.

These processes have so far cost the City significantly in staff time and resources and further reviews, modelling and workshops will continue to incur a cost to the City.

The introduction of a new or revised policy may also add to confusion and misinterpretation from the sporting and community groups, who have been shown, workshopped and voted on a number of different policy recommendations over the past three years.

Officers are also bound by existing lease arrangements and without utilising legal advice and having the lessees and licensees agree to the terms and conditions of any new policy, the City must act within the limitations of those existing agreements.

It must be noted that these existing agreements can also vary depending on their age and that a uniform approach and conditioning is an aim of the Major Projects and Property Department and a preference of the groups.

To achieve this it will take time as old leases expire and are replaced by current versions. One example of an unusual circumstance is the Badminton Club, a long term lease with no ability to increase rent for the life of the contract. Typically the City now applies a 5 year term with a further 5 year option with annual CPI increases and 3-5 year reviews.

It must also be noted that regardless of which option is chosen, all lessees and licensors have appeal provisions available to them through Council Policy *Lease and Licence Fee Appeal Process*.

Analysis of Financial and Budget Implications

There are tangible costs to the City for preparing leases and maintaining leased premises however, these costs may be considered as minor in comparison to overall rental income or when compared to the income received on rates.

Modelling on proposed methodology is attached to this report for reference.

Community Consultation

To date a large amount of consultation has been undertaken with the sporting and community groups in the form of discussion papers, workshops and individual group meetings.

Officers continue to liaise with groups affected by the policy on a daily basis and previously prepared a Communication and Stakeholder Management Plan to assist with the communication process as a resolution of Council.

Councillor/Officer Consultation

This matter is presented to Council for consideration by the Policy Review and Development Committee.

Applicant Consultation

Not applicable.

Outcome – Council Meeting 19 September 2017

Cr Miguel and Cr Cook declared an impartiality interest in this item. Both Councillors remained in the chamber for the duration of the discussion and the vote on the matter.

Don Punch, Alex Karatamoglou, Graeme Miles, Ron Krikke, Lieth Spence and John Saunders each

Cr Kelly moved, Cr Warnock seconded that the item be deferred until the first Policy Review and Development Committee meeting following the Local Government Election on 21 October 2017.

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

Council Decision 357/17

That the item be deferred until the first Policy Review and Development Committee meeting following the Local Government Election on 21 October 2017.

CARRIED

8 votes "for" / 4 votes "against"

10.11 Raising Koombana Footbridge and Consideration of Motion from Special Meeting of Electors 5 September 2017 (was listed as item 10.5.1 on the Council Agenda)

File Ref:	SF/1952
Applicant/Proponent:	Internal Report
Responsible Officer:	Gavin Harris, Director Works and Services
Responsible Manager:	Gavin Harris, Director Works and Services
Executive:	Gavin Harris, Director Works and Services
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix DWS-1: Landscape Concept Design 600mm Appendix DWS-2: Landscape Concept Design 1400mm Confidential Appendix CRUSC-3: Ertech Bridge Raising Options

Summary

This report is provided to present three options for the Koombana Footbridge, project drawings and an identified source of funding, a revised completion date, as well as facilitate the consideration of the motion from the Special Meeting of Electors held 5 September 2017.

Executive Recommendation

Option 1

That Council:

1. Reinstate the Koombana Footbridge to the original height at an additional cost of \$31,791.68 funded from PR-4145 Expand and Upgrade Koombana Bay Foreshore, and agree to new date of 12/01/2018 for the completion of the work.
2. Authorise the Chief Executive Officer to negotiate with all parties who have offered assistance to raise the Koombana Footbridge.
3. Thank the Bunbury Yacht Club, Halifax Crane Hire and Piacentini & Son for their offers of assistance with the Koombana Footbridge project.

Option 2

That Council:

1. Reinstate the Koombana Footbridge 600mm higher than the original level at a cost of \$314,349 (ex GST) and the associated works being a separable portion of the existing contract and agree to a new completion date of 24/01/2018 for these works.
2. Fund the works from unallocated Interest Received from grant funds invested for the project, any Project contingencies remaining at the end of the project and the balance from the Asset Management and Renewal Reserve.

