



City of Bunbury Council

Minutes

3 October 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 |
| 5. | Declaration of Interest..... | 8 |
| 6. | Public Question Time..... | 9 |
| 6.1 | Public Question Time | 9 |
| 6.2 | Responses to Public Questions Taken ‘On Notice’ | 9 |
| 7. | Confirmation of Previous Minutes and other Meetings under Clause 19.1..... | 10 |
| 7.1 | Minutes..... | 10 |
| 7.1.1 | Minutes – Ordinary Council Meeting..... | 10 |
| 7.1.2 | Minutes – Council Advisory Committees and Working/Project Groups | 10 |
| 8. | Petitions, Presentations, Deputations and Delegations..... | 11 |
| 8.1 | Petitions..... | 11 |
| 8.2 | Presentations..... | 11 |
| 8.3 | Deputations | 11 |
| 8.4 | Council Delegates’ Reports..... | 11 |
| 8.5 | Conference Delegates’ Reports | 11 |
| 9. | Method of Dealing with Agenda Business..... | 12 |
| 10. | Reports..... | 13 |
| 10.1 | Financial Management Report for the Period Ending 31 August 2017 (was listed as item 10.2.1 on the Council Agenda)..... | 13 |
| 10.2 | Schedule of Accounts Paid for the Period 1 August 2017 to 31 August 2017 (was listed as item 10.2.2 on the Council Agenda) | 19 |
| 10.3 | Elected Member Allowances, Expenses and Supplies Policy (was listed as item 10.2.3 on the Council Agenda) | 20 |
| 10.4 | Proposed Electric Fence at Lot 53 (#2) Vasse Street, South Bunbury (was listed as item 10.4.1 on the Council Agenda)..... | 23 |
| 10.5 | Change of Site Location for WA iSports Incorporated at Payne Park, East Bunbury (was listed as item 10.4.2 on the Council Agenda) | 34 |
| 10.6 | Morrissey Homestead Incorporated, Proposed Variation to Leased Premises - Portion of Lot 65, #119 South Western Highway, Bunbury (was listed as item 10.4.3 on the Council Agenda) | 37 |
| 11. | Applications for Leave of Absence..... | 40 |
| 12. | Motions on Notice | 40 |
| 13. | Questions on Notice | 40 |

Table of Contents

| Item No | Subject | Page |
|----------------|--|-------------|
| 13.1 | Response to Previous Questions from Members taken on Notice..... | 40 |
| 13.2 | Questions from Members..... | 40 |
| 14. | New Business of an Urgent Nature Introduced by Decision of the Meeting | 40 |
| 15. | Meeting Closed to Public..... | 40 |
| 15.1 | Matters for which the Meeting may be Closed | 40 |
| 15.2 | Public Reading of Resolutions that may be made Public..... | 40 |
| 16. | Closure | 40 |

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, 3 October 2017 at 5.30pm.

Minutes

3 October 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.

Copyright

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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

Mayor Gary Brennan advised his expenses for August 2017 were \$66.98 for fuel.

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 Finance | Mr D Ransom |
| Manager Information Communications and Technology | Mr M Roberts |
| Team Leader Development Assessment and Compliance | Mr M Young |
| 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 | 6 |
| 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.

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 Cook declared an impartiality interest in item 10.4.2 titled “Change of Site Location for WA iSports Incorporated at Payne Park, East Bunbury” as he is a member and volunteer of WA iSports. 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 item 10.4.3 titled “Morrissey Homestead Incorporated, Proposed Variation to Leased Premises – Portion of Lot 65, #119 South Western Highway, Bunbury” as he is Chairman of the Morrissey Homestead Board of Management. 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 19 September 2017 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the City of Bunbury Council held 19 September 2017 be confirmed as a true and accurate record.

Outcome – Council Meeting 3 October 2017

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

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

Council Decision 359/17

The minutes of the Ordinary meeting of the City of Bunbury Council held 19 September 2017 be confirmed as a true and accurate record.

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

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

Nil.

8. Petitions, Presentations, Deputations and Delegations

8.1 *Petitions*

Nil.

8.2 *Presentations*

Nil.

8.3 *Deputations*

Mr Raymond Jones, Rajon Nominees

Mr Raymond Jones requested to address item 10.4.1 titled *“Proposed Electric Fence at Lot 53 (#2) Vasse Street, South Bunbury”*.

Council Decision 360/17

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Raymond Jones’ deputation request to address item 10.4.1 titled “Proposed Electric Fence at Lot 53 (#2) Vasse Street, South Bunbury” and allows a period of up to 5 minutes to present to Council.

CARRIED

12 votes “for” / Nil votes “against”

8.4 *Council Delegates’ Reports*

Nil.

8.5 *Conference Delegates’ Reports*

Nil.

9. Method of Dealing with Agenda Business

Standing Order 5.5 permits the Council to adopt the recommendations “by exception” (en-bloc).

Pursuant to Standing Order 5.5, the Council “*adopted by exception*” (i.e. without discussion) those recommendations listed for items 10.2.1 and 10.2.2.

Items 10.2.3, 10.4.1, 10.4.2 and 10.4.3 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 Financial Management Report for the Period Ending 31 August 2017 (was listed as item 10.2.1 on the Council Agenda)

| | |
|-----------------------------|--|
| Applicant/Proponent: | Internal Report |
| Responsible Officer: | David Ransom, Manager Finance |
| Responsible Manager: | David Ransom, Manager Finance |
| Executive: | Malcolm 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 CEO-1: Statement of Comprehensive Income Appendix CEO-2: Statement of Financial Activity Appendix CEO-3: Statement of Net Current Assets Appendix CEO-4: Statement of Financial Position Appendix CEO-5: Capital Works Expenditure Summary Appendix CEO-6: Operating Project Expenditure Summary Appendix CEO-7: Monthly Community Financial Report |

Summary

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

- Statement of Comprehensive Income (**attached** at Appendix CEO-1)
 Actual Financial Performance to 31 August 2017 (refer explanations within the report)
 - Actual income of \$45.21M is \$73K less than the year-to-date budgeted income of \$45.28M.
 - Actual expenditure of \$6.50M is \$605K less than the year-to-date budgeted expenditure of \$7.10M.
 - Actual operating surplus of \$38.71M is \$533K more than the year-to-date budgeted operating surplus of \$38.18M.
- Statement of Financial Activity (**attached** at Appendix CEO-2)
 Closing Funding Surplus to 30 June 2018 is forecast at \$332K, which is \$35K less than the Current Budget Closing Funding Surplus of \$367K. This is mainly due to the reduction of the State Government Direct Road grants (\$84K), advised to councils on 28 July 2017. This was partially offset by the refund of vehicle registration fees (\$51K).
- Statement of Financial Position (**attached** at Appendix CEO-4)

