



## City of Bunbury Council

### Minutes

14 November 2017



**CITY OF BUNBURY**

4 Stephen Street  
Bunbury WA 6230  
Western Australia

*Correspondence to:*  
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## 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, 14 November 2017 at 5.30pm.

### Minutes

14 November 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**

Any plans or documents contained within this Agenda and any associated Appendices are Copyright of the City of Bunbury. The content is protected by Australian and International copyright trademark. Content must not be modified or reproduced without written authorisation of the City of Bunbury.

### **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**

The Mayor advised his expenses for the month were \$66.98 for fuel.

## 4. Attendance

*Present:*

<b>Council Members:</b>	
Presiding Member:	Mayor G Brennan
Deputy Presiding Member:	Deputy Mayor Councillor J Miguel
Members:	Councillor S Morris
	Councillor M Cook
	Councillor M Steck
	Councillor Brendan Kelly
	Councillor B McCleary
	Councillor J Hayward
	Councillor J McGuinness
	Councillor M Warnock
	Councillor K Steele
	Councillor T Smith
	Councillor T Brown
<b>Executive Leadership Team (Non-Voting)</b>	
Acting Chief Executive Officer	Mr M Osborne
Director Works and Services	Mr G Harris
Director Corporate and Community Services	Ms S Addison-Brown
Acting Director Planning and Development Services	Mrs F Anderson
<b>City of Bunbury Officers (Non-Voting)</b>	
Manager Finance	Mr D Ransom
Manager Corporate Governance	Mr G Golinski
Manager Planning and Development Services	Mr T Farnworth
Manager Community and Library Services	Mrs S Chapman
Manager Information Communications and Technology	Mr M Roberts
IT Support Officer	Mr J Bruhn
Media and Communications Officer	Mr J Tatham
Team Leader Development Assessment and Compliance	Mr M Young
Council Meeting Support Officer	Ms J Earl
<b>Others (Non-Voting)</b>	
Members of the Public	45 (including Setagaya Delegation)
Members of the Press	2

### 4.1 Apologies

Nil.

### 4.2 Approved Leave of Absence

Nil.

## 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 10.2.3 titled ‘Bunbury Meals on Wheels and Senior Citizens Centre – Request for Financial Support’ as he is a financial member of the Centre. Cr Cook will remain in the chamber for the duration of the discussion and the vote on the matter.

Cr Steck declared an impartiality interest in item 10.4.2 titled ‘Proposed Deed of Surrender of Existing Leases and Replacement Leases over Bunbury Airport Hangar Site 65, 66 and 56, Portions of Lot 507 South Western Highway, Davenport’ as the club placed a few signs up during the election period. Cr Steck will remain in the chamber for the duration of the discussion and the vote on the matter.

Cr Steck declared a financial interest in item 10.4.3 titled ‘Development Application for Proposed Change of Use to a Tavern – Unit 6, Block C, Lot 108 (#42) Strickland Street, Bunbury (Homemaker Centre) as her partner owns the property. Cr Steck will leave the chamber for the duration of the discussion and the vote on the matter.



## **6. Public Question Time**

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

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

### **6.1 Public Question Time**

Nil.

### **6.2 Responses to Public Questions Taken 'On Notice'**

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 31 October 2017 have been circulated.

#### **Recommendation**

The minutes of the Ordinary meeting of the City of Bunbury Council held 31 October 2017 be confirmed as a true and accurate record.

#### **Outcome – Council Meeting 14 November 2017**

The recommendation (as printed) was moved Cr Cook, 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 396/17**

***The minutes of the Ordinary meeting of the City of Bunbury Council held 31 October 2017 be confirmed as a true and accurate record.***

CARRIED

13 votes "for" / Nil votes "against"

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

<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Various
<b>Executive:</b>	Various
<b>Authority/Discretion:</b>	<input 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
<b>Attachments:</b>	Appendix MTBN-1 – Audit Committee Minutes – 3 November 2017

#### Summary

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

1. Title: Audit Committee Minutes – 3 November 2017  
Author: Greg Golinski, Manager Governance  
Appendix: MTBN-1

#### Council Committee Recommendation

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

1. Audit Committee Minutes – 3 November 2017

#### Outcome – Council Meeting 14 November 2017

The recommendation (as printed) was moved Cr Miguel, 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 397/17

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

1. **Audit Committee Minutes – 3 November 2017**

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

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

### **8.1 Petitions**

Nil.

### **8.2 Presentations**

Nil.

### **8.3 Deputations**

Jacinta Thomson requested to address item 10.2.3 titled *“Bunbury Meals on Wheels and Senior Citizens Centre – Request for Financial Support”*.

#### **Council Decision 398/17**

***Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Jacinta Thomson’s deputation request to address item 10.2.3 titled “Bunbury Meals on Wheels and Senior Citizens Centre – Request for Financial Support” and allows a period of up to 5 minutes to present to Council.***

CARRIED

13 votes “for” / Nil votes “against”

Mr Ross Underwood requested to address item 10.4.3 titled *“Development Application for Proposed Change of Use to Tavern – Unit 6, Block C, Lot 108 (#42) Strickland Street, Bunbury (Homemaker Centre)”*.

#### **Council Decision 399/17**

***Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Ross Underwood’s deputation request to address item 10.4.3 titled “Development Application for Proposed Change of Use to Tavern – Unit 6, Block C, Lot 108 (#42) Strickland Street, Bunbury (Homemaker Centre)” and allows a period of up to 5 minutes to present to Council.***

CARRIED

Votes for votes “for” / Nil or number votes “against”

Mr Anthony Bottega requested to address item 10.4.4 titled *“Development Application for Home Business (Motorcycle School), Lot 102 (#73) Tuart Street, Bunbury*. Mr Bottega was not in attendance at the meeting, therefore no vote was required.

#### **8.4 Council Delegates' Reports**

Nil.

#### **8.5 Conference Delegates' Reports**

Nil.

### **9. Method of Dealing with Agenda Business**

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

Pursuant to Standing Order 5.5, the Council “*adopted by exception*” (i.e. without discussion) those recommendations listed for items 10.1.1, 10.1.2, 10.1.3, 10.2.1, 10.2.2, 10.4.1 and 10.4.4.

Items 10.2.3, 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 *Auditors Report and Annual Financial Statements for the Year Ending 30 June 2017* (was listed as item 10.1.1 on the Council Agenda)

<b>Applicant/Proponent:</b>	Audit Committee
<b>Responsible Officer:</b>	David Ransom, Manager Finance
<b>Responsible Manager:</b>	David Ransom, Manager Finance
<b>Executive:</b>	Mal Osborne, Acting Chief Executive Officer
<b>Authority/Discretion</b>	<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
<b>Attachments:</b>	Appendix RAC-1: Auditor's Report and Annual Financial Report

#### Summary

The Auditor's Report and Audited Annual Financial Report of the City of Bunbury for the financial year ending 30 June 2017 are **attached** at Appendix RAC-1 for the information of Council.

#### Committee Recommendation

That Council accept the Auditor's Report and the Audited Annual Financial Report of the City of Bunbury for the financial year ending 30 June 2017.

#### Strategic Relevance

Key Priority Area 5      Corporate  
Objective 5.3          Ensure financial sustainability

#### Background

The City's auditors, Grant Thornton have audited the 2016/17 Annual Financial Report and have provided an Independent Auditor's Report (refer Pages 81-82 in the attached Annual Financial Report) as required under the relevant provisions of the *Local Government Act 1995* (the Act). The Auditor's Report and Annual Financial Report are now presented to Council for information.

Furthermore, section 7.12A(2) of the Act requires a local government to meet with its Auditor at least once in every year.

Mr Michael Hillgrove from Grant Thornton is the City's appointed Auditor and attended the Audit Committee meeting held on 3 November 2017.

#### Council Policy Compliance

N/A

### Legislative Compliance

Section 7.9(1) of the Act requires the auditor to submit a report to the local government by 31 December each year.

Section 7.12A(2) of the Act requires a local government to meet with its Auditor at least once each year.

### Officer Comments

The City's management and internal control systems are sound. In addition to being monitored internally on a daily and monthly basis, they are also strengthened by an independent assessment each year on the City's financial management systems and external audit reporting. The independent assessment reviews the City's financial position, financial management practices and compliance with the requirements of the Act, the Local Government (Financial Management) Regulations, and Accounting Standards.

There are five (5) primary financial statements:

- Statement of Comprehensive Income
- Statement of Financial Position
- Statement of Changes in Equity
- Statement of Cash Flows
- Rate Setting Statement

Statement of Comprehensive Income: The Statement of Comprehensive Income (shown on pages 4 to 6 of the Financial Report) shows the extent to which operating income has exceeded operating expenditure during the financial year (i.e. operating surplus).

Key financial figures within the audited Annual Financial Report for the year ended 30 June 2017 include:

	<u>2017</u>	<u>2016</u>
Operating Revenue	\$ 56,515,216	\$ 53,107,377
Operating Expenses	\$ 55,739,045	\$ 54,259,375
Operating Surplus / (Deficit)	\$ 776,171	\$ (1,151,998)
Net Result	\$ 3,840,772	\$ 14,777,771

For the year ending 30 June 2017, the operating surplus was \$776K compared to an operating deficit of \$1.15M in 2015/16, an improvement of \$1.93M. Revenue increased by \$3.41M and expenditure increased by \$1.48M.

Operating Revenue - The City received more Operating Grants in 2016/17 (\$1.74M) mainly due to receiving an advance payment of the 2017/18 General Purpose Grants (\$821K) in 2016/17 and conversely, received less Operating Grants in 2015/16 because it received an advance payment of the 2015/16 General Purpose Grants from the Federal Government (\$804K) in 2014/15. Also in 2016/17 the City raised \$1.67M more in rates.

Operating Expenditure – The following increased in expenditure from the previous year: Employee Costs (\$1.15M), Depreciation on Non-Current Assets (\$330K) and Materials and Contract (\$198K). While the following expenditure reduced from 2015/16: Interest Expenses (\$95K) and Consultant Expenditure (\$93K).

Net Result - When Capital Grants (\$3.9M) and the Loss on Asset Disposal (\$1.3M) (mainly Civil Infrastructure assets) etc. are included, the Net Result was a surplus of \$3.84M. This compares to a surplus of \$14.78M in 2015/16. (Note the surplus of \$14.78M included \$12.5M of grants received for the Koombana Foreshore Redevelopment).

The Statement also accounts for the revaluation of Non-Current Assets during the year of \$11.76M resulting in a Total Comprehensive Income for 2016/17 of \$15.60M.

Statement of Financial Position: The Statement of Financial Position (shown on page 7 of the Financial Report) shows the assets and liabilities which make up the community equity as at the 30 June 2017.

Key financial figures within the audited Annual Financial Report for the year ended 30 June 2017 include:

	<u>2017</u>	<u>2016</u>
Current Assets	\$ 45,864,990	\$ 41,732,499
Current Liabilities	\$ 10,330,650	\$ 10,302,309
Current Assets over Current Liabilities	\$ 35,534,340	\$ 31,430,190
Non-Current Assets	\$ 567,260,965	\$ 556,611,662
Non-Current Liabilities	\$ 13,638,280	\$ 14,490,164
Total Equity	\$ 589,157,025	\$ 573,551,688

The City's Current Assets exceed Current Liabilities by \$35.53M compared to \$31.43M in 2015/16, an increase of \$4.10M. This is mainly due to an increase in the following cash backed reserves: Asset Management and Renewal (\$2.60M), and Depot construction (\$1.41M). This increase together with an increase in the Revaluation Surplus of \$11.76M (from the Revaluation of Non-Current Assets), increased the total community equity at 30 June 2017 by \$15.60M to \$589.16M.