3. Authorise the Chief Executive Officer to negotiate with all parties who have offered assistance to raise the Koombana Footbridge.
4. Thank the Bunbury Yacht Club, Halifax Crane Hire and Piacentini & Son for their offers of assistance with the Koombana Footbridge project.

****Note: Absolute Majority Required***

Option 3

That Council:

1. Reinstate the Koombana Footbridge 1400mm higher than the original levels at a cost of \$499,455 (ex GST) and the associated works being a separable portion of the existing contract and agree to a new completion date of 31/01/2018 for these works.
2. Fund the works from unallocated Interest Received from grant funds invested for the project, any Project contingencies remaining at the end of the project and the balance from the Asset Management and Renewal Reserve.
3. Authorise the Chief Executive Officer to negotiate with all parties who have offered assistance to raise the Koombana Footbridge.
4. Thank the Bunbury Yacht Club, Halifax Crane Hire and Piacentini & Son for their offers of assistance with the Koombana Footbridge project.

****Note: Absolute Majority Required***

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 3.4: | Facilitate urban design, diversity of land uses, and enabling infrastructure. |

Background

At the Council meeting held 8 August 2017, Council resolved as follows (refer decision 310/17):

That Council:

1. *Agrees in principle to consider raising the new Koombana Footbridge to either 600mm/1400mm from the original height subject to:
 - a) *The preparation of working drawings for raising the new pedestrian bridge 600mm/1400mm to be funded from the project contingency.*
 - b) *Obtaining a price and timeline from Ertech for raising the pedestrian bridge as per the working drawings.**
2. *Directs the Chief Executive Officer to prepare a report for Council that details the costings, timeframes and funding sources for raising the footbridge 600mm/1400mm, for final approval and endorsement of any required 2017/18 budget adjustment on or before 22 September 2017.*

The report to the 8 August 2017 meeting was in response to a petition received by Council. One of the points in the petition was to raise the height of the footbridge 600mm. The Executive Recommendation for that report was not to raise the level of the footbridge due to limited budget capacity within the Koombana Bay Revitalisation Project. Council resolved the above alternative motion.

City Officers have obtained revised drawings from Cardno which have been subsequently costed by Ertech Pty Ltd and which form the basis of this report.

A Special Meeting of Electors was held on 5 September 2017, the following motion was moved from the floor:

“The new Koombana Footbridge to be raised a minimum of 600mm higher than the underside of the former railway bridge.”

This report considers three options including not raising the bridge, raising the bridge 600mm and raising the bridge 1400mm.

Council Policy Compliance

Nil

Legislative Compliance

Nil

Officer Comments

The footbridge is owned by the Public Transport Western Australia (PTAWA) and licenced to the City of Bunbury until 2027. The licence is in place while PTAWA resolves the formal closure of the rail corridor and the ownership of the bridge which requires parliamentary approvals to transfer the ownership to the City of Bunbury.

Under licence condition 3, the City's obligations in respect to the footbridge include it being:

1. Kept in a good state of repair and well maintained
2. Properly painted or treated and
3. Otherwise kept in a presentable and tidy condition.

Cardno Response

Cardno staff and officers have worked to develop a design that is both practical and aesthetic to the project. The Landscape Concept Sketch Design Bridge 600mm lift is **attached** at Appendix DWS-1 and Landscape Concept Sketch Design Bridge 1400mm lift is **attached** at Appendix DWS-2.

Ertech Response

Ertech have provided cost estimates and time frames for all three options as follows:

Option 1

Reinstatement of the Koombana Footbridge to the same height at a cost of \$31,791.68 with a further 9 days from 3 January 2018 for the completion of work.

Option 2

Reinstatement of the Koombana Footbridge 600mm higher than the previous levels at a cost of \$314,349 (ex GST) with the works being considered as a separable portion with a new completion date of 24 January 2018 for the completion of work.

Option 3

Reinstatement of the Koombana Footbridge 1400mm higher than the previous levels at a cost of \$499,455 (ex GST) with the works being a separable portion with a new completion date of 31 January 2018 for the completion of work.