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

| | Year-to-date | Forecast |
|---|--------------|----------|
| * Current Assets of \$89.13M includes: | | |
| - Cash and Investments | \$48.78M | \$23.40M |
| - Rates Receivable | \$38.04M | \$0.88M |
| - Other Current Assets | \$2.31M | \$1.86M |
| * Current Liabilities of \$11.21M includes: | | |
| - Trade and Other Payables | \$5.48M | \$4.63M |

| | | | |
|----|--|-----------|-----------|
| - | Annual Leave and LSL Provisions | \$3.50M | \$3.99M |
| * | Working Capital (Current Assets less Current Liabilities) | \$77.92M | \$15.24M |
| * | Equity (Total Assets less Total Liabilities) | \$626.80M | \$584.57M |
| 4. | Capital Works (attached at Appendix CEO-5) | | |
| - | Actual capital works of \$3.47M is \$2.24M less than the year-to-date budgeted capital works of \$5.71M, (refer explanation within report). | | |
| 5. | Operating Project Expenditure (attached at Appendix CEO-6) | | |
| - | Actual operating project expenditure of \$450K is \$107K less than the year-to-date budgeted operating project expenditure of \$557K, (refer explanation within report). | | |

Executive Recommendation

The Financial Management Report for the period ending 31 August 2017 be received.

Strategic Relevance

Key Priority Area No. 5 Corporate
Objective No. 5.3 Ensure financial sustainability

Background

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

- Statement of Comprehensive Income (**attached** at Appendix CEO-1)
- Statement of Financial Activity (**attached** at Appendix CEO-2)
- Statement of Net Current Assets (**attached** at Appendix CEO-3)
- Statement of Financial Position (**attached** at Appendix CEO-4)
- Capital Works Expenditure Summary (**attached** at Appendix CEO-5)
- Operating Projects Summary (**attached** at Appendix CEO-6)
- Monthly Community Financial Report (**attached** at Appendix CEO-7)

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

Council Policy Compliance

Not applicable.

Legislative Compliance

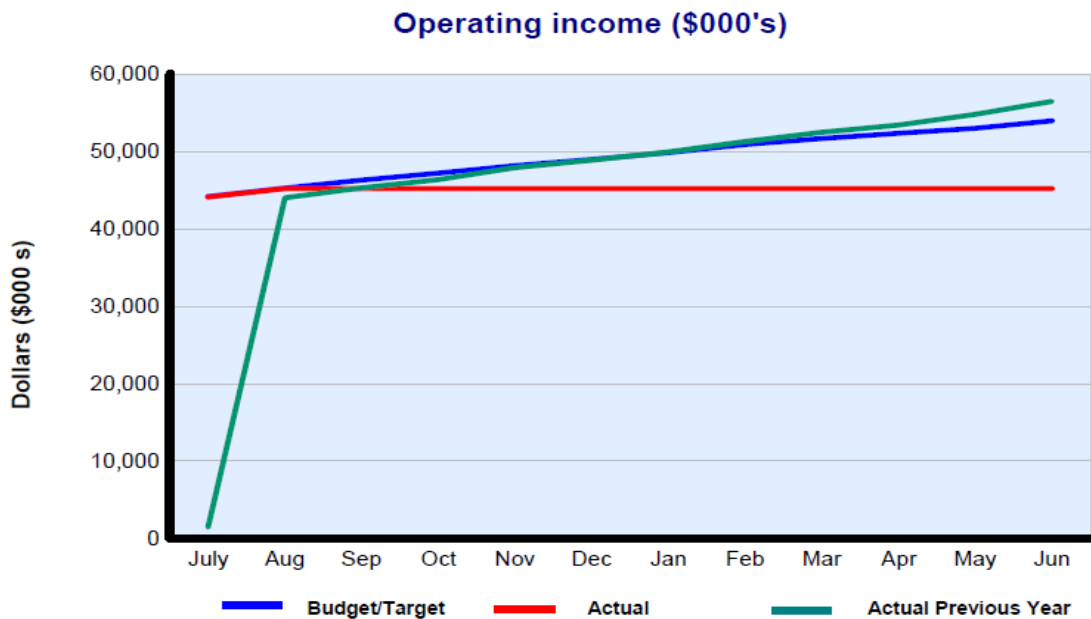
In accordance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996, a Local Government is to prepare each month a Statement of Financial Activity (**attached** at Appendix CEO-3) reporting on

the revenue and expenditure as set out in the annual budget under Regulations 22 (1) (d) for this month.

At the Special Council Meeting 25 July 2017, Council adopted that a variance between actual and budget-to-date of greater than or equal to 10% and \$25,000 is considered to be a material variance for reporting purposes in the Statement of Financial Activity for 2017/18.

Officer Comments

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

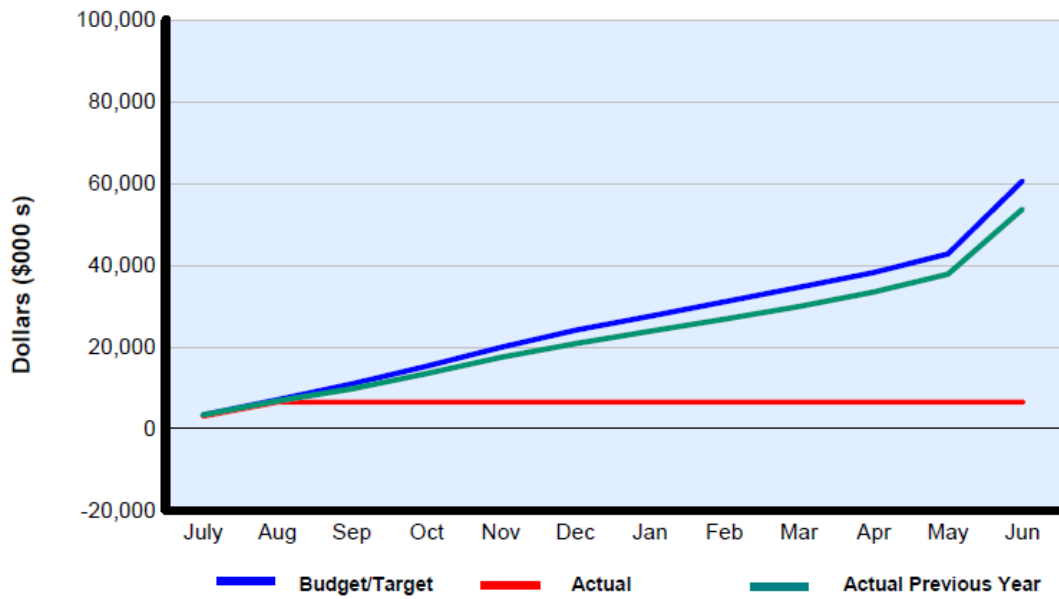


Note: Operating income includes: rates, fees and charges, operating grants and subsidies, contributions reimbursements and donataions, interest and other revenue.