Statement of Changes in Equity: The Statement of Changes in Equity (shown on page 8 of the Financial Report) shows the extent to which the community equity has been increased by the net result of the year's activities. For the year ending 30 June 2017, the Community Equity increased from \$573.55M to \$589.15M, an increase of \$15.60M.

Statement of Cash Flows: The Statement of Cash Flows (shown on page 9 of the Financial Report) shows the nature and amount of City's cash inflows and out flows from all activities. The City's cash held at the end of the reporting period was \$42.55M compared to \$39.02M in 2015/16.

Rate Setting Statement: The Rate Setting Statement (shown on pages 10 and 11 of the Financial Report) shows the amount of rates required to be raised to fund the City's operations during 2016/17. In 2016/17 \$35.61M in rates were raised, an increase of \$1.67M or 4.9% on 2015/16 (i.e. a 4.5% rate increase plus a 0.4% increase in property growth).



<b><u>Financial Information by Ratio:</u></b>	<b><u>2017</u></b>	<b><u>2016</u></b>	<b><u>2015</u></b>
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<b>Current Ratio</b>	1.246	1.111	1.418
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*Current Assets as a ratio of Current Liabilities.*

*(Measure of short term liquidity, i.e. the ability of the City to meet its liabilities when they fall due. A ratio of greater than 1.0 indicates the City has more current assets than current liabilities. Target is > 1.0)*

<b>Asset Sustainability Ratio</b>	0.643	0.524	0.812
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*Capital renewal and replacement expenditure as a ratio of depreciation expense.*

*(Measures the extent to which assets are being renewed/replaced compared to the amount consumed i.e. depreciation. A ratio of greater than 1.0 indicates that the City is investing in asset renewal/replacement greater than current consumption)*

<b>Debt Service Cover Ratio</b>	4.492	3.287	4.167
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*Operating Surplus before Interest and Depreciation as a ratio of principal and interest expense for borrowings.*

*(Measures the City's ability to service debt out of its uncommitted or general purpose funds available for its operations. The Department of Local Government indicates that a Basic standard is achieved if  $\geq 2.0$ . An Advanced standard is  $\geq 5.0$ )*

<b>Operating Surplus Ratio</b>	(0.005)	(0.066)	(0.035)
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*Operating Revenue minus Operating Expenditure as a ratio of own source operating revenue.*

*(A result of lower than zero indicates that the City has an operating deficit. The Department of Local Government indicates that a Basic standard is achieved if between 0.4 and 0.6)*

<b>Own Source Revenue Coverage Ratio</b>	0.948	0.948	0.886
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*Own source operating revenue as a ratio of operating expense.*

*(Measures the City's ability to cover operating expenses from own source revenue. The higher the ratio, the more self-reliant the local government is. The Department of Local Government indicates that an Advanced standard is achieved if the ratio is greater than 0.9)*

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

There are no financial or budget implications for the Council to accept the Annual Financial Statements and Auditor's Report.

### **Community Consultation**

An abridged Annual Financial Report will be included in the City's 2016/17 Annual Report.

**Outcome – Council Meeting 14 November 2017**

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

**Council Decision 400/17**

***That Council accept the Auditor's Report and the Audited Annual Financial Report of the City of Bunbury for the financial year ending 30 June 2017.***

CARRIED

13 votes "for" / Nil votes "against"

## 10.2 2016/17 Audit Findings Report (was listed as item 10.1.2 on the Council Agenda)

<b>Applicant/Proponent:</b>	Audit Committee
<b>Responsible Officer:</b>	David Ransom, Manager Finance
<b>Responsible Manager:</b>	David Ransom, Manager Finance
<b>Executive:</b>	Mal Osborne, Acting Chief Executive Officer
<b>Authority/Discretion</b>	<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
<b>Attachments:</b>	Appendix RAC-2: Auditor Findings Report

### Summary

The purpose of this report is for Council to receive the 2016/17 Audit Findings Report prepared by Council's auditors Grant Thornton, which stems from the 2016/17 financial audit of the City of Bunbury.

### Committee Recommendation

That Council receive the 2016/17 Audit Findings Report as presented.

### Strategic Relevance

Key Priority Area 5      Corporate  
Objective 5.3          Ensure financial sustainability

### Background

The Audit Findings Report outlines any management issues identified by the Auditor as part of the 2016/17 financial audit of the City of Bunbury that were not material enough to qualify the overall audit, but relevant enough to be brought to the attention of the Audit Committee and Council.

### Council Policy Compliance

N/A

### Legislative Compliance

The Audit Findings Report is provided by the City's Auditor as part of the City's annual audit report completed under section 7.9(1) of the *Local Government Act 1995*.

### Officer Comments

The Audit Findings Report is **attached** at Appendix RAC-2. The report is self-explanatory and no material misstatement or significant control deficiencies were identified by the City's auditors.

In the report the auditors have made the following comments:

- We have not become aware of any material irregularities or illegal acts
- We have not become aware of any material non-compliance with laws and regulations

- We have been presented with all the necessary books and records and explanations requested of management
- We have not detected any material deficiencies in management's assessment of the going concern assumption
- We have had no material disagreements with management

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

There are no financial or budget implications arising from the recommendations contained within this report.

#### **Community Consultation**

N/A

#### **Outcome – Council Meeting 14 November 2017**

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

#### **Council Decision 401/17**

***That Council receive the 2016/17 Audit Findings Report as presented.***

CARRIED  
13 votes "for" / Nil votes "against"

### 10.3 Appointment of Auditor (was listed as item 10.1.3 on the Council Agenda)

<b>Applicant/Proponent:</b>	Audit Committee
<b>Responsible Officer:</b>	Greg Golinski, Manager Governance
<b>Responsible Manager:</b>	Greg Golinski, Manager Governance
<b>Executive:</b>	Mal Osborne, Acting Chief Executive Officer
<b>Authority/Discretion</b>	<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
<b>Attachments:</b>	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 *Local Government Amendment (Auditing) Act 2017* was proclaimed on 27 October 2017;
2. Note the procurement processes undertaken by the City of Bunbury in seeking to appoint an Auditor for the 2017/18 financial year;
3. Make a recommendation to the Office of the Auditor General (WA) that Tim Partridge and Maria Cavallo from AMD Chartered Accountants be appointed as the City's auditors based on the procurement processes undertaken prior to the proclamation of *the Local Government Amendment (Auditing) Act 2017*.

#### Strategic Relevance

Key Priority Area 5      Corporate  
Objective 5.3            Ensure financial sustainability

#### 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(s) appointed by the local government.

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

The original 5 year contract with Grant Thornton was extended by 1 year (for the 2016/17 financial year audit) following the anticipated introduction of the *Local Government Amendment (Auditing) Bill 2016*, which was to 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, and so the Department of Local Government and Communities (DLG) at the time advised local governments to only renew or extend audit contracts until the 2017/18 financial year audit. The City of Bunbury commenced this procurement process in good faith, but has now been advised by DLG that the *Local Government Amendment (Auditing) Act 2017* has been proclaimed, which means that local governments no longer have the power to appoint auditors under the Act; that power now resting with the OAG.

### **Council Policy Compliance**

Not applicable as the City is merely making a recommendation for the consideration of OAG.

### **Legislative Compliance**

The *Local Government Act 1995*, *Local Government (Audit) Regulations 1996*, and *Local Government (Financial Management) Regulations 1996* apply, as does the *Local Government Amendment (Auditing) Act 2017*.

### **Officer Comments**

Notwithstanding the timing issues mentioned above concerning the proclamation of the *Local Government Amendment (Auditing) Act 2017*, City Officers sought quotes for audit services for the 2017/18 financial year in accordance with Council's policies regarding procurement.

Three submissions were received by the closing date, being from AMD Chartered Accountants; Moore Stephens; and Grant Thornton.

A panel of Officers assessed the submissions against the nominated response criteria, which was weighted as follows:

- a) Demonstrated experience in completing similar audits - 30%
- b) Skills and experience of key personnel (including staff undertaking the audits) - 30%
- c) Methodology to complete the audits - 10%
- d) Price - 30%

The City's Purchasing Policy regarding local procurement was applicable to this process, whereby a 5% price preference is applicable to locally based companies with a permanent office located within the Bunbury-Wellington Group of Councils, but was not, however, a factor in determining the recommended outcome.

Notwithstanding the proclamation of the *Local Government Amendment (Auditing) Act 2017*, Officers would have ordinarily recommended the appointment of AMD Chartered Accountants as the City's auditors for 2017/18 based on the assessment of submissions received. As this power no longer rests with local government, it is recommended that the outcome of the procurement process be forwarded to OAG for their consideration.

### **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 14 November 2017**

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

**Council Decision 402/17**

***That Council:***

- 1. Note that the Local Government Amendment (Auditing) Act 2017 was proclaimed on 27 October 2017;***
- 2. Note the procurement processes undertaken by the City of Bunbury in seeking to appoint an Auditor for the 2017/18 financial year;***
- 3. Make a recommendation to the Office of the Auditor General (WA) that Tim Partridge and Maria Cavallo from AMD Chartered Accountants be appointed as the City's auditors based on the procurement processes undertaken prior to the proclamation of the Local Government Amendment (Auditing) Act 2017.***

CARRIED

13 votes "for" / Nil votes "against"

#### **10.4 2018 Council Meeting Schedule (was listed as item 10.2.1 on the Council Agenda)**

<b>Applicant/Proponent:</b>	Internal
<b>Responsible Officer:</b>	Greg Golinski, Manager Governance
<b>Responsible Manager:</b>	Greg Golinski, Manager Governance
<b>Executive:</b>	Mal Osborne, Acting Chief Executive Officer
<b>Authority/Discretion</b>	<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
<b>Attachments:</b>	Appendix CEO-1: Proposed 2018 Council Meeting Schedule

#### **Summary**

Regulation 12(1) of the *Local Government (Administration) Regulations 1996* requires a local government to each year give public notice of the dates on which Ordinary Council Meetings are to be held for the next twelve (12) months. The purpose of this report is for Council to consider its meeting schedule for 2018.

#### **Executive Recommendation**

That Council:

1. Adopt the 2018 Council Meeting Schedule as presented, noting that all meetings will take place in the Council Chambers, 4 Stephen Street Bunbury commencing at 5.30pm.
2. Request that the Chief Executive Officer undertake all statutory advertising in this regard.

#### **Strategic Relevance**

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

#### **Background**

Council currently operates on a fortnightly meeting schedule, alternating between Council Briefing Sessions and Ordinary Meetings pursuant to Council Decision 313/13. Council has also historically gone into recess over the Christmas / New Year period, with the last Ordinary Meeting of Council typically being held in mid-December, and reconvening in mid-January.

#### **Council Policy Compliance**

Not applicable.

#### **Legislative Compliance**

Regulation 12(1) of the *Local Government (Administration) Regulations 1996* requires local governments to give public notice of the dates on which it intends to hold its Ordinary Council meetings for the ensuing twelve (12) month period.