Confidential attachment CRUSC-2 Ertech identifies a number of Assumptions and Clarifications in Ertech's correspondence which includes:

- Allowances for provisional sums;
- Allowances for a 10% contingency for both options;
- Access to the Landcorp site; and
- Structural integrity of the existing piers.

A Separable Portion is when a portion of work under the contract is removed and given a different Date for Practical Completion to the majority of the contract.

Department of Transport

The inlet is also restricted by the Department of Transport (DoT) footbridge over the storm surge gates, which is the same height as the current Koombana footbridge.

Sue Lannin, Regional Director Southern, Regional Services has confirmed via email that:

DoT will fund and raise the footbridge over the storm surge gates to the same height (either 600 or 1400mm) if the City raises the Koombana Footbridge.

Analysis of Financial and Budget Implications

The raising of the Koombana pedestrian bridge is not included in the scope of works for project PR-4145 Expand and upgrade Koombana Bay Foreshore. The estimated cost to raise the bridge by 600mm and 1400mm is \$314,349 and \$499,455 respectively.

The following are the funding options available should Council agree to the above expenditure.

Option 1 – Asset Management and Renewal Reserve (Recommended Part Funding)

The purpose of this reserve is to provide funding for future asset management and renewal projects. While the bridge is currently licenced to the City of Bunbury the intent has always been that the City of Bunbury will assume ownership of the bridge following the renewal and upgrade works. The forecast balance of this reserve at 30 June 2018 is \$2.7M. While other projects have been identified to come from this reserve in future years there are sufficient funds available to fund either raising the bridge by 600mm or 1400mm. This is the recommended funding option.

Option 2 – Loan Funds

The 2017/18 Budget includes \$4.9M of new loan borrowing: \$3.0M for the new depot construction, \$1.0M for the water playground and \$900K for the Stirling Street Arts Centre upgrade. Total balance of loan borrowing at 30 June 2018 is \$18.0M.

The City has a Debt Service Ratio of 4.49 at 30 June 2017 and is forecast to reduce to 3.75 at 30 June 2018. An increase of loan borrowings of \$499K will slightly reduce this further to 3.68. However, this still meets the Local Government Debt Service Ratio basic standard of greater than 2.0. The Debt Service Ratio is the measurement of the City's ability to repay debt. The higher the ratio the easier it is to obtain financing through loans. The ratio is calculated by dividing the City's Annual Operating Surplus (before interest and depreciation) and the annual principal and interest repayments. The Department of Local Government basic standard for this ratio is greater than 2.0, and greater than 5.0 for an advanced standard.

The City would have to provide one month's public notice for any new loan borrowing not included in the annual budget as required under Section 6.20 (2)(a) of the Local Government Act which would provide a further project completion delay.

Option 3 – Project Contingency Funds and Interest on Grant Funds (Recommended Part Funding)

The project includes \$1,084,837 of funds for project contingencies (10% Ertech's contract price). At this stage \$678,738 has been allocated to approved project variations leaving \$406,099 of unallocated contingency funds. It is recommended that these stay unallocated at this stage of the project to fund any unforeseen variations within the existing scope of works.

The City has invested the State Government grant funds for this project and is receiving interest income on these term deposits. This income is required to be used for the Koombana Bay Foreshore development. It is estimated that \$275K will be received in interest income over the life of the project. To date \$120K of these funds have been allocated to the project works which will leave a balance of \$155K unallocated.

It is proposed that any balance of contingency funds and interest income will be used prior to calling on either the Asset Management Reserve or new loan borrowings funding options.

Option 4 - Fund from the Existing Budget (Not Recommended)

Council could consider the removal of projects from the current budget to fund this project.

Option 5 – Fund from the existing Koombana Bay Foreshore Project (PR-4145) (Not Recommended)
Council could consider deleting a number of elements from the project such as the Gateway artwork, CCTV, WiFi and other elements to fund the raising of the bridge. While these elements could be removed, work has commenced on all and some expenditure has occurred. The elements are fundamental to any new works that the City undertakes and would be considered standard requirements for this type of project.