Actual income of \$45.21M is \$73K less than the year-to-date budgeted income of \$45.28M.

Explanations for this variance are included in this report.

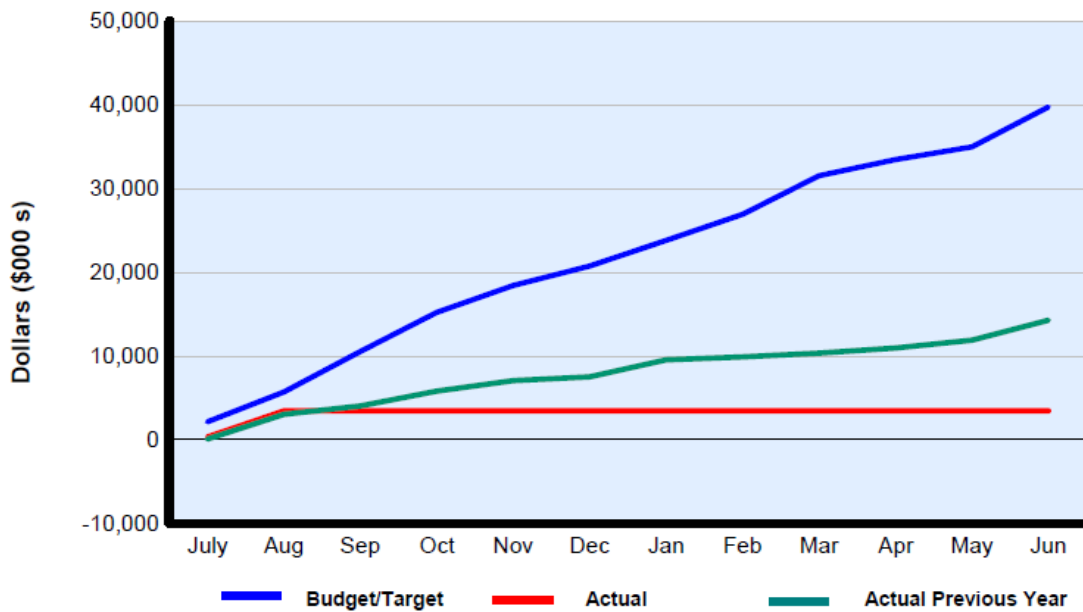
Operating expenditure (\$000's)



Note: Actual operating expenditure for both base and operating projects is \$605K under the year-to-date budget.

Explanations for this variance are included in this report.

Capital Expenditure (\$ 000's)



Note: The capital expenditure variance to the end of August 2017 of \$2.24M is due to the delay in commencement or progress of various projects as reported in the monthly Capital Works Expenditure Summary Report to Council.

Explanations for this variance are included in this report.

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

| Statement of Comprehensive Income | YTD Actual to Budget Variance |
|---|--|
| Operating Income | |
| <p>Operating Grants and Subsidies <i>Operating Grant Income</i> – Unfavourable variance of \$84K due to the Mains Roads reducing their annual grant allocations. All councils in WA were advised on 28 July 2017 that the Direct Road Grant allocation pool would be reduced by \$10M in 2017/18. A forecast adjustment has been made and this will be included in the October Budget Review. This has been partially offset by a refund of \$51k from vehicle registration fees received in August 2017.</p> | <p>(\$84,834) (15%)</p> |
| Operating Expenditure | |
| <p>Materials and Contracts <i>Material Expenditure</i> – Favourable year-to-date variance of \$149K, mainly due to the timing of expenditure. This will be monitored on a monthly basis.</p> <p><i>Consultants Expenditure</i> – Favourable year-to-date variance of \$15K, mainly due to the timing of expenditure. This will be monitored on a monthly basis.</p> <p><i>Contractors Expenditure</i> – Favourable year-to-date variance of \$87K, mainly due to the timing of expenditure. This will be monitored on a monthly basis.</p> <p><i>Software License or Maintenance Expenditure</i> - Favourable year-to-date variance of \$23K, mainly due to the timing of expenditure. This will be monitored on a monthly basis.</p> | <p>\$282,558 13%</p> |
| Non-Operating Income and Expenditure | |
| <p>Interest on Capital Grants <i>Interest on Capital Grants</i> – Favourable variance of \$36K due to the additional interest received on the Koombana Bay redevelopment funds held on term deposit, these additional funds are transferred to the project. A forecast adjustment has been made and this will be included in the October Budget Review.</p> | <p>\$36,207</p> |
| <p>Proceeds from Disposal of Assets <i>Proceeds Plant and Vehicle Disposals</i> – Favourable year-to-date variance of \$58K mainly due to the disposal of three vehicles. These funds will be transferred to the Asset Management and Renewal Reserve. A forecast adjustment has been made and this will be included in the October Budget Review.</p> | <p>\$31,895 1%</p> |

| Statement of Financial Activity | YTD Actual to Budget Variance |
|---|--------------------------------------|
| Operating Revenues | |
| Unfavourable variance. See explanation above included in the Statement of Comprehensive Income variances. | (\$61,659) (0.7%) |
| Operating Expenses | |
| Favourable variance. See explanation above included in the Statement of Comprehensive Income variances. | \$605,328 8% |
| Capital Expenses | |
| Acquisition of Assets – Favourable variance due to the delay in progress of various projects, the majority of this variance is in PR-4145 Expand and upgrade Koombana Bay Foreshore – \$1.61M. Refer to Capital Expenditure report for project details. | \$2,238,775 39% |

Analysis of Financial and Budget Implications

This Financial Management Report on the financial performance of the City is provided for Councillors information and does not have any financial or budget implications for the 2017/18 financial year. Any forecast changes noted will be included as part of the October 2017 Budget Review.

Community Consultation

There is no requirement for community consultation on this report. A Monthly Community Financial Report (**attached** at Appendix CEO-7) has been prepared to give the community an easy to understand summary of the City's financial performance. Once received by Council, this report will be made available on the City's website for community information.

Councillor/Officer Consultation

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

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

Outcome – Council Meeting 3 October 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 361/17

The Financial Management Report for the period ending 31 August 2017 be received.