### **Officer Comments**

Officers have prepared a proposed 2018 Council Meeting Schedule based on historical precedent which is **attached** at Appendix CEO-1.

The last Ordinary Meeting of Council for 2017 is scheduled for 12 December, and the draft schedule proposes that Council reconvene on 16 January 2018 (Council Briefing Session).

Officers believe the current fortnightly meeting schedule works effectively, therefore it is recommended it remains unchanged.

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

All advertising costs can be accommodated within the 2017/18 Budget.

### **Community Consultation**

Not applicable.

### **Councillor/Officer Consultation**

Not applicable.

### **Outcome – Council Meeting 14 November 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 403/17**

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

- 1. Adopt the 2018 Council Meeting Schedule as presented, noting that all meetings will take place in the Council Chambers, 4 Stephen Street Bunbury commencing at 5.30pm.***
- 2. Request that the Chief Executive Officer undertake all statutory advertising in this regard.***

CARRIED

13 votes "for" / Nil votes "against"

### **10.5 2016/17 Annual Report (was listed as item 10.2.2 on the Council Agenda)**

<b>Applicant/Proponent:</b>	Internal
<b>Responsible Officer:</b>	Greg Golinski, Manager Governance
<b>Responsible Manager:</b>	Greg Golinski, Manager Governance
<b>Executive:</b>	Mal Osborne, Acting Chief Executive Officer
<b>Authority/Discretion</b>	<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
<b>Attachments:</b>	Appendix CEO-2: Draft 2016/17 Annual Report

#### **Summary**

The purpose of this report is for Council to consider accepting the 2016/17 Annual Report for the City of Bunbury, and to confirm a date for the 2017 Annual Meeting of Electors.

#### **Executive Recommendation**

That Council:

1. Accept the 2016/17 Annual Report as presented;
2. Schedules the 2017 Annual Meeting of Electors for Tuesday 5 December 2017, commencing at 6.00pm in the City of Bunbury Function Room, 4 Stephen Street Bunbury; and
3. Request the Chief Executive Officer undertake all statutory advertising in this regard.

#### **Strategic Relevance**

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

#### **Background**

In accordance with the provisions of section 5.27 of the *Local Government Act 1995* (the Act), a general meeting of electors of a district is to be held once every financial year, but not more than 56 days after the local government accepts the annual report for the previous financial year.

In addition, section 5.29(1) of the Act requires a minimum 14 day notice period of the annual meeting of electors be given via local public notice.

The 2016/17 draft Annual Report includes an abridged version of the Annual Financial Statements and Audit Report.

#### **Legislative Compliance**

Subdivision 4 of Division 2 of Part 5 of the *Local Government Act 1995* deals with meetings of electors.

Division 5 of Part 5 of the *Local Government Act 1995* deals with Annual Reports and Planning.

### **Officer Comments**

The City's 2016/17 Annual Report is **attached** at Appendix CEO-3 for the consideration of Council. The report contains an overview of the City's achievements during 2016/17, as well as all requisite statutory aspects.

Last year's Annual Meeting of Electors was held on Thursday 8 December 2016. Giving consideration to the requisite statutory timeframes (in particular the 14 day notice period) and the lead time required to lodge a notice in any of the local newspaper publications as necessary for a "local public notice", the earliest that Council could hold its 2017 Annual Meeting of Electors is Tuesday, 5 December 2017.

To this extent it is suggested that the meeting be held on Tuesday 5 December 2017, commencing at 6.00pm.

### **Community Consultation**

Not applicable

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

All advertising costs can be accommodated within the 2017/18 budget.

### **Outcome – Council Meeting 14 November 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 404/17**

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

- 1. Accept the 2016/17 Annual Report as presented;***
- 2. Schedules the 2017 Annual Meeting of Electors for Tuesday 5 December 2017, commencing at 6.00pm in the City of Bunbury Function Room, 4 Stephen Street Bunbury; and***
- 3. Request the Chief Executive Officer undertake all statutory advertising in this regard.***

CARRIED

13 votes "for" / Nil votes "against"

**10.6 Proposed Deed of Assignment of Non-exclusive Licence Over Portion of Reserve 7891 “Guppy Park”, Lot 808 Victoria Street, Bunbury (was listed as item 10.4.1 on the Council Agenda)**

<b>File Ref:</b>	L204
<b>Applicant/Proponent:</b>	Danjen Corporation Pty Ltd trading as Danny’s Bunbury
<b>Responsible Officer:</b>	Jane Dawson, Senior Property Officer
<b>Responsible Manager:</b>	Kristen Mildwaters, Acting Manager Major Projects and Property
<b>Executive:</b>	Felicity Anderson, Acting Director Planning and Development Services
<b>Authority/Discretion</b>	<input checked="" type="checkbox"/> Advocacy <input checked="" type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
<b>Attachments:</b>	Appendix DPDS-1: Location Plan

**Summary**

An application has been received from Danjen Corporation Pty Ltd t/as Danny’s Bunbury seeking council’s consent to accepting a Deed of Assignment of the Non-Exclusive Licence over portion of Reserve 7891 “Guppy Park”, Lot 808 Victoria Street, Bunbury. A location plan is **attached** at Appendix DPDS-1.

**Executive Recommendation**

Council agrees to the assignment of the Deed of Non-Exclusive Licence area over portion of Reserve 7891 “Guppy Park”, Lot 808 Victoria Street, Bunbury to Smith Family Superannuation Pty Ltd as Trustee for Smith Superannuation Unit Trust as specified in the report to Council, and;

1. The Assignee is to pay the full cost of document preparation and administration fees
2. The Minister for Lands Approval

**Strategic Relevance**

Key Priority Area 4      Regional Economy  
Objective 4.3          Promote Bunbury as a place that supports commercial, residential and social development

**Background**

Council agreed to grant a Deed of Assignment of Non-Exclusive Licence to Danjen Corporate Pty Ltd t/a Danny’s Bunbury over portion of Reserve 7891 ‘Guppy Park’, Victoria Street, Bunbury on 8 February 2011 for use as alfresco dining.

**Council Decision 14/11**

*Council agrees to grant a Deed of Assignment of Non-Exclusive Licence to Danjen Corporation Pty Ltd t/a Danny’s Bunbury (Assignee) over portion of Reserve 7891 “Guppy Park”, Victoria Street, Bunbury in accordance with the terms and conditions of this report, and*

1. *The intention to assign the Non-Exclusive Licence to be advertised pursuant to Section 3.58(3) of the Local Government Act 1995, in a local newspaper, give notice on the public notice boards at the City's public libraries and administration centre and on the City of Bunbury website.*
2. *Subject to no objecting submissions being received as a result of part 2 above, the Deed of Assignment of Non-Exclusive Licence be finalised.*
3. *Approval of the Minister for Lands.*

The land is held by the City of Bunbury under Management Order with the power to Licence for a term not exceeding four (4) years. Pursuant to Section 18 of the *Land Administration Act 1997*, the Office of the Minister for Lands approval is required.

The 2017/2018 annual licence fee is in arrears by 3 months totalling an amount of \$5,648.50 inclusive of GST. Upon receipt of the Breach Notice the Applicant has advised the Property Officers they wish to Assign the Deed of Non-Exclusive Licence advising the proposed Assignee is willing to pay the outstanding account in full.

The proposed assignee is the Smith Family Superannuation Pty Ltd as Trustee for Smith Superannuation Unit Trust, the contact for the Trust is Mr Trevor Smith.

The current Deed of Non-Exclusive Licence was granted by Council on 24 January 2017 Decision No. 25/17 and does not expire until 30 June 2021.

#### *Current Licence Details*

Commencement:	1 July 2017
Term:	Four (4) years
Expiry Date:	30 June 2021
Rental:	\$4,500.00 plus GST and outgoings per annum
Rent Review:	Market Rent Review third anniversary date
Outgoings:	Responsibility of the Licensee
Insurance:	The Licensee to maintain Public Risk Insurance and General Insurance cover over the premises with Public Liability to be set at \$10(M).
Permitted Use:	Alfresco dining
Special Conditions:	No food preparation is to occur in this area and compliance with <i>Environmental Protection (Noise) Regulations 1997</i> to address any potential noise complaints from adjacent residential buildings.

#### **Council Policy Compliance**

Commercial Leases Policy.

#### **Legislative Compliance**

Pursuant to Section 18 of the *Land Administration Act 1997*, the Office of the Minister for Lands approval is required.

### **Officer Comments**

The current Licensee has requested the City of Bunbury re-assign the Licence.

The proposed Assignee has advised they wish to be granted approval for the assignment of the Deed of Non-Exclusive Licence for use as an alfresco area at unit 5/10 Victoria Street, Bunbury and that they intend to utilise a real estate agent to sign up a tenant to sub-licence the Premises.

The Non-Exclusive Licence cannot be more than four (4) years which is a condition of the Management Order to protect the public's interest in the Reserve.

Under the terms of the existing Licence the current Licensee is permitted to assign the Licence Agreement under Clause 6.2 subject to the City of Bunbury's approval and the proposed Assignee is permitted to enter into a Sub-Licence under Clause 6.6.

Conditions of the Non-Exclusive Licence are that upon surrender or vacate of the premises, the Licensee is to remove all infrastructure from the premises.

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

The Assignee is to pay the full cost of the document preparation and administration fees.

The applicant has advised the proposed assignee is willing to pay the current outstanding annual Licence Fee of \$5,648.50 inclusive of GST.

### **Community Consultation**

Advertising is not required.

### **Councillor/Officer Consultation**

The Manager Environmental Health and Community Law, Safety and Emergency Management has been advised of the proposed assignment and has no objections.

### **Applicant Consultation**

The Senior Property Officer, Applicant and proposed Assignee have been in discussions and exchanged documentation relevant to the proposed Assignment of Deed of Non-Exclusive Licence.

The proposed Assignee is aware of the existing licence agreement and advised they are willing and able to fulfil the obligations under the Non-Exclusive Licence.

**Outcome – Council Meeting 14 November 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 405/17**

***Council agrees to the assignment of the Deed of Non-Exclusive Licence area over portion of Reserve 7891 "Guppy Park", Lot 808 Victoria Street, Bunbury to Smith Family Superannuation Pty Ltd as Trustee for Smith Superannuation Unit Trust as specified in the report to Council, and;***

- 1. The Assignee is to pay the full cost of document preparation and administration fees***
- 2. The approval of the Minister for Lands for the assignment of the lease is obtained.***

CARRIED

13 votes "for" / Nil votes "against"

**10.7 Development Application for Home Business (Motorcycle School), Lot 102 (#73) Tuart Street, Bunbury (was listed as item 10.4.4 on the Council Agenda)**

<b>File Ref:</b>	P12646, DA/2017/175/1
<b>Applicant/Proponent:</b>	Silvano Bottega and Maureen Bottega
<b>Responsible Officer:</b>	Teshome Tadesse, Planning Officer
<b>Responsible Manager:</b>	Thor Farnworth, Manager Sustainability, Planning and Development
<b>Executive:</b>	Felicity Anderson, Acting Director Planning and Development Services
<b>Authority/Discretion</b>	<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
<b>Attachments:</b>	Appendix DPDS-10: Location Plan and Proposed Fence Appendix DPDS-11: Schedule of Submissions

**Summary**

Development approval is sought for a home business (motorcycle school) at Lot 102 (#73) Tuart Street.