Community Consultation

The City has hosted two public meetings with users of the inlet, one in the Council Chambers and one at the Bunbury Rowing Club.

The issues raised by boat users included:

- Safety concern regarding boats and equipment on high tide
- Why there are two different heights between the three bridges
- Lack of height between water and bridge at high tide.
- The issue is about boat safety not about allowing larger boats into the inlet.
- The City's best boat ramp facilities are based in the Leschenault Inlet

The issue raised by the meeting at the Rowing Club included:

- Concerned with an increase in motor boat usage in the inlet.
- Concerned with the increase in size of vessels that could access the bay.
- Concerned with wake generated from the boats and its effects on passive users.
- Won't all boat users be in the outer harbour once it is built.
- Lack of consultation with recent changes made in the inlet by the yacht club.

The Department of Transport stated at the meeting that the outer harbour has committed funding by the State Government of \$65 million. It was expected that the works would be completed in the next 4-5 years. The Department of Transport have also confirmed that the new ramp facilities will be a six (6) lane ramp.

A Special Meeting of Electors was held on 5 September 2017 that determined the following resolution:

"The new Koombana Footbridge to be raised a minimum of 600mm higher than the underside of the former railway bridge"

Councillor/Officer Consultation

Councillors were invited to the public meetings and provided a briefing of the status of plans for raising the bridge on Tuesday 29 August 2017.

Applicant Consultation

Not applicable

Outcome – Council Meeting 19 September 2017

Cr Cook declared an impartiality interest in this item and remained in the chamber for the duration of the discussion and the vote on the matter.

Noel Seymour, Kim Wilkie, Tom Dillon and Don Punch each addressed Council in relation to this item.

Option 1 (as printed) was moved Cr Warnock, seconded Cr Kelly.

The Mayor put the motion to the vote and it was LOST 5 votes “for” / 7 votes “against”. Cr Steck, Cr Cook, Cr Steele, Cr Morris, Cr Hayward, Cr McCleary and Cr McGuinness requested that their votes “against” be recorded. All other Councillors including the Mayor voted “for” the motion.

Option 3 (as printed) was moved Cr Hayward, seconded Cr Morris.

Cr Kelly moved, Cr Warnock seconded an amendment to option 3 including an additional point as follows:

- 5. Instruct the Chief Executive Officer to write to the State Government requesting that they reinstate regulation orders on the Leschenault Inlet through the Waterways Conservation Act 1976.*

The Mayor put the amendment to the vote and it was LOST 3 votes “for” / 9 votes “against”. Cr Steck, Cr Cook, Cr Steele, Cr Morris, Cr Hayward, Cr McCleary, Cr McGuinness, Cr Miguel and the Mayor requested that their votes “against” be recorded. All other Councillors voted “for” the amendment.

Cr Steele requested that the word “collectively” be added to point 3 of option 3 which was accepted by the mover and seconder as follows:

That Council:

- 1. Reinstate the Koombana Footbridge 1400mm higher than the original level at a cost of \$499,455 (ex GST) and the associated works being a separable portion of the existing contract and agree to a new completion date of 31/01/2018 for these works.*
- 2. Fund the works from unallocated Interest Received from grant funds invested for the project, any Project contingencies remaining at the end of the project and the balance from the Asset Management and Renewal Reserve.*
- 3. Authorise the Chief Executive Officer to negotiate collectively with all parties who have offered assistance to raise the Koombana Footbridge.*
- 4. Thank the Bunbury Yacht Club, Halifax Crane Hire and Piacentini & Son for their offers of assistance with the Koombana Footbridge project.*

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

Council Decision 358/17

That Council:

- 1. Reinststate the Koombana Footbridge 1400mm higher than the original level at a cost of \$499,455 (ex GST) and the associated works being a separable portion of the existing contract and agree to a new completion date of 31/01/2018 for these works.***
- 2. Fund the works from unallocated Interest Received from grant funds invested for the project, any Project contingencies remaining at the end of the project and the balance from the Asset Management and Renewal Reserve.***
- 3. Authorise the Chief Executive Officer to negotiate collectively with all parties who have offered assistance to raise the Koombana Footbridge.***
- 4. Thank the Bunbury Yacht Club, Halifax Crane Hire and Piacentini & Son for their offers of assistance with the Koombana Footbridge project.***

CARRIED

10 votes “for” / 2 votes “against”

Cr Steck, Cr Cook, Cr Steele, Cr Morris, Cr Hayward, Cr McCleary, Cr McGuinness, Cr Miguel, Cr Giles and the Mayor requested that their votes “for” be recorded. All other Councillors voted “against” the motion.