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

10.2 Schedule of Accounts Paid for the Period 1 August 2017 to 31 August 2017 (was listed as item 10.2.2 on the Council Agenda)

| | | |
|------------------------------|--|--|
| Applicant/Proponent: | Internal Report | |
| Responsible Officer: | David Ransom, Manager Finance | |
| Responsible Manager: | David Ransom, Manager Finance | |
| Executive: | Malcolm Osborne, Acting Chief Executive Officer | |
| Authority/Discretion: | <input type="checkbox"/> Advocacy <input type="checkbox"/> Executive/Strategic <input checked="" type="checkbox"/> Legislative | <input type="checkbox"/> Review <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Information Purposes |
| Attachments: | Appendix CEO-8: Schedule of Accounts Paid – August 2017 | |

Summary

The City of Bunbury "Schedule of Accounts Paid" covering the period 1 August 2017 to 31 August 2017

1. Municipal Account – payments totalling \$16,890,161.73
2. Advance Account – payments totalling \$13,396,240.37
3. Trust Account – payments totalling \$41,097.95
4. Visitor Information Centre Trust Account – payments totalling \$17,668.70
5. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$5,694,814.41
6. Bunbury-Harvey Regional Council Advance Account – payments totalling \$5,542,105.06

Executive Recommendation

The Schedule of Accounts Paid for the period 1 August 2017 to 31 August 2017 be received.

Outcome – Council Meeting 3 October 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 362/17

The Schedule of Accounts Paid for the period 1 August 2017 to 31 August 2017 be received.

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

10.3 Elected Member Allowances, Expenses and Supplies Policy (was listed as item 10.2.3 on the Council Agenda)

| | |
|-----------------------------|--|
| Applicant/Proponent: | Internal Report |
| 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 CEO-9: Draft Council Policy - Elected Member Allowances, Expenses and Supplies |

Summary

This report is presented to Council to consider adopting a new policy outlining the support that will be provided to Elected Members through the payment of allowances, reimbursement of expenses incurred, insurance cover, and supplies provided in accordance with the *Local Government Act 1995* while performing the official duties of office.

Executive Recommendation

That Council:

1. Adopt the new Council Policy Elected Member Allowances, Expenses and Supplies; and
2. Revoke Council Policy Reimbursement of Accommodation and Expenses.

Strategic Relevance

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

Background

Part 5, Division 8 of the *Local Government Act 1995* provides for local government payments and gifts to its members including fees for council members, reimbursement of expenses, and allowances in lieu of reimbursement of expenses etc.

The prescribed allowances, meeting attendance fees and communications allowance payable to elected Members are determined annually by Council when adopting the annual budget. This policy brings together the administrative processes for allowances, information and communication technologies, reimbursable expenses and other support supplied to elected members in the course of their duties.

Council Policy Compliance

The City currently has an Accommodation and Expenses Policy, which has been incorporated into the new policy.

Legislative Compliance

Part 5, Division 8 of the *Local Government Act 1995*, deals with local government payments and gifts to its Elected Members.

Regulation 31 and 32 of the *Local Government (Administration) Regulations 1996*, provides for expenses to be reimbursed and expenses that may be approved for reimbursement.

Officer Comments

In addition to the allowances and reimbursements provided for the in the *Local Government Act 1995*, the City provides support and supplies of business cards, parking, name badges, insurance and letterhead.

Officers are seeking to consolidate all applicable information regarding Elected Member entitlements into one document. Accordingly, the revocation of Council Policy Accommodation and Expenses is proposed, as this information will now be contained in the new policy, Elected Member Allowances, Expenses and Supplies, as presented at Appendix CEO-9.

This policy also outlines the City's preferred technology for disseminating and managing Council documentation is via an online format utilising Apple iPad or similar devices. Elected Members will be requested to purchase an iPad or similar device using their ICT Expenses Allowance. Transitional arrangements will be implemented for Elected Members whose term is not expiring at the 2017 local government elections.

This matter is brought directly to Council for consideration, as the Policy Review and Development Committee has already held its last meeting for the incumbent Council, and a determination in this regard is considered beneficial prior to the 2017 election.

Analysis of Financial and Budget Implications

There are no financial and budget implications additional to what has already been allocated for in the 2017/18 budget.

Community Consultation

Not applicable

Councillor/Officer Consultation

The Executive Leadership Team has been consulted.

Applicant Consultation

Not applicable.

Outcome – Council Meeting 3 October 2017

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

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

Council Decision 363/17

That Council:

- 1. Adopt the new Council Policy Elected Member Allowances, Expenses and Supplies; and***
- 2. Revoke Council Policy Reimbursement of Accommodation and Expenses.***

CARRIED

9 votes "for" / 3 votes "against"

10.4 Proposed Electric Fence at Lot 53 (#2) Vasse Street, South Bunbury (was listed as item 10.4.1 on the Council Agenda)

| | |
|-----------------------------|--|
| File Ref: | DA/2017/69/1 |
| Applicant/Proponent: | U R Safe Pty Ltd |
| 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 an Existing Electric Fence Appendix DPDS-2: Location Plan Appendix DPDS-3: Photographs of Subject Site and Surrounds Appendix DPDS-4: Proposed Development Plans Appendix DPDS-5: Written Justification by Applicant Appendix DPDS-6: Schedule of Submissions |

Summary

An application for development approval was lodged by U R Safe Pty Ltd on behalf of the landowner, Rayjon Nominees Pty Ltd, seeking to erect an electric fence along the primary street boundary of Lot 53 (#2) Vasse Street, South Bunbury.

It was resolved at the ordinary meeting of Council held on 27 June 2017 to defer the determination of the development application in order to allow further discussion between the proponent and City of Bunbury officers.

The proponent has since lodged a revised development application proposing to extend the construction of electric fencing along the southern boundary of the property, in addition to the primary street boundary. In addition, the applicant has provided the City of Bunbury with photographs of an existing black powder coated electric fence, attached on top of railings, as an example of the proposed development outcome attached at Appendix DPDS-1.

Nevertheless, the proposed electric fence would have a visual impact on both the streetscape character and amenity of the locality and on city image more broadly for limited security benefit. The proposal does not comply with the objectives of the City of Bunbury's adopted Local Planning Policy: Electric Fences, the requirements of the existing City of Bunbury Town Planning Scheme No. 7 (TPS7), and does not comply with the future intent or objectives of the 'Mixed Use – Commercial Zone' within the draft Local Planning Scheme No. 8 (LPS8).

The electrification of a fence in an urban environment is contrary to generally accepted Crime Prevention Through Environmental Design (CPTED) principles, where a wide range of other measures can be considered that improve surveillance and reduce opportunity for crime.

For the reasons outlined above and discussed in this report, the application is recommended for refusal.