The home business application for a motorcycle school was advertised in accordance with the Scheme's requirements, with one objection being received from another motorcycle school. The reasons for the objection relate to the contention of sign similarities and the claim that the applicants are not the occupiers of the dwelling.

The objections are invalid for the reasons that the proposed sign complies with the Local Planning Policy: Home Based Business and Family Day Care and that the occupiers of the dwelling are the applicants for the proposed home business.

Therefore, it is recommended that development approval be granted for the home business (motorcycle school) at Lot 103 (#73) Tuart Street.

**Executive Recommendation**

In accordance with the *Planning and Development Act 2005* (as amended), hereby resolves to grant temporary development approval for a proposed 'home business' (motorcycle school), at Lot 102 (#73) Tuart Street, South Bunbury (application reference: DA/2017.175.1) subject to the following conditions:

1. This is a temporary development approval personal to the applicant. The development the subject of this temporary approval must cease on 31 December 2018, unless an application to renew the temporary approval is submitted to and approved by the City of Bunbury.
2. At all times, the development the subject of this development approval must comply with the definition of 'home business' as contained in Schedule 1 of the Local Planning Scheme.
3. The operating hours for the 'home business' are limited to Monday to Saturday 7am-7pm.
4. The business shall not involve the retail sale, display or hire of goods of any nature from the property.



5. The home business is required to provide one (1) additional car parking bay onsite in addition to the residential parking requirement (i.e. a total of three car parking bays).
6. Motorcycles/mopeds are not to be kept idling at any time on the property at Lot 102 (#73) Tuart Street, South Bunbury.

Advice Notes:

- (a) This is a development approval for home business 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) This development approval is valid until 31 December 2018. Should you wish to continue operating this home based business, you will be required to complete a renewal form (which will be sent out at end of year), and pay the annual renewal fee (in accordance with the Council's adopted Schedule of Fees and Charges). 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. If you no longer wish to continue your home business, please advise the City of Bunbury in writing.
- (c) Failure to comply with the development conditions of this development approval / or the home business requirements at any time may result in the withdrawal of the home business approval.
- (d) In relation to condition 2, a 'home business' use is defined in the Scheme accordingly:

*"home business" means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –*

- (a) *does not employ more than 2 people not members of the occupier's household;*
  - (b) *will not cause injury to or adversely affect the amenity of the neighbourhood;*
  - (c) *does not occupy an area greater than 50 square metres;*
  - (d) *does not involve the retail sale, display or hire of goods of any nature;*
  - (e) *in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tar weight; and*
  - (f) *does not involve the use of an essential service of greater capacity than normally required in the zone.*
- (e) In the event that changes to the dwelling are required through any building process, an amended application will be required prior to the implementation of the home business use.

- (f) The City of Bunbury advises that the development the subject of this development approval must comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997* in relation to noise emissions. Further information can be obtained from the City of Bunbury’s Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.

### 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 102 (#73) Tuart Street
Zoning:	Special Use Zone No. 21 (offices, consulting rooms and residential R40)
Existing Land Use:	Single House
Lot Area:	1,543m <sup>2</sup>

The motorcycle school was operating at Lot 102 (#73) Tuart Street for a certain period of time without formal development approval having been granted by the local government. The City of Bunbury became aware of the unauthorised home business as a result of receiving noise and other complaints regarding the activities of the motorcycle school on the subject land.

The City of Bunbury approached the landowners and advised them to cease the activities of the home business and encouraged them to submit an application for development approval to formalise the business activities onsite. Consequently, the applicant then stopped the motorcycle school activities at the residence and submitted a development application on 9 August 2017 to formalise the home business on the subject land.

A location plan showing the subject land and its surrounds is attached at Appendix DPDS-10.

### 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*;
- City of Bunbury Town Planning Scheme No. 7 (TPS7);
- Draft City of Bunbury Local Planning Strategy; and
- Draft City of Bunbury Local Planning Scheme No. 8 (LPS8).

**Officer Comments**

The application seeks approval for a proposed home business (motorcycle school) at Lot 102 (#73) Tuart Street, South Bunbury.

A location plan and the contents of a proposed fence sign as submitted by the applicant are **attached** at Appendix DPDS-10.

The development application has been assessed in accordance with the definition of a ‘home business’ as contained in the Scheme, as detailed in the table below.

<b>Home Business Requirements</b>		<b>Assessment</b>
	“... means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which -	<ul style="list-style-type: none"> <li>• The proposed home business (motorcycle school) is a business that provides training for clients who wish to acquire motor riding skills.</li> <li>• The motorcycle riding lessons are mainly practical in nature, and the lessons are conducted off-site on public roads.</li> <li>• Motorcycles are kept in a garage onsite. The site plan shows a portion of the garage (3m x 3m) that is to be used for the garaging of motorcycles.</li> <li>• The applicants have advised that they are the occupiers of the premises and conduct the home business as a part owner of the motorcycle school with their son (an employee). They further state that their son qualifies as an employee of the business for the purpose of the home business definition under the Scheme.</li> <li>• It is considered that the home business (motorcycle school) at Lot 102 (#73) is in line with the Scheme in the consideration of the location of the home business (around the dwelling). It is also noted that the occupier of the dwelling are a part owner in conducting the home business (motorcycle school) from the subject property.</li> </ul>
(a)	Does not employ more than 2 people not members of the occupier’s household;	<ul style="list-style-type: none"> <li>• The business has one employee who provides motorcycle riding lessons to clients – complies.</li> </ul>
(b)	Will not cause injury to or adversely affect the amenity of the neighbourhood;	<ul style="list-style-type: none"> <li>• Subject to compliance with the conditions of development approval, it is considered that the operation of the motorcycle school will</li> </ul>

		<p>not adversely affect the amenity of the locality.</p> <ul style="list-style-type: none"> <li>To limit the level of noise emissions, motorcycles/mopeds are not allowed to be kept idling at any time on the property (development condition included).</li> </ul>
(c)	Does not occupy an area greater than 50 square metres;	<ul style="list-style-type: none"> <li>The site plan shows a portion of an existing garage (3m x 3m) as an area where motorcycles are kept, which is less than the permitted 50m<sup>2</sup> area.</li> </ul>
(d)	Does not involve the retail sale, display or hire of goods of any nature;	<ul style="list-style-type: none"> <li>The motorcycle school does not involve the retail sale, display or hire of goods.</li> </ul>
(e)	In relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or call of a vehicle more than 3.5 tonnes tare weight; and	<ul style="list-style-type: none"> <li>In accordance with the Scheme requirements, one additional car parking bay is required to be provided onsite. The site plan shows one client parking space onsite.</li> <li>It is considered that there will be no increase in traffic volume nor attract a vehicle more than 3.5 tonnes tare weight onsite.</li> </ul>
(f)	Does not involve the use of an essential service of greater capacity than normally required in the zone..."	<ul style="list-style-type: none"> <li>The subject land is included in Special Use Zone No. 21 (offices, consulting rooms and residential R40).</li> <li>The home business will not require greater essential services than normally required in the zone.</li> </ul>

The proposed home business (motorcycle school) will have one employee that is not an occupier of the residence, which is allowed for under the Scheme's land use class definition. The occupiers of the dwelling have a significant financial interest as part owners of the motorcycle school. It is considered therefore that the motorcycle school satisfies the Scheme's definition of a 'home business' as outlined above.

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

This application for a home business 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 reconsideration of development approval under clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

In addition the applicant may apply for a review of the decision through the State Administrative Tribunal (SAT). If the decision is forwarded to the SAT for appeal, the City of Bunbury may incur legal costs.

### **Community Consultation**

The development application was advertised for public comment from 29 August 2017 to 15 September 2017. The City of Bunbury sent notification letters to the adjoining landowners and occupiers in the immediate locality. In addition, two letters were sent to residents who submitted their concerns to the City of Bunbury previously on the matters of noise and business concern (i.e. from another motorcycle school).

At the end of the advertisement period, one objection was received, which was from another motorcycle school. The objector outlined his concerns on the following grounds:

1. That the sign, location, image and street name (i.e. Stuart Street and Tuart Street) are similar, such that his clients turn up to the current applicant's house for lessons.
2. That the business operator does not occupy the subject dwelling.

With regard to the first issue, the proposed sign on the fence complies with Local Planning Policy: Home Based Businesses and Family Day Care, which allows a 0.5m<sup>2</sup> sign (proposed 0.6m X 0.6m = 0.36m<sup>2</sup>). The City of Bunbury does not intervene in respect to business names or signage design.

In relation to the second issue, Mr and Mrs Bottega are the occupiers and the applicants for the existing home business (motorcycle school) at Lot 102 (#73) Tuart Street.

Refer to the Schedule of Submissions **attached** at Appendix DPDS-11.

### **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, and the applicant has expressed their satisfaction with the outcome of the assessment.

### **Outcome – Council Meeting 14 November 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 406/17**

***In accordance with the Planning and Development Act 2005 (as amended), hereby resolves to grant temporary development approval for a proposed 'home business' (motorcycle school), at Lot 102 (#73) Tuart Street, South Bunbury (application reference: DA/2017.175.1) subject to the following conditions:***

- 1. This is a temporary development approval personal to the applicant. The development the subject of this temporary approval must cease on 31 December 2018, unless an application to renew the temporary approval is submitted to and approved by the City of Bunbury.***
- 2. At all times, the development the subject of this development approval must comply with the definition of 'home business' as contained in Schedule 1 of the Local Planning Scheme.***
- 3. The operating hours for the 'home business' are limited to Monday to Saturday 7am-7pm.***
- 4. The business shall not involve the retail sale, display or hire of goods of any nature from the property.***
- 5. The home business is required to provide one (1) additional car parking bay onsite in addition to the residential parking requirement (i.e. a total of three car parking bays).***
- 6. Motorcycles/mopeds are not to be kept idling at any time on the property at Lot 102 (#73) Tuart Street, South Bunbury.***

#### **Advice Notes:**

- (a) This is a development approval for home business 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) This development approval is valid until 31 December 2018. Should you wish to continue operating this home based business, you will be required to complete a renewal form (which will be sent out at end of year), and pay the annual renewal fee (in accordance with the Council's adopted Schedule of Fees and Charges). 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. If you no longer wish to continue your home business, please advise the City of Bunbury in writing.***
- (c) Failure to comply with the development conditions of this development approval / or the home business requirements at any time may result in the withdrawal of the home business approval.***

**(d) In relation to condition 2, a 'home business' use is defined in the Scheme accordingly:**

***"home business" means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –***

***(a) does not employ more than 2 people not members of the occupier's household;***

***(b) will not cause injury to or adversely affect the amenity of the neighbourhood;***

***(c) does not occupy an area greater than 50 square metres;***

***(d) does not involve the retail sale, display or hire of goods of any nature;***

***(e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tar weight; and***

***(f) does not involve the use of an essential service of greater capacity than normally required in the zone.***

**(e) In the event that changes to the dwelling are required through any building process, an amended application will be required prior to the implementation of the home business use.**

**(f) The City of Bunbury advises that the development the subject of this development approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.**

CARRIED

13 votes "for" / Nil votes "against"





## Strategic Relevance

Key Priority Area No. 1: Community and Culture

Objective No. 1: Establish Bunbury as the most accessible regional city in Australia by 2020

## Background

The following is a summary of the operating results for the Centre over the past five (5) years and the 2017/18 budget:

### Operating Results (\$'000)

	Actual 2013	Actual 2014	Actual 2015	Actual 2016	Actual 2017	Budget 2018
Income	332	365	280	307	297	296
Expenditure	336	339	348	323	347	342
Operating Surplus/(Deficit)	(4)	26	(68)	(16)	(50)	(46)

After sustaining losses in 2015, 2016 and 2017 of \$68K, \$16K and \$50K respectively, the Centre does not have the financial capacity to cover a further budgeted operating loss of \$46K in 2018. A report on the Centre's income and expenditure between 2013 and 2018 is **attached** at Appendix CEO-4.