11. Applications for Leave of Absence

Nil.

12. Motions on Notice

12.1 Motion on Notice – Koombana Footbridge

Author:	Councillor Michelle Steck
Executive:	Gavin Harris, Director Works and Services
Attachments:	Nil

Cr Steck has submitted the following motion for the Ordinary Council Meeting of 19 September 2017:

1. *Council agrees to raise the Koombana Footbridge by 1.4 metres and to fund the works from the Koombana Bay Revitalisation Project funds and/or the City of Bunbury budget;*
2. *Council urgently form a working group comprising of three Councillors and three community members representing the boating community, supported by relevant City officers, to review all design drawings and costings for raising the footbridge and recommendations prior to these being presented to Council for consideration; and*
3. *Council commit to working constructively with members of the community to realise the aim of raising the footbridge.*

Comments – Cr Steck

The boating fraternity has asked me to place the motions on notice and explain their position.

During the Consultation period with the Marine Facilities Alliance Committee, communication broke down in terms of the boating community was being ignored. A major section of the boating fraternity being the Bunbury Power Boat Club and the Bunbury Yachting Club chose to opt out of the Alliance and therefore incorrect information has been provided to Council, in terms of deliberations of the boating fraternity was seeking and required for Council decision making purposes.

The boating fraternity have raised a special electors meeting and feel that the meeting did not represent their intention which is to raise the footbridge the same height as the road bridge for safety purposes.

All environmental issues have been addressed and any other purported issues have been addressed. Costings have been widely reviewed and a considerable variance has occurred. Council might therefore, consider that many business persons have offered their expertise, time and money to deliver a more favourable approach for the boating fraternity in Bunbury so that rate payers are not burdened with the cost of raising the bridge to road height.

The existing Yachting Club has been a resident of the Inlet for 150 years.

This is a respectful plea from the boating fraternity to raise the footbridge to the road height as any concern that larger boats will flood the inlet is not a valid argument in planning considerations as it is hearsay. There was no bridge for many months and therefore proof of that argument is clearly obvious. As NO larger boats went into the inlet. The neck of the inlet is too thin and the depth is too shallow to warrant larger boat crossings so it is just rhetoric.

The information that was provided for the City of Bunbury to make the decision last July to not raise the footbridge has not been substantiated with evidence. Due to the fact the City has only just learned that the Marine Alliance Group was presented with an option to raise the footbridge to the road height only six days before Council made its decision not to raise the footbridge. Council was not aware of the information presented. The information was never reported to Council and had not been privy to any minutes reported to council, nor was any user group present before council during its decision making forum for the absolute decision.

The likelihood of better boating facilities to be constructed within the next 12 months is ridiculous and really not foreseeable and therefore the City needs to reduce the legal ramifications that may occur in the event of an accident for any of the boating fraternity that uses the inlet. We as a Council are fully aware of the risks to the boating fraternity and therefore forewarned of our consequences and any legal ramifications that may emerge.

I urge you to support the motion.

Executive Comment

Refer to item 10.5.1 on this Agenda.

Outcome – Council Meeting 19 September 2017

Cr Steck withdrew her motion as Council resolved to raise the bridge as per Resolution 358/17.

13. Questions on Notice

13.1 Response to Previous Questions from Members taken on Notice

Nil

13.2 Questions from Members

Nil.

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

Nil.

15. Meeting Closed to Public

15.1 Matters for which the Meeting may be Closed

Nil.

15.2 Public Reading of Resolutions that may be made Public

Nil.

16. Closure

The meeting was declared closed at 7.02pm.