Executive Recommendation

That Council:

1. In accordance with the *Planning and Development Act 2005* (as amended) hereby resolves to refuse the application for development approval (application reference: DA/2017/69/1) for the proposed electric fencing at Lot 53 (#2) Vasse Street, South Bunbury, for the following reasons:
 - 1.1 The proposed development is contrary to the objectives of City of Bunbury Local Planning Policy: Electric Fences.
 - 1.2 The subject site is situated on a major entry point into the city, and hence, the proposed development would likely have an adverse impact on city image generally and on the streetscape character and amenity of the local area specifically.
 - 1.3 The proposed development is contrary to the requirements of 'Special Use Zone No. 35' within the City of Bunbury Town Planning Scheme No. 7.
 - 1.4 The proposal is contrary to items (a), (b), (g) and (n) of clause 67 of the deemed provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
 - 1.5 The proposal is inconsistent with the future planning direction and intent of the 'Mixed Use – Commercial Zone' within the City of Bunbury's draft Local Planning Scheme No. 8.
 - 1.6 The proposed development is contrary to principles orderly and proper planning.
2. Note that City officers provided the applicant with a copy of the Western Australian Planning Commission's *Designing Out Crime Planning Guidelines* (June 2006), and provided professional advice and technical assistance to the applicant in considering alternative solutions.

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: | Lot 53 (#2) Vasse Street, South Bunbury |
| TPS7 Zoning: | Special Use Zone No. 35 |
| Draft LPS8 Zoning: | Mixed Use – Commercial Zone |
| Existing Land Use: | Motor vehicle, boat or caravan sales |
| Lot Area: | 6,271m ² |

The subject lot is included in ‘Special Use Zone No. 35’ under TPS7 and is currently utilised as a Honda and Kia car dealership. The lot is bounded by residential development to the west, Bunbury Glade Caravan Park to the north, Vasse Street and Bussell Highway road reserves to the east, and a large medical centre (Brecken Health) to the south. The subject lot is proposed to be included in the new ‘Mixed Use – Commercial Zone’ under the City of Bunbury’s draft LPS8.

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

Photographs of the subject site and its surrounds are **attached** at Appendix DPDS-3.

The proposed development plans, including the electric fence specifications and two examples of other electric fences provided by the applicant are **attached** at Appendix DPDS-4.

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* (as amended)
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- City of Bunbury Town Planning Scheme No. 7 (TPS7)
- Draft City of Bunbury Local Planning Scheme No. 8 (LPS8)
- City of Bunbury Local Planning Policy: Electric Fences.

Officer Comments

The proposed electric fence is to be attached to the top of the existing fence along the primary street frontage of Lot 53 (#2) Vasse Street, South Bunbury, for a length of approximately 90m. The existing height of the fence is 1.8m, with the proposed eight strands of electric fencing, making a total fence height of 2.4m.

The proposed electric fence is also to be attached to the existing limestone brick fence along the southern boundary of Lot 53 (#2) Vasse Street, South Bunbury, for a length of approximately 60m. The existing height of the fence is 2.3m, with the proposed 8 strands of electric fencing, making a total fence height of 2.9m.

The subject lot frontage is directly adjacent to a footpath and the lot is within close proximity of medical facilities, a caravan park and an established residential neighbourhood. The subject lot is within walkable distance (400m) of regional open space (Hay Park), a district level activity centre

(Parks Centre Shopping Centre) and education facilities (Adam Road Primary School and Newton Moore Senior High School).

The applicant has advised that the justification for the need of an electric fence is due to vandalism, and the owners of the lot have tried other options to deter vandalism including CCTV, upgrade to existing lighting and extra security patrols on long weekends. The landowner has provided written justification on the need for an electric fence, which is **attached** at Appendix DPDS-5.

The applicant has advised that the electric fence will not be operational during business hours, with the current business hours being as follows:

- Monday – 7:30am to 6:00pm
- Tuesday – 7:30am to 6:00pm
- Wednesday – 7:30am to 7:00pm
- Thursday – 7:30am to 6:00pm
- Friday – 7:30am to 6:00pm
- Saturday – 7:30am to 12:30pm.

The electric fence as proposed would therefore be operational during night time periods and for a large proportion of Saturday and all of Sunday.

As discussed below, the proposed electric fence has been assessed against the requirements of the following key statutory planning instruments, that being the provisions of:

- (a) the existing Scheme's 'Special Use Zone No. 35';
- (b) Local Planning Policy: Electric Fences; and
- (c) the future zoning objectives of the 'Mixed Use - Commercial Zone' within the draft LPS8.

City of Bunbury Town Planning Scheme 7 – Special Use Zone No. 35

Point 6 under condition 1 of Special Use Zone No. 35, specifies that:

'Landscaping and aesthetic treatment of Lot 2 and adjoining Reserves [is] to ensure the highest standard of development occurs commensurate to site being the southern entry to Bunbury.'

It should be noted that Lot 2 was the original parent lot, prior to subdivision into smaller lots, now comprising of the medical centre and car dealerships.

It is considered that the proposed electric fencing would become a highly visible element along the front boundary of the subject lot, including being visible from Bussell Highway in both directions of travel. The result being that the proposed development would have an adverse visual impact on the locality's streetscape character and amenity, and may also negatively affect public perception of crime and community safety in the local area. Consequently, the proposal does not ensure the highest standard of development appropriate to the site being the 'southern entry' to Bunbury.

It is therefore considered that the proposal does not comply with the 'Special Use Zone No. 35' requirements within TPS7.

City of Bunbury Local Planning Policy: Electric Fences

Extract of objectives from Local Planning Policy: Electric Fences (Page 1)

- *To support the processing of application for electric fences within defined areas within the Municipality of Bunbury.*
- *To establish provisions whereby any proposed electric fence would not adversely affect the established level of amenity in any given situation, in terms of purely visual considerations.*
- *To establish guidelines to be used in associated with Local Law titled “Private Property Amendment Local Law 2007” – Allowing for the installation of electric fencing within the District of the City of Bunbury subject to Council approval and conditions.*

The existing locality is characterised by a range of different urban land uses, including a large medical centre, car dealerships, caravan park, community services hub and adjoining residential areas to the south west. A footpath and car parking area also runs parallel and adjacent to the subject site boundary, providing access to the medical centre and car dealerships.