The Centre's Manager, Bev Buck has provided the following explanations (refer Appendix CEO-3) for the Centre's financial performance:

- For many years up until 2015, Home and Community Care (HACC) funded approximately \$100,000 annually to the Centre for the delivery and administration of Meals on Wheels (MOW). The actual funding entitlement from HACC to the Centre should have only been between \$35,000 and \$40,000. (Note: This over-funding of HACC grants in the past covered-up the true cost of operating the Centre. The delivery and administration of MOW since 2015 have been run by Community Home Care (CHC) and the Centre only provides the meals which are picked up by CHC).
- Increasing costs to run the centre: utility charges, wages and insurance premiums are major contributors.

With the assistance of the Centre's Treasurer, a summary has been prepared on the Centre's operations by Cost Centre and is **attached** at Appendix CEO-5. A summary is shown below:

### Net Surplus / (Deficit) by Cost Centre (\$'000):

Year	Meals on Wheels	Café	Member Activities	Total
2017 (Actual)	2	(8)	(44)	(50)
2018 (Budget)	12	(8)	(50)	(46)

While the Centre no longer receives any funding from HACC, the Meals on Wheels activities generate a small surplus for the Centre. The Café, introduced a couple of years ago as an income initiative, is making the Centre's finances worse. However the main cause of financial stress is the loss incurred in Member Activities.

The City officers have compared the operations of Bunbury to the following Centres: Busselton, Geraldton, Albany, Mandurah, Australind, Collie and Dardanup (comparison **attached** at Appendix CEO-6). The outcome of this comparison is that there appears to be no 'one model' used to operate Senior Citizen Centres, e.g. some are run independently while others are run by the Council, some receive operating subsidies, while others receive no funding.

### **Council Policy Compliance**

Nil

### **Legislative Compliance**

Nil

### **Officer Comments**

City Officers have meet with: the Centre's President, Ross Coghill; Manager, Bev Buck; and Treasurer, Jacinta Thomson on a number of occasions to assist the Centre in finding a solution to its poor financial situation. Mike Jenkins, Stephen Foster and Cr Betty McCleary also were in attendance at one of these meetings.

From these discussions it has been suggested that a Working Group be compiled comprising Centre Officers, City Staff and external business professionals. Mike Jenkins and Stephen Foster have expressed an interest to help the Centre examine the issues contributing to the loss and to recommend solutions. This would include:

- How to improve the viability of the Café, or if this is not possible, what effect would there be if the Café was closed?
- Identifying grant funds available to the Centre;
- Reducing the cost of salaries and wages. (The Centre currently employs a full time Manager and 6 part-time positions: Cook, Cook's Assistant, Cook (café), Waitress (Café), Cleaner and MOW Driver (for deliveries to clients who do not qualify for CHC meals).
- Increasing membership numbers through promotion and rebranding; and
- What should be the future management structure? Should the Centre be run under the current structure, by another external organisation, or by the City?

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

Should Council support the Executive Recommendations this will have financial and budget implications. It is initially suggested to provide \$25,000 immediately so that the Centre is able to keep operating. Subject to the findings of the Centre's Working Group this may require further contributions in future budgets.

It is proposed to fund the contribution from the City's unallocated surplus funds. The forecast closing surplus funds to 30 June 2018, following the October 2017 Budget Review is \$438,781 and is sufficient to fund this contribution.

Currently the City provides the premises for the Centre at 1 Stirling Street, Bunbury for a peppercorn lease fee. The City is responsible for the building maintenance and upgrades. The City has in the past contributed funds for the purchase of furniture etc. The City has not previously provided any operating subsidy.

It should be noted that through Cultural Facilities and Organisations funding, Council provides through its Annual Budget operating subsidies to organisations including: the Bunbury Regional Entertainment Centre (\$435,000), the Stirling Street Arts Centre (\$66,625) and King Cottage Museum (\$31,544).

### **Community Consultation**

Not required.

### **Councillor/Officer Consultation**

The Mayor and Acting Chief Executive Officer were initially approached by the Centre for financial support. Cr McCleary was involved in one meeting with the Centre, City staff and two members of the community.

### **Applicant Consultation**

City officers have had five meetings with the Centre to examine the financial situation of the Centre and to identify possible solutions.

### **Outcome – Council Meeting 14 November 2017**

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

Jacinta Thomson addressed Council in relation to this item.

The recommendation (as printed) was moved Cr Smith, 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 407/17**

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

- 1. Provide immediate financial support to the Bunbury Meals on Wheels and Senior Citizens Centre Association (Inc.) in the amount of \$25,000 from the City's unallocated 2017/18 closing surplus.***
- 2. Request the Bunbury Meals on Wheels and Senior Citizens Centre Association (Inc.) establishes a Working Group as soon as possible.***

- 3.     *Request the Working Group develop a Business Plan identifying solutions to improve the future financial viability of the Centre, to be submitted to the City no later than 28 February 2018.***
  
- 4.     *Consider any future financial assistance to the Bunbury Meals on Wheels and Senior Citizens Centre Association (Inc.) based on the Centre’s Business Plan.***

CARRIED

13 votes “for” / Nil votes “against”

**ABSOLUTE MAJORITY VOTE ATTAINED**



## Background

The Bunbury Airport is comprised within Reserve 27686, Lot 507 South Western Highway, Davenport and is held by the City of Bunbury under Management for the purpose of 'Airport' with the power to lease subject to the consent of the Minister for Lands.

Pursuant to Section 18 of the Land Administration Act 1997, the Minister for Lands approval is required from the Office of the Minister for Lands subject to the final document executed by the parties being on the same terms as that provided to the Department of Lands.

Following recent requests from Bunbury Airport hangar lease holders, Officers have investigated options to increase the standard 5 + 5 year lease terms offered at the Airport to the full 21 years the City of Bunbury is able to offer under the provisions of its Management order over this land in consultation with the Executive Leadership Team.

Council recently endorsed the 21 year lease of Bunbury Airport Hangar site 64 which has prompted further requests from other lessee's at the Airport. The lessee's have highlighted a number of reasons for the preference of a longer term including the large investment the hangar owners make in constructing their hangars and the difficulty in obtaining bank loans to do so with a short term lease.

Following consultation with the Executive Leadership Team and relevant staff the City of Bunbury has offered the following options to current lease holders to adjust the term of their lease at the Bunbury Airport:

### *Option 1*

Council approval to be sought for the existing lease to be surrendered and a new lease entered into for a 21 year term, this may be in the form of 10 years + 11 years further term.

### *Option 2*

Council approval to be sought to amend the existing lease via a Deed of Variation, where possible, to allow for a higher lease term e.g. if you currently have a 5 year + 5 year further term then the further term will be increased to 16 years thereby increasing the lease term to 21 years.

### *Option 3*

Wish to wait until the current lease and further term expires before entering into a new 21 year lease (which may be in the form of 10 years + 11 years further term).

### ***Current Lease Details (Hangar 65, 66 & 56)***

Commencement:	1 December 2015
Term:	Five (5) years with a further option of five (5) years
Expiry Date:	30 November 2025
Lease Area:	300m <sup>2</sup>
Rental @ \$5.00m <sup>2</sup> :	\$1,500.00 per annum exclusive of GST plus CPI annually and outgoings
Rent Review:	Every anniversary from the date of commencement, determined by CPI.
Outgoings:	Responsibility of the Lessee.
Insurance:	The Lessee to maintain Building Insurance, Public Risk and General Insurance Policies over the premises with Public Liability to be set at \$10(M).

Special Conditions:	Lessee responsible for maintaining and upkeep of the demised premises. The applicant to pay all costs associated with the lease application including document preparation.
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***Proposed new Lease Details (Hangar 65, 66 & 56)***

Commencement:	1 December 2017
Term:	Ten years (10) with a further option of eleven (11) years
Expiry Date:	30 November 2038
Lease Area:	300m <sup>2</sup>
Rental @ \$5.00m <sup>2</sup> :	\$1,500.00 per annum exclusive of GST plus CPI annually and outgoings
Rent Review:	Every Anniversary from the date of commencement, determined by CPI and market rental every 3 <sup>rd</sup> anniversary.
Outgoings:	Responsibility of the Lessee.
Insurance:	The Lessee to maintain Public Risk and General Insurance Policies over the premises with Public Liability to be set at \$10(M).
Special Conditions:	Lessee responsible for maintaining and upkeep of the demised premises. The applicant to pay all costs associated with the lease application including document preparation.

To date the City has received the following preferences to the Options offered:

- (a) Seventeen (17) lessees have requested Option 1 – a 10+11 (21 year) lease term immediately;
- (b) One (1) lessee is taking up Option 2 – increase the existing further lease term to equal 21 years however don't wish to proceed until the further option is due;
- (c) Five (5) Lessees have requested Option 3 – no action at this stage, take up the 10+11 (21 year) lease term upon expiry of their current lease.

The three applicants have reviewed a Draft Deed of Surrender and a Draft Deed of Lease and are in agreement to the amended lease term and are hopeful of being granted the longer tenure over their hangars as soon as possible.

The remaining Lessees have yet to review a Draft Deed of Surrender and a Draft Deed of Lease prior to Officers presenting their proposals to Council.

**Council Policy Compliance**

Not applicable.

**Legislative Compliance**

Section 3.58 of the *Local Government Act 1995*.

**Officer Comments**

The Team Leader Airport and Design has advised there has been an ongoing issue in the last 8 years where some hangar owners have experienced difficulty obtaining bank loans for their hangar construction due to the short lease period. Previous approaches to the City of Bunbury's Executives indicated that there was a preference for short term leases (5 years) as it gave Council greater flexibility to initiate changes. Council has the ability to offer 21 year leases and he has no

objection to the leases being converted to 21 years and from his perspective this will offer Council better long term financial security.

The Acting Manager Major Projects and Property addressed the Executive Leadership Team to request they consider changing the standard 5+5 year lease terms at Bunbury airport to the full 21 year lease term. ELT approved this and a briefing note was sent to Councillors in the week ending 25<sup>th</sup> August to notify them of this directive prior to an agenda coming to Council for consideration.

The City of Bunbury has now undertaken consultation with the Bunbury Airport Lessee's to ensure that a consistent message and the same opportunities are afforded to all hangar owners.

The granting of a longer lease term will encourage an ongoing and positive relationship between the City of Bunbury, the Lessee's and all other airport hangar owners whilst ensuring longevity at the Bunbury Airport.

