



## City of Bunbury Council

### Minutes

12 December 2017



**CITY OF BUNBURY**

4 Stephen Street  
Bunbury WA 6230  
Western Australia

*Correspondence to:*  
Post Office Box 21  
Bunbury WA 6231

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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 of Meeting

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, 12 December 2017 at 5.30pm.

### Minutes

12 December 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 the Annual General Meeting of Electors was held on Tuesday 5 December 2017. The motions moved by electors will be presented to the next Council Meeting held 23 January 2018.

## 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 G Harris
Acting Director Works and Services	Mr S Millen
Acting Director Corporate and Community Services	Ms S Chapman
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 Information Communications and Technology	Mr M Roberts
Corporate Marketing Officer	Mrs L Gallo
Team Leader Development Assessment and Compliance	Mr M Young
Team Leader Strategic Planning and Urban Design	Mr K Storey
Council Meeting Support Officer	Ms J Earl
<b>Others (Non-Voting)</b>	
Members of the Public	