Clause 1.1 of the local planning policy states that *“electric fences are not permissible in any form in the ‘Residential’ zone and/or in the ‘Development Zone – Residential’.* *Electric fences may be considered on a purely discretionary basis, in all other zones”.*

Therefore, critical to any assessment of a proposal for an electric fence in this locality is a consideration of its impacts on the amenity of adjoining residential, tourism and commercial premises. As such, the Scheme and deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* define ‘amenity’ as *‘all those factors which combined to form the character of an area and include the present and likely future amenity.’*

Given that electric fencing has a distinct and commonly recognisable appearance (i.e. with insulators and associated warning signage), it is considered that the visual impact of the proposed electric fence would adversely affect the established and existing level of amenity in the locality. As the proposed electric fence would become a visible streetscape element along the front boundary of the subject lot, directly adjacent to a footpath and car parking areas.

Furthermore, it is considered that the addition of electric fences directly adjacent to footpaths and nearby to residential areas could set an undesirable precedent for the further introduction of electric fences in other commercial areas in Bunbury. Consequently, it is considered that the proposed electric fence does not comply with objective two (2) of the adopted local planning policy.

City of Bunbury Draft Local Planning Scheme No. 8

The draft City of Bunbury Local Planning Scheme No. 8 (LPS8) was adopted by Council at its ordinary meeting held on 2 May 2017 (Decision 160/17). Consequently, the draft Scheme is considered to be a seriously entertained proposal, and therefore, must be taken into consideration when assessing planning proposals such as applications for development approval.

The subject lot is proposed to be rezoned from ‘Special Use Zone No. 35’ to ‘Mixed Use – Commercial Zone’ with a density coding of R20/60. The objectives of the ‘Mixed Use – Commercial Zone’ are listed below:

Extract of Table 2 – Zone Objectives from Draft Local Planning Scheme No. 8 (Page 7)

| Mixed Use – Commercial Zone |
|---|
| <ul style="list-style-type: none">• <i>To facilitate development of non-residential and residential land uses in strategic locations that complements the hierarchy of activity centres with a predominantly commercial character and amenity, which meets both the employment and higher density housing needs of the City.</i>• <i>To facilitate the development of walkable and vibrant places;</i><ul style="list-style-type: none">○ <i>With a distinctive sense of place that maintains a high standard of urban design and amenity;</i>○ <i>Within a walkable distance to a designated higher order activity centre or mixed use activity centre; and</i>○ <i>With convenient access to existing or future high frequency public transport routes.</i>• <i>To ensure that the scale of development and intensity of land use activity does not generate nuisances detrimental to the health, welfare and safety of residents and transitions sensitively into surrounding Mixed Use – Residential Zone and Residential Zone areas.</i> |

It is considered that the proposed electric fence does not meet the objective of facilitating the development of walkable and vibrant places that maintain a high standard of urban design and amenity. Furthermore, the definition of ‘amenity’ references the ‘*likely future amenity*’ of a locality. The proposed electric fence is directly adjacent to a footpath and car parking areas and it is considered that the proposal would have an adverse impact on the character and appearance of the area.

The adjoining Lot 52 (which is currently owned by the landowners of Lot 53) could potentially be developed for a wide range of mixed uses, as the new draft Scheme will permit mixed use development in this location with a diverse range of commercial and residential activities in close proximity. As such, it is considered that the proposal does not comply with the future intent or objectives of the ‘Mixed Use – Commercial Zone’ within draft LPS8.

Options

If Council was of the opinion that the visual impact of the proposal was not significant and that the development would satisfy the requirements of Local Planning Policy: Electric Fences and the Scheme provisions, then an alternative recommendation is provided as an option for Council’s consideration below. It should be noted that this option includes a specific condition requiring a revised landscape plan for the subject site, which would seek to both soften the visual impact of the fencing and to also promote greater physical separation between the fence and pedestrians using the adjoining footpath.

Alternative Recommendation

That Council:

In accordance with the *Planning and Development Act 2005* (as amended), hereby resolves to grant development approval (application reference: DA/2017/69/1) for the proposed electric fencing at Lot 53 (#2) Vasse Street, South Bunbury, subject to the following conditions:

1. All development shall be in accordance with the approved development plans (attached) which form part of this development approval.
2. 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.
3. All works required to satisfy a condition of this approval are required to be installed/constructed and maintained in accordance with the approved plans and conditions of approval for the life of the development.
4. Electric fencing must comply with AS/NZS3016:2002 – Electric Security Fences. Before the development commences, details of the electric fence shall be submitted to and approved by the City of Bunbury.
5. The fencing, including footings, shall be constructed wholly within the lot boundaries.
6. Before the development commences, a revised landscaping plan and associated landscape management plan must be prepared and submitted to the specifications and satisfaction of the City of Bunbury. The landscape plan must address the following:
 - (a) A site plan of the location, species and size of existing vegetation and vegetation to be retained.
 - (b) Exact species, location and number of proposed new plants within approved landscaped areas (both within the lot and within the road verge).
 - (c) A key or legend detailing proposed species type grouped under the subheadings of tree, shrub and ground cover.
 - (d) Mulching or similar treatments of garden beds including edges.
 - (e) Details of reticulation of landscaped areas including the source of the water supply and proposed responsibility for maintenance.
 - (f) Within 30 days of the installation of the electric fencing, the landscaped area(s) must be planted, established and reticulated in accordance with the endorsed landscape plan(s). These areas must be maintained as landscaped areas at all times and to the satisfaction of the City of Bunbury.
 - (g) the management arrangements and maintenance schedule for landscaped areas located within the property boundary and road reserve.

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) The development the subject of this development approval is also regulated by the *Western Australia Building Act 2011*, *Building Regulations 2012* and Building Code of Australia. A separate building permit must be granted before the development commences, where offences occur statutory penalties apply. The owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.

Analysis of Financial and Budget Implications

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

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

Community Consultation

Public advertising of this application for development approval occurred over the period of 10 April 2017 to 2 May 2017 and involved:

- Notification letters sent to all adjoining and nearby landowners and occupiers
- Notification letters sent to relevant government agencies and service providers
- Two public notification signs placed on-site
- Public notices published in a locally circulated local newspaper
- Public notices posted on the City of Bunbury's website.

In total six (6) submissions were received; three (3) of which were from government agencies/service providers and three (3) from the general public. Of the three (3) submissions from the general public, one (1) was an objection and two (2) were in support of the proposal.

Refer to the Schedule of Submissions attached at Appendix DPDS-6.

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

Following Council's last resolution, officers have since consulted with the applicant in order to advise on a way forward for considering a modified application for development approval, with the benefit of additional information. The officer's recommendation and alternative recommendation have been communicated with the applicant.

Outcome – Council Meeting 3 October 2017

Mr Raymond Jones addressed Council in relation to this item.