The Senior Property Officer wrote to the applicants seeking their preferred option in relation to a proposed 21 year lease. The Draft Deed of Surrender and proposed replacement Draft Deed of Lease has been negotiated with the lessee's prior to seeking Council's consideration.

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

The annual lease rental will not be affected; this will remain the same as the existing lease based on \$5m<sup>2</sup> plus GST per annum and subject to annual CPI increases.

#### **Community Consultation**

Advertising in accordance with Section 3.58 of the *Local Government Act 1995*.

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

The Team Leader Airport and Design, Acting Manager Major Projects and Property and the Senior Property Officer have been in discussions with the Applicant's and agreed to put forth to Council the increase in lease tenure at the Bunbury Airport for consideration

The Applicant's advised the Senior Property Officer they wish to enter into a Surrender of Lease and be granted a replacement lease for an extended lease term of 21 years consisting of ten (10) years and eleven (11) years.

#### **Applicant Consultation**

All airport hangar Lessee's were contacted, in writing, on the 11<sup>th</sup> September 2017 to advise of the three options and offer to implement a 21 year lease.

Further to Officer's contacting all of the Lessee's at the Bunbury Airport, the City of Bunbury has received the following preferences to the options offered:

- (a) Seventeen (17) Lessee have requested Option 1 – a 10+11 (21 year) lease term immediately;
- (b) One (1) Lessee is taking up Option 2 – increase the existing further lease term to equal 21 years however don't wish to proceed until the further option is due;



- (c) Five (5) Lessees have requested Option 3 – no action at this stage, take up the 10+11 (21 year) lease term upon expiry of their current lease.

The three applicants have reviewed a Draft Deed of Surrender and a Draft Deed of Lease and are in agreement to the amended lease term and are hopeful of proceeding as soon as possible.

**Outcome – Council Meeting 14 November 2017**

Cr Steck declared an impartiality interest in the 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 Cook, seconded Cr McCleary.

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

**Council Decision 408/17**

***Council agrees to the Deed of Surrenders of the existing Leases and agrees to grant new Leases to Leigh Thomas at Hangar 65, Dunkel Aviation Pty Ltd at Hangar 66 and MCG Architects Hangar 56, over portions of Lot 507 (DP74949) South Western Highway, Davenport for a term of ten (10) years with a further option of eleven (11) years, subject to;***

- 1. The surrenders and leases being prepared including the standard terms and conditions;***
- 2. The applicants agreeing to pay all costs associated with the surrender and lease application including document preparation and advertising;***
- 3. Advertising for the disposal being undertaken in accordance with the provisions of Section 3.58 of the Local Government Act 1995; and***
- 4. Approval of the Minister for Lands for the lease being obtained.***

CARRIED

13 votes “for” / Nil votes “against”

**10.10 Development Application for Proposed Change of Use to Tavern – Unit 6, Block C, Lot 108 (#42) Strickland Street, Bunbury (Homemaker Centre) (was listed as item 10.4.3 on the Council Agenda)**

<b>File Ref:</b>	P09230-26, DA/2017/178/1	
<b>Applicant/Proponent:</b>	Planning Solutions (Australia) Pty Ltd	
<b>Responsible Officer:</b>	Barbara Macaulay, Senior Planning Officer	
<b>Responsible Manager:</b>	Thor Farnworth, Manager Sustainability, Planning and Development	
<b>Executive:</b>	Felicity Anderson, Acting Director Planning and Development Services	
<b>Authority/Discretion</b>	<input type="checkbox"/> Advocacy <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Legislative	<input type="checkbox"/> Review <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Information Purposes
<b>Attachments:</b>	Appendix DPDS-3: Previous Development Approval Appendix DPDS-4: Location Plan Appendix DPDS-5: Development Plans and Elevation Drawings Appendix DPDS-6: Site Photographs Appendix DPDS-7: Applicant Justification Appendix DPDS-8: Schedule of Submission Appendix DPDS-9: Applicant Response to Schedule of Submission	

**Summary**

Development approval is sought for the proposed change of use from ‘office’ to ‘tavern’ at Unit 6, Block C, Lot 108 (#42) Strickland Street (Homemaker Centre).

Council has previously approved an application for a tavern in the subject tenancy at its ordinary meeting held on 27 May 2014. Given that the previous approval has since expired the applicant is required to reapply for development approval.

The application is referred to Council for determination as 53 submissions were received during the advertising period, of which two of the submissions raised substantive objections to the proposed tavern. The main concerns cited in the submissions objecting to the proposal related to perceived increase in anti-social behaviour and the belief that alcohol outlets are best placed within the central business district already serviced by closed-circuit television (CCTV) and law enforcement agencies.

Council can be advised that concerns relating to anti-social behaviour are considered in the liquor license application process, and as such, the application requires a tavern license to be issued by the Department of Local Government, Sport and Cultural Industries prior to commencement of operation.

With regards to the location of the proposal, it is advised that a ‘tavern’ is an ‘A’ use in the ‘Mixed Business Zone’, and as such, Council may exercise its discretion in granting development approval following advertising of the proposal.

It is advised that the application is consistent with the development requirements of the City of Bunbury Town Planning Scheme No. 7 and relevant local planning policies, and hence, it is recommended for approval subject to conditions.

### **Executive Recommendation**

That Council:

In accordance with the *Planning and Development Act 2005 (as amended)*, hereby resolves to grant development approval for a 'tavern' use at Unit 6, Block C, at Lot 107, (#42) Strickland Street, South Bunbury, subject to the following conditions:

1. At all times, the development the subject of this development approval must comply with the definition of 'tavern' use as contained in Schedule 1 of the City of Bunbury Local Planning Scheme.
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. Except with the prior written consent of the City of Bunbury, the approved use must only operate between the following hours:
  - 7 am to 10 pm Monday to Thursday;
  - 7 am to 10:30 pm Friday;
  - 8 am to 10:30 pm Saturday; and
  - 9 am to 10 pm Sunday and Public Holidays.
5. At all times, provision must be made onsite for the storage and collection of garbage and other solid waste. A waste storage and collection area must be graded, drained and screened from public view, and the garbage collected regularly, to the satisfaction of the City of Bunbury. Details to be submitted before the development commences.
6. All deliveries to and from the site from the loading bay located in Clive Lane at the rear of the property must not obstruct or interfere with the operation of the existing fast food outlet drive-thru.
7. 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 and Charges Schedule), details of the relevant development approval are required (e.g. 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 City of Bunbury advises that where a development approval contains conditions which are required to be discharged before development commences, to commence development before those conditions are discharged means that the development is not pursuant to the planning permission and is therefore unauthorised development.
- (d) 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 (BCA). 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 team on (08) 9792 7000.
- (e) The applicant is advised that before the development is occupied, video surveillance equipment must be installed in accordance with its tavern license. The surveillance equipment is to record and monitor crowd behaviour at all entry and exit points. The footage from this surveillance must be kept by the licensee for a period of thirty days from the date of surveillance and the tapes made available to an authorised officer of the Western Australian Police or a licensing inspector on demand.
- (f) The development the subject of this development approval is also regulated by the *Liquor Control Act 1988*. The applicant is advised to contact the liquor licensing division of the Department of Local Government, Sport and Cultural Industries in regards to submitting an application for a tavern license. A tavern license is required to be obtained prior to commencement of operation.
- (g) The applicant is advised that no solid structures or objects higher than one (1) metre above natural ground level shall be located within a 2.5m by 2.5m truncation area as indicated in red on the approved plans. This is to ensure that adequate sightlines are maintained for vehicles exiting Clive Lane.
- (h) It is the applicant's responsibility to ensure all required approvals are obtained prior to the works commencing. Works such as de-watering, native vegetation clearing or working near existing infrastructure may require separate approvals from relevant private or government agencies.
- (i) The applicant is advised that the *Tobacco Products Control Act 2006* requires that reasonable steps are undertaken to prevent smoke from tobacco products entering enclosed public places. The Department of Health recommends no smoking within a minimum five (5) metres from entrances and openings to any buildings and public places.
- (j) With reference to Condition 7, a waste management plan is to be submitted for the approval of the Manager Environmental Health Services. The plan will detail how and where waste produced during the operation the subject of this approval will be stored, handled and removed.

- (k) The development must comply with the requirements of the *Health (Public Buildings) Regulations 1992*. Regardless of whether a building permit is required, application shall be made to the City of Bunbury's Environmental Health Services team for assessment and approval prior to the commencement of development.

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

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

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

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

- (l) The City of Bunbury advises that the development the subject of this development approval must comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997* in relation to noise emissions. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.
- (m) The City of Bunbury advises that the development the subject of this development approval must comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Unauthorised Discharge) Regulations 2004* in relation to discharges into the environment. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100.
- (n) The premises and equipment the subject of this development approval is required to comply with clause 3.2.3 of the Australian Food Safety Standards.

Regardless of whether a building permit is required, application shall be made to the City of Bunbury's Environmental Health Services for assessment and approval prior to commencing development.

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

- the use of each room/area;
- the structural finishes of walls, floors, ceilings, benches, shelves and other surfaces;
- the position and type of all fixtures, fittings and equipment;
- all sanitary conveniences, floor wastes/bucket traps/cleaner's sinks, grease traps, etc.;
- waste storage and disposal areas;

- plans and specifications of the mechanical exhaust system if cooking is to take place in the food business;
- specifications of all cooking equipment (stoves, ovens, fryers, etc.);
- elevations of food handling and storage areas; and
- details of the types of food being prepared or sold.

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

A final inspection of the premises will be required to be carried out by Environmental Health Services prior to commencing operation. Further information may be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100.

- (o) The development is defined as a 'food business' under the *Food Act 2008*. The development must comply with the *Food Act 2008* and *Food Regulations 2009*. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.
- (p) The development the subject of this development approval must comply with the requirements of the *Health (Miscellaneous Provisions) Act 1911*.
- (q) The development the subject of this development approval is required to comply with the City of Bunbury Health Local Laws 2001.

### 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:	Unit 6, Block C, Lot 108 (#42) Strickland Street, Bunbury
Existing TPS7 Zoning:	'Mixed Business Zone'
Draft LPS8 Zoning	'Service Commercial Zone'
Existing Land Use:	Office
Lot Area:	98, 295 m <sup>2</sup>

A development application for a change of use to 'tavern' at the subject tenancy was approved by Council at its ordinary meeting held on 27 May 2014. A copy of the previous development approval is **attached** an Appendix DPDS-3.

The proposed tavern is located within the Homemaker Centre located approximately two kilometres to the south of the Bunbury central business district (CBD). The Homemaker Centre consists solely of commercial tenancies and there are no residential premises in the near vicinity.

The proposal involves a change of use of the 394m<sup>2</sup> tenancy from its former use as an office for Plunkett Homes to a tavern, trading under the name 'Homemakers Tavern'. The proposed tavern is to consist of a combination of alfresco dining and lounge areas providing table service for breakfast, lunch and dinner. The proposed operating hours being:

- 7am to 10pm Monday to Thursday;
- 7am to 10:30pm Friday;
- 8am to 10:30pm Saturday; and
- 9am to 10pm Sunday and Public Holidays.

The proposal includes a number of changes to the façade of the building as follows:

- new windows and bi-fold doors to the southern and eastern elevations;
- installation of glass balustrading to alfresco dining areas;
- reconstructing kerbing on the south-west of the subject tenancy to improve delivery vehicle access;
- replacement of existing verandahs; and
- construction of a pylon sign near the south east corner of the tenancy.