The alternative recommendation was moved Cr Steck, seconded Cr Kelly as below:

That Council:

In accordance with the Planning and Development Act 2005 (as amended), hereby resolves to grant development approval (application reference: DA/2017/69/1) for the proposed electric fencing at Lot 53 (#2) Vasse Street, South Bunbury, subject to the following conditions:

1. *All development shall be in accordance with the approved development plans (attached) which form part of this development approval.*
2. *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.*
3. *All works required to satisfy a condition of this approval are required to be installed/constructed and maintained in accordance with the approved plans and conditions of approval for the life of the development.*
4. *Electric fencing must comply with AS/NZS3016:2002 – Electric Security Fences. Before the development commences, details of the electric fence shall be submitted to and approved by the City of Bunbury.*
5. *The fencing, including footings, shall be constructed wholly within the lot boundaries.*
6. *Before the development commences, a revised landscaping plan and associated landscape management plan must be prepared and submitted to the specifications and satisfaction of the City of Bunbury. The landscape plan must address the following:*
 - (a) *A site plan of the location, species and size of existing vegetation and vegetation to be retained.*
 - (b) *Exact species, location and number of proposed new plants within approved landscaped areas (both within the lot and within the road verge).*
 - (c) *A key or legend detailing proposed species type grouped under the subheadings of tree, shrub and ground cover.*
 - (d) *Mulching or similar treatments of garden beds including edges.*
 - (e) *Details of reticulation of landscaped areas including the source of the water supply and proposed responsibility for maintenance.*
 - (f) *Within 30 days of the installation of the electric fencing, the landscaped area(s) must be planted, established and reticulated in accordance with the endorsed landscape plan(s). These areas must be maintained as landscaped areas at all times and to the satisfaction of the City of Bunbury.*
 - (g) *the management arrangements and maintenance schedule for landscaped areas located within the property boundary and road reserve.*

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) *The development the subject of this development approval is also regulated by the Western Australia Building Act 2011, Building Regulations 2012 and Building Code of Australia. A separate building permit must be granted before the development commences, where offences occur statutory penalties apply. The owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.*

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

Council Decision 364/17

That Council:

In accordance with the Planning and Development Act 2005 (as amended), hereby resolves to grant development approval (application reference: DA/2017/69/1) for the proposed electric fencing at Lot 53 (#2) Vasse Street, South Bunbury, subject to the following conditions:

- 1. All development shall be in accordance with the approved development plans (attached) which form part of this development approval.***
- 2. 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.***
- 3. All works required to satisfy a condition of this approval are required to be installed/constructed and maintained in accordance with the approved plans and conditions of approval for the life of the development.***
- 4. Electric fencing must comply with AS/NZS3016:2002 – Electric Security Fences. Before the development commences, details of the electric fence shall be submitted to and approved by the City of Bunbury.***
- 5. The fencing, including footings, shall be constructed wholly within the lot boundaries.***
- 6. Before the development commences, a revised landscaping plan and associated landscape management plan must be prepared and submitted to the specifications and satisfaction of the City of Bunbury. The landscape plan must address the following:***
 - (a) A site plan of the location, species and size of existing vegetation and vegetation to be retained.***
 - (b) Exact species, location and number of proposed new plants within approved landscaped areas (both within the lot and within the road verge).***
 - (c) A key or legend detailing proposed species type grouped under the subheadings of tree, shrub and ground cover.***
 - (d) Mulching or similar treatments of garden beds including edges.***
 - (e) Details of reticulation of landscaped areas including the source of the water supply and proposed responsibility for maintenance.***
 - (f) Within 30 days of the installation of the electric fencing, the landscaped area(s) must be planted, established and reticulated in accordance with the endorsed landscape plan(s). These areas must be maintained as landscaped areas at all times and to the satisfaction of the City of Bunbury.***
 - (g) the management arrangements and maintenance schedule for landscaped areas located within the property boundary and road reserve.***

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) The development the subject of this development approval is also regulated by the Western Australia Building Act 2011, Building Regulations 2012 and Building Code of Australia. A separate building permit must be granted before the development commences, where offences occur statutory penalties apply. The owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.**

CARRIED

11 votes "for" / 1 vote "against"

10.5 Change of Site Location for WA iSports Incorporated at Payne Park, East Bunbury
(was listed as item 10.4.2 on the Council Agenda)

| | |
|-----------------------------|--|
| File Ref: | L281 |
| Applicant/Proponent: | WA iSports Incorporated |
| Responsible Officer: | Jane Dawson, Senior Property Officer |
| 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 checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes |
| Attachments: | Appendix DPDS-7-: Location Plan – Lot 100 Herbert Road Appendix DPDS-8: Original Location Plan – Lot 100 Thomas Street |

Summary

WA iSports Incorporated (“the Applicant”) have requested a change of location and variation to their lease area, previously approved by Council at Lot 100 Thomas Street, Payne Park. Further investigations have found the cost of connecting necessary services is high and this can be achieved more economically should the location be amended slightly. A location plan is **attached** at Appendix DPDS-7.

Executive Recommendation

Council agrees to the change of location at Payne Park for the Deed of Lease with WA iSports Incorporated from portion of Lot 100 Thomas Street to the new location being portion of Lot 100 Herbert Road, Payne Park, East Bunbury.

Strategic Relevance

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

Background

WA iSports Incorporated have the desire, via funding from Dreambuilders Church, to build a facility that will be used to assist with teaching independent living skills and participate in sports for those living with a disability.

In consultation with the City’s Chief Executive Officer, Major Projects and Property and Sport and Recreation Departments, a suitable location at Payne Park, East Bunbury was decided as the most appropriate.

At its meeting 4 July 2017, Council determined, as per Council Decision 261/17:

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

1. *The lease being prepared including the standard terms and conditions;*

2. *The applicant agreeing to pay all costs associated with the lease application including document preparation.*

The Applicant, in collaboration with the City's Development Coordination Unit are now preparing the Development Application for the build, however, upon further investigation it appeared the previously approved site, will require significant capital investment into providing services such as water, power and sewer.

Officers from across the Planning and Development Services Directorate as well as the President of Bunbury Football Club, met on site with the Applicant in order to identify the site requirements and potential costs.

During discussions it was agreed that should the proposed building be moved approximately 20 metres to the South and closer to the existing public change facilities, this would reduce the cost of connecting services significantly for the Applicant, thus resulting in a better outcome for their users.

All parties present were in agreement to the move and the Applicant was satisfied with the overall outcome. Officers will now continue to assist the Applicant with their development application.

As the previous location has been endorsed by Council, the City is required to seek Council's endorsement of the variation to the approved location.

Council Policy Compliance

Leasing and Licensing Policy.