A location plan showing the subject site and its surrounds is **attached** at Appendix DPDS-4.

Development plans (consisting of a site plan and elevation drawings) is **attached** at Appendix DPDS-5.

Site photos of the subject tenancy is **attached** at Appendix DPDS-6.

Applicant's justification for the proposed change of use to 'tavern' is **attached** at Appendix DPDS-7.

### **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*;
- 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);
- Local Planning Policy 3.1: Access and Parking for Pedestrians, Bicycles and Vehicles; and
- Local Planning Policy 3.2: Building Façade of Commercial and Industrial development.

### **Officer Comments**

Based on the public submissions received, the objections to the proposed tavern mainly related to perceptions regarding:

- location of the proposed tavern outside of the 'City Centre Zone';
- anti-social behaviour associated with excess drinking; and
- that there were already a sufficient number of established liquor outlets.

In regards to the location of the proposed tavern it is noted that a ‘tavern’ land use is an ‘A’ use in the ‘Mixed Business Zone’, and as such, Council may exercise its discretion in granting development approval following advertising of the proposal.

In regards to concerns relating to the potential for anti-social behaviour, it is acknowledged that a tavern and the associated consumption of alcohol can lead to anti-social behaviour if poorly managed and policed. Nevertheless, it is considered that these concerns will be addressed through the liquor licensing application process. In addition, the licensing process will require a Public Interest Assessment to be submitted detailing agency and public support for the proposal.

Whilst it is acknowledged that excessive alcohol consumption can lead to the risk of anti-social behaviour if not mitigated by environmental and sociological factors, given that there are no residential premises in close proximity to the subject site, it can be accepted that the proposal will have limited potential for impacting negatively on the amenity of the locality.

In regards to concerns that there are already a sufficient number of liquor and food outlets in the city, it should be noted that the issue of managing or controlling market competition is not a valid planning consideration outside of the statutory framework provided by the WAPC’s Activity Centres for Greater Bunbury Policy (2012).

In addition to the above, the submission received by WA Country Health requested Council to consider the likely impacts on the surrounding community should a tavern license be issued for the premise. In particular, WA Country Health asked for Council to consider the following:

- the risk of positioning a tavern in a family centred retail area;
- granting the sale of packaged liquor or not;
- placing a restriction on trading and extended trading hours;
- setting a lower capacity limit of less than 300 persons;
- considering alternative transport provisions; and
- capacity to offer adequate night time surveillance in the tavern vicinity.

It is acknowledge that the comments received from WA Country Health aim to minimise the effects of alcohol related crime and disease on the community. However, not all of those issues raised as considerations by the agency fall within the scope of the *Planning and Development Act 2005*.

With regards to this particular application it is noted that the tavern proposes to close by 10:30pm with the aim of the tavern to predominately service surrounding businesses during the day. Therefore, the hours already proposed by the application are less than the permitted trading hours possible under a tavern license. For this reason it is not considered necessary to restrict any further the proposed trading hours or impose any condition requiring alternative transport options to customers.

With regards to the sale of packaged liquor, it should be noted that the Department of Local Government, Sport and Cultural Industries are the responsible authority for the control and regulation of taverns, and as such, the permissibility of the sale of packaged liquor will be addressed through the liquor licensing application process.

With regards to surveillance of the tavern the applicant has advised that lighting within the adjoining car parking areas has recently been upgraded to brighter LED lighting. Given the proposed tavern is located in an established commercial precinct, which is currently serviced with adequate lighting and that the installation of Closed Circuit Television (CCTV) will form part of the



standard conditions of a liquor licence, it is considered the proposal is able to provide adequate night time surveillance.

Furthermore, it is noted that staff of the proposed tavern will be required under the *Liquor Control Act 1988* to undertake mandatory training in the responsible service of alcohol. The minimum requirements for training in harm-minimisation techniques and to ensure safer venues where alcohol is served is a key factor in the mitigation of anti-social behaviour as will be required and mandated under a tavern license.

### **Existing Town Planning Scheme**

Officers consider the application generally complies with the development standards of the existing City of Bunbury Town Planning Scheme No. 7 (TPS7) and associated local planning policies. The subject tenancy is located within the 'Mixed Business Zone' and as such a 'tavern' use is an 'A' use in this zone. This means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 9.4 of the Scheme.

### **Draft Local Planning Scheme**

Local planning schemes serve as an important tool in shaping a community's liquor environment outside of the *Liquor Control Act 1988*. Hence, the draft Scheme's Zoning Table was deliberately formulated with consideration of a wide range of factors in terms of what land uses aligned with the zoning objectives and what was considered generally compatible or incompatible (i.e. conflicting) uses with each other.

This included consideration of best practice for where licensed venues should be located, guidance for which is provided by a range of sources such as the WA Drug and Alcohol Office publication titled 'Local Government Alcohol Management Package: A toolkit to assist Western Australian Local Governments' (2007).

As such, it should be noted that the land use class of 'tavern' will not be a permitted use (i.e. 'X') in the new 'Service Commercial Zone' of the draft Local Planning Scheme No. 8 (LPS8). The principle reason being that tavern uses do not accord with the model provision's objectives for the future 'Service Commercial Zone', which are:

- To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites.
- To provide for a range of wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in the regional centre, other activity centres or industrial zones.

Furthermore, tavern uses are typically high trip generating activities that are pedestrian oriented entertainment uses, which are generally more appropriately located in an activity centre, mixed use or a tourism zone. As such, the new Scheme encourages taverns, along with restaurants and cafes, to be established within the hierarchy of activity centres, along linking activity corridors or in destination tourism precincts, all of which have both day and night time economies.

Tavern uses are also characteristically licensed venues that operate after normal business hours, and should ideally be located in places serviced by a range of alternative transport modes, as

opposed to fringing bulky goods showroaming and service industry like environments - which are by definition dependent upon being accessed by private motor vehicles. Nevertheless, the 'Service Commercial Zone' proposes a range of appropriate land uses classes that can provide the necessary food and beverage opportunities in bulky goods retailing areas, such as:

- 'fast food outlet';
- 'lunch bar'; and
- 'liquor store' small and large, which are often associated with a drive-through service option for customers.

In this case, the current tavern proposal could nevertheless be considered in the Homemaker Centre location, based on an assessment of its individual merits, by accommodating its approval as an 'Additional Use' under the new Scheme.

### **Options**

In accordance with clause 68 of the deemed provisions under the *Planning and Development (Local Planning Schemes) Regulations 2015*, the local government may determine an application for development approval by:

- (a) granting development approval without conditions; or
- (b) granting development approval with conditions; or
- (c) refusing to grant development approval.

In this instance, the granting of development approval for the proposal with the appropriate conditions is recommended.

### **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 reconsideration of development approval under clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

In addition the applicant may apply for a review of the decision through the State Administrative Tribunal (SAT). If the decision is forwarded to the SAT for appeal, the City of Bunbury may incur legal costs.

### **Community Consultation**

The proposed 'tavern' is an 'A' use which can be considered by the local government following a public consultation procedure undertaken in accordance with the deemed provisions of the Scheme.

The application was advertised for public comment from 5 September 2017 to 22 September 2017. Public consultation included the following measures:

- letters to surrounding landowners and occupiers;
- public notification signs erected on the subject site;

- notice of the proposal published in a locally circulated newspaper; and
- notice of the proposal on the City of Bunbury website.

In response a total of 51 submissions were received during the public consultation period; 49 submissions of support and two submissions of objection. It is noted that 44 of the 49 submissions of support were submitted as a standard letter stating:

*'I fully support a tavern at the Homemakers Centre, a tavern will give a place to meet after work and socialise with colleagues.'*

The application was also referred to the following state government agencies from 5 September to 16 October 2017:

- Department of Health;
- Western Power;
- Department of Mines, Industry Regulation and Safety; and
- Department of Local Government, Sport and Cultural Industries.

In addition, the application was referred to the Bunbury Alcohol Accord which is supported by the City of Bunbury. In response to the above advertising, submissions were also received from Western Australia Country Health Services and the Liquor Licensing Division of the Department of Local Government, Sport and Cultural Industries.

The Schedule of Submissions is **attached** at Appendix DPDS-8.

The applicant's response to the comments made in the Schedule of Submissions is **attached** at Appendix DPDS-9.

#### **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, and the applicant has expressed their satisfaction with the outcome of the assessment.

#### **Outcome – Council Meeting 14 November 2017**

Cr Steck declared a financial interest in the item and left the chamber for the duration of the discussion and the vote on the matter at 5.39pm.

Mr Ross Underwood addressed Council in relation to this item.

The recommendation (as printed) was moved Cr Hayward, 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 409/17**

***That Council:***

***In accordance with the Planning and Development Act 2005 (as amended), hereby resolves to grant development approval for a 'tavern' use at Unit 6, Block C, at Lot 107, (#42) Strickland Street, South Bunbury, subject to the following conditions:***

- 1. At all times, the development the subject of this development approval must comply with the definition of 'tavern' use as contained in Schedule 1 of the City of Bunbury Local Planning Scheme.***
- 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. Except with the prior written consent of the City of Bunbury, the approved use must only operate between the following hours:***  
  
***7 am to 10 pm Monday to Thursday;***  
***7 am to 10:30 pm Friday;***  
***8 am to 10:30 pm Saturday; and***  
***9 am to 10 pm Sunday and Public Holidays.***
- 5. At all times, provision must be made onsite for the storage and collection of garbage and other solid waste. A waste storage and collection area must be graded, drained and screened from public view, and the garbage collected regularly, to the satisfaction of the City of Bunbury. Details to be submitted before the development commences.***
- 6. All deliveries to and from the site from the loading bay located in Clive Lane at the rear of the property must not obstruct or interfere with the operation of the existing fast food outlet drive-thru.***
- 7. 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 and Charges Schedule), details of the relevant development approval are required (e.g. 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 City of Bunbury advises that where a development approval contains conditions which are required to be discharged before development commences, to commence development before those conditions are discharged means that the development is not pursuant to the planning permission and is therefore unauthorised development.*
- (d)** *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 (BCA). 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 team on (08) 9792 7000.*
- (e)** *The applicant is advised that before the development is occupied, video surveillance equipment must be installed in accordance with its tavern license. The surveillance equipment is to record and monitor crowd behaviour at all entry and exit points. The footage from this surveillance must be kept by the licensee for a period of thirty days from the date of surveillance and the tapes made available to an authorised officer of the Western Australian Police or a licensing inspector on demand.*
- (f)** *The development the subject of this development approval is also regulated by the Liquor Control Act 1988. The applicant is advised to contact the liquor licensing division of the Department of Local Government, Sport and Cultural Industries in regards to submitting an application for a tavern license. A tavern license is required to be obtained prior to commencement of operation.*
- (g)** *The applicant is advised that no solid structures or objects higher than one (1) metre above natural ground level shall be located within a 2.5m by 2.5m truncation area as indicated in red on the approved plans. This is to ensure that adequate sightlines are maintained for vehicles exiting Clive Lane.*
- (h)** *It is the applicant's responsibility to ensure all required approvals are obtained prior to the works commencing. Works such as de-watering, native vegetation clearing or working near existing infrastructure may require separate approvals from relevant private or government agencies.*
- (i)** *The applicant is advised that the Tobacco Products Control Act 2006 requires that reasonable steps are undertaken to prevent smoke from tobacco products entering enclosed public places. The Department of Health recommends no smoking within a minimum five (5) metres from entrances and openings to any buildings and public places.*
- (j)** *With reference to Condition 7, a waste management plan is to be submitted for the approval of the Manager Environmental Health Services. The plan will detail how and*