Legislative Compliance

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

Officer Comments

Upon review of the location officers and the Applicant have agreed the ideal location for the building would be closer to the existing City managed change rooms and accessible ablutions. The proximity allows for the connection of water, electricity and sewer to possibly be connected to the City's existing services at the change rooms and a sub meter installed to capture outgoings.

The newly proposed location also provides for better accessibility to the existing car park and accessible ablutions, particularly in time of inclement weather.

Council have recently supported a lease at Payne Park for the Applicant and the change in location is considered as a minor variation.

Analysis of Financial and Budget Implications

There are no identified financial or budget implications for the City given that proposed lease fees would remain the same. Based on the current rent modelling under the Leasing and Licensing Policy and approximate 300m² for the sea containers the annual lease rental would be \$180.00 per annum plus GST subject to annual CPI increases, outgoings and applicable City of Bunbury rates. The precise m² will be determined on the lodgement of the development application.

Community Consultation

The existing users of Payne Park have been made aware of the proposed development, in particular consultation with the Bunbury Football Club, as the largest stakeholder at Payne Park has been consulted heavily.

Bunbury Football Club prefers the new location as it does not inhibit the informal car parking during busy training and game periods and have been and are happy to continue working with the Applicant to share facilities where needed.

Councillor/Officer Consultation

Officers from across the Planning and Development Services Directorate as well as the Executive Leadership Team and Council have been involved in the process to date.

Applicant Consultation

City officers and the Applicant continue to liaise in respect of the lease area and development of the site including a number of face to face meetings.

The officers will liaise continuously with the Applicant to assist them with the amendment to the lease and their development application process.

Outcome – Council Meeting 3 October 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.

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

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

Council Decision 365/17

Council agrees to the change of location at Payne Park for the Deed of Lease with WA iSports Incorporated from portion of Lot 100 Thomas Street to the new location being portion of Lot 100 Herbert Road, Payne Park, East Bunbury.

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

10.6 Morrissey Homestead Incorporated, Proposed Variation to Leased Premises - Portion of Lot 65, #119 South Western Highway, Bunbury (was listed as item 10.4.3 on the Council Agenda)

| | |
|-----------------------------|--|
| File Ref: | F00041-02 |
| Applicant/Proponent: | Morrissey Homestead Incorporated |
| Responsible Officer: | Jane Dawson, Senior Property Officer |
| Responsible Manager: | Kristen Mildwaters, Acting Manager Major Projects and Property |
| Executive: | Malcolm Osborne, Acting Chief Executive Officer |
| 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 DPDS-9: Location Plan – Lot 65 South Western Highway Appendix DPDS-10: Request from Morrissey Homestead |

Summary

An application has been received from Morrissey Homestead Incorporated (“the Applicant”) seeking council’s consent to an increase in the current Leased Premises over portion of Lot 65, 119 South Western Highway, Glen Iris by approximately 67.4 m2. A location plan is **attached** at Appendix DPDS-9.

Executive Recommendation

Council agrees to the increase (approximately 67 square metres subject to survey) in the Leased Premises to Morrissey Homestead Incorporated over portion of Lot 65, 119 South Western Highway, Glen Iris subject to:

1. The terms and conditions as specified in the report;
2. The applicant agreeing to pay all costs involved, including surveying and boundary fence realignment; and
3. The applicant agreeing to pay all costs associated with the lease application including document preparation.

Strategic Relevance

Key Priority Area 1 Community and Culture
 Objective 1.1 Establish Bunbury as the most accessible regional city in Australia by 2020

Background

The City has leased a portion of 119 South Western Hwy, Glen Iris to Morrissey Homestead Inc since 1993 for the operation of a day centre for people with disabilities and frail aged, a workshop and overnight facilities for the aged and persons with disabilities.

The Manager of Morrissey Homestead has advised that the patients they care for in some cases live with dementia and like to be able to walk freely within the premises. The manager highlights that it

is important for them to be able to walk within a safe environment without hindrance and their plans for the additional area have come together to meet this need.

Morrissey Homestead has advised that they have secured funds to increase their building footprint to the existing fence line, in the hopes that this will provide more room and better service their patients.

The current lease expires on 30 June 2026 with a further option of five years available. The extension to their Leased Premises poses a variation to the Council endorsed lease and so requires Council approval for the amendment.

Council Policy Compliance

Leases and Licenses Policy.

Legislative Compliance

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

Officer Comments

The Applicant has leased the site since 1993 and has satisfactorily fulfilled its obligations and responsibilities under the Lease during this time and the increase in area will assist the Applicant in providing additional service for their patients.

The Applicant has requested additional land to be added to their current lease area and they have secured funds to extend the building to the current fence. The application for additional land involves approximately 67.4 m², extending the area/fence by 2 metres for a length of 11.5 metres at the south western end.

Council have previously supported a lease at 119 South Western Hwy which is in place until 2026 and the amendment to the Leased Premises is considered as a minor variation.

Analysis of Financial and Budget Implications

A minimal increase to the annual budget income of \$41.14 plus GST based on the 2017/2018 Schedule of Fees and Charges for Major Projects and Property.

The Applicant will be responsible for all surveying costs and boundary fence realignment and they are aware of this.

Community Consultation

Community consultation is not required for this purpose.

Councillor/Officer Consultation

The City's Development Coordination Unit have conducted a preliminary review of the request and have supported the additional lease area whilst providing the Applicant with considerations prior to the development application process being undertaken.

The relevant officers will continue to liaise with and assist the Applicant with their development as it progresses.

Applicant Consultation

The Applicant and Senior Property Officer have been in consultation since March 2017 whilst the Applicant ensured their funding capabilities of the project. The Senior Property Officer has continued to liaise with the Applicant over the processes for the lease variation and has relayed feedback from the City's Development Coordination Unit.

Further discussions around the land area and fencing requirements have been held with the Applicant and they are agreeable to the layout of the fencing requirements and costs that are associated with this.

Outcome – Council Meeting 3 October 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.

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

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

Council Decision 366/17

Council agrees to the increase (approximately 67 square metres subject to survey) in the Leased Premises to Morrissey Homestead Incorporated over portion of Lot 65, 119 South Western Highway, Glen Iris subject to:

- 1. The terms and conditions as specified in the report;***
- 2. The applicant agreeing to pay all costs involved, including surveying and boundary fence realignment; and***
- 3. The applicant agreeing to pay all costs associated with the lease application including document preparation.***

CARRIED

12 votes "for" / Nil votes "against"

11. Applications for Leave of Absence

Nil.

12. Motions on Notice

Nil.

13. Questions on Notice

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

Nil

13.2 *Questions from Members*

Nil.

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

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 5.39pm.