*where waste produced during the operation the subject of this approval will be stored, handled and removed.*

- (k)** *The development must comply with the requirements of the Health (Public Buildings) Regulations 1992. Regardless of whether a building permit is required, application shall be made to the City of Bunbury's Environmental Health Services team for assessment and approval prior to the commencement of development.*

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

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

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

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

- (l)** *The City of Bunbury advises that the development the subject of this development approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.*

- (m)** *The City of Bunbury advises that the development the subject of this development approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100.*

- (n)** *The premises and equipment the subject of this development approval is required to comply with clause 3.2.3 of the Australian Food Safety Standards.*

*Regardless of whether a building permit is required, application shall be made to the City of Bunbury's Environmental Health Services for assessment and approval prior to commencing development.*

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

*the use of each room/area;  
the structural finishes of walls, floors, ceilings, benches, shelves and other surfaces;*

***the position and type of all fixtures, fittings and equipment;  
all sanitary conveniences, floor wastes/bucket traps/cleaner's sinks, grease traps, etc.;  
waste storage and disposal areas;  
plans and specifications of the mechanical exhaust system if cooking is to take place in  
the food business;  
specifications of all cooking equipment (stoves, ovens, fryers, etc.);  
elevations of food handling and storage areas; and  
details of the types of food being prepared or sold.***

***Please refer to the City of Bunbury's Requirements for the Establishment, Construction  
and Fit Out of Food Premises available on the website at [www.bunbury.wa.gov.au](http://www.bunbury.wa.gov.au).***

***A final inspection of the premises will be required to be carried out by Environmental  
Health Services prior to commencing operation. Further information may be obtained  
from the City of Bunbury's Environmental Health Services on (08) 9792 7100.***

- (o) The development is defined as a 'food business' under the Food Act 2008. The  
development must comply with the Food Act 2008 and Food Regulations 2009. Further  
information can be obtained from the City of Bunbury's Environmental Health Services on  
(08) 9792 7100 or (08) 9792 7000.***
- (p) The development the subject of this development approval must comply with the  
requirements of the Health (Miscellaneous Provisions) Act 1911.***
- (q) The development the subject of this development approval is required to comply with the  
City of Bunbury Health Local Laws 2001.***

CARRIED  
11 votes "for" / 1 vote "against"

Cr Steck returned to the chamber at 5.45pm.

## 11. Applications for Leave of Absence

Nil.

## 12. Motions on Notice

### 12.1 Motion on Notice – Destination Park

<b>Author:</b>	Councillor Brendan Kelly
<b>Executive:</b>	Stephanie Addison-Brown, Director Corporate and Community Services
<b>Attachments:</b>	MON-1 Precinct 2 – Koombana South

Cr Kelly has submitted the following motion for the Ordinary Council Meeting of 14 November 2017.

#### Summary

The purpose of this Motion on Notice is for Council to consider the adoption and implementation of the project 'Destination Park', consisting of a new skate park and family recreation facilities at Lucianna Park, Koombana South.

#### Councillor Recommendation

That Council:

1. Deletes existing project PR-2768 'Undertake works to complete the implementation of the Leschenault Inlet Master Plan (LIMP) Precinct 2 – Water Playground Landscaping' from the 2017/18 Budget.
2. Adopts a new project PR-XXXX 'Develop Lucianna Park (Destination Park)' in the 2017/18 Budget, with expenditure of \$3.1 million.
3. Transfers the \$1 million loan allocation from PR-2768 into the new project PR-XXXX created at point 2 above.
4. Identifies the balance of funding (\$2.1 million) for PR-XXXX to be sourced from State or Federal Government grants.
5. Requests the Chief Executive Officer to undertake all requisite statutory advertising in this regard, namely advertising the amended purpose of the loan funds.
6. Requests the Chief Executive Officer to provide a report and recommendations to Council on the process to implement new project PR-XXXX prior to the final Ordinary Council Meeting of 2017.



### **Executive Recommendation**

That Council:

1. Agree to consider the development of a youth precinct (Destination Park) within the City of Bunbury.
2. Refer the development of the proposed youth precinct (Destination Park) project to the Youth Advisory Council for consultation and input from Bunbury youth, to consider amongst other things; possible locations, infrastructure requirements and funding options.
3. Request the Chief Executive Officer to prepare a report for consideration to develop a new project for a youth precinct (Destination Park) that takes into account the Youth Advisory Council considerations, appropriate outcomes from the Strategic Community Plan and appropriate outcomes from the Youth Survey by the last Council meeting in April 2017 for consideration in the 2018/19 budget.

### **Background**

Council has previously allocated \$1 Million of loan borrowings in the 2017/18 Budget to project PR-2768 'Undertake works to complete the implementation of Leschenault Inlet Master Plan (LIMP) Precinct 2 - Water Playground, Landscaping'.

The total estimated budget for the project was \$7,344,443.

This Motion on Notice is intended to uphold the \$1 Million allocation and create a new project, 'Develop Lucianna Park (Destination Park)'.

The total estimated budget for the new project is \$3.1 Million.

The 'Destination Park' project will create a new skate facility and family recreation amenities at the Lucianna Park, Koombana South precinct, including accessible play equipment, a water play area, picnic tables and seating walls, barbecue facilities, shade structures, public toilets, in a newly landscaped environment.

### **Strategic Relevance**

The project satisfies several Key Priority Areas of the City of Bunbury 'Community Strategic Plan 2030', particularly:

Key Priority Area 1 - 'Community and Culture'

- Objective 1.4 'Increase participation in sport and leisure activities'.

Key Priority Area 2 - 'Transport and Infrastructure'

- Objective 2.2 'Maintain a high standard of recreational open space and facilities',
- Objective 2.3 'Maintain a high standard community infrastructure'

Key Priority Area 3 - 'Natural and Built Environment'

- Objective 3.3 'Improve public health and safety'
- 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... social development'

**Councillor Comments**

The City of Bunbury seeks to enhance community well-being and the quality of life for the people who live and work in Bunbury.

The City promotes all age groups and abilities being able to access a high standard of sport and recreation facilities, making a significant contribution to community health and well-being.

Currently the land at Lucianna Park remains as an underutilised and largely unattractive space in a prominent position on the Leschenault Inlet.

Given that previous efforts to promote the water playground project at Lucianna Park (PR-2768) have not succeeded, in a large part due to the lack of funding, the new project provides an alternative, less expensive and practical option.

The 'Destination Park' project fulfils the City's strategic objectives and has community support, including that of the 'Bunbury Needs a New Skatepark' group, which previously presented this concept to Council.

'Destination Park' will be an all age area, close to the Bunbury CBD, which will be designed and promoted to attract locals and visitors alike, bringing social, cultural and economic benefits to the City.

**Officer Comments**

The Director Works and Services, Director Corporate and Community Services and the Community Development Officer (Youth) have met with Jon Dixon twice to discuss his proposal for 'Destination Park' and have requested Mr Dixon meet with the new Youth Advisory Council. The Youth Advisory Council can then consider the proposal from the youth point of view and discuss if this is what the youth want and if it is a project the Youth Council want to be active in. It is proposed that this will occur in December 2017. From this officers believe that the Youth Advisory Council, in collaboration with officers, would provide a report back to Council to consider.

The City is about to commence a review of the Strategy Community Plan and has recently completed a youth survey, the results of which are yet to be published. The survey identified a number of priorities, from the youth of Bunbury's perspective and whilst there was some mention of a skate park, this was not as well supported as other priorities identified.

The City is currently in negotiations with Beston Parks which includes adjacent land for future development. The \$1 million loan currently under PR-2768 may still be required for the implementation of a water park or playground. Officers could not support these funds being reallocated until such time as Council has a formal position in regards to a water playground. It should be noted Beston Parks will be presenting concepts for Council's consideration on 28 November 2017.

It is proposed that following the release of the Youth Survey results and leading on from the presentation from Beston Parks, this concept should be considered alongside other priorities in the Strategic Community Plan.

While the recommendation nominates Lucianna Park as the location for 'Destination Park' further work would need to be undertaken with the community to determine the suitability of the site for the purpose of a youth precinct / 'Destination Park' and for consideration of any other locations within the City of Bunbury.

The current Leschenault Inlet Management Plan shows the area being retained as an 'A' class reserve and developed as a key tourist destination with a family focus with year round activity. The plan shows a water park, adventure playground, change rooms, kiosk/café and public toilets.

The proposal started as a request for a new skate park but has developed beyond this into a youth precinct which may have a variety of activities included in the area. At this stage no planning works have been undertaken to determine what activities may be included or what budget would be required to develop the area. The budget isn't based on any plans or requirements and would rely on being able to attract an additional \$2.1 million in matching grant funding from either state or federal sources. Currently most grant funding opportunities rely on a 50/50 contribution and are aimed at economic development and job creation.

For the project to progress funds need to be allocated to undertake project planning works such as community consultation, site investigation, concept design development, detail design, tender documentation, business case development and have the project "shovel ready" to make grant applications. For Council to consider the project on its merits further investigative works need to be undertaken to allow for the project scope and budget to be identified.

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

Council has previously allocated \$1 Million of loan borrowings in the 2017/18 Budget to project PR-2768 'Undertake works to complete the implementation of Leschenault Inlet Master Plan (LIMP) Precinct 2 - Water Playground, Landscaping', in a total estimated budget of \$7,344,443.

The new 'Destination Park' project has a notional cost of \$3.1 Million, which will need to be accurately quantified by further investigations.

The shortfall of funds will be met by seeking Federal or State Government grants funds, although private funding through philanthropic grant sources, or crowd funding, may be considered as options.

There will be positive effect by the addition of expanded Regional tourism opportunities, job creation and employment.

#### **Outcome – Council Meeting 14 November 2017**

Cr Kelly did not move the motion when called upon, therefore in accordance with Clause 5.3(5) of the *City of Bunbury Standing Orders Local Law 2012* the motion lapsed.

### **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**

Cr Steele requested to raise a matter of urgent business regarding the state of the exeloo toilets at Jetty Baths, which was brought to her attention that afternoon.

Cr Steele moved, Cr McCleary seconded a motion to accept the item as a matter of urgent business:

*That Council pursuant to section 5.4 of Council's Standing Orders, agree to receive the item as a matter of urgent business.*

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

**Council Decision 410/17**

***That Council pursuant to section 5.4 of Council's Standing Orders, agree to receive the item as a matter of urgent business.***

CARRIED  
10 votes "for" / 3 votes "against"

Cr Steele moved, Cr McCleary seconded the motion as follows:

*Direct the CEO to investigate putting portable toilets near the broken toilets at Jetty Baths.*

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

**Council Decision 411/17**

***Direct the CEO to investigate putting portable toilets near the broken toilets at Jetty Baths.***

CARRIED  
13 votes "for" / Nil votes "against"

## **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 Mayor declared the meeting closed at 5.55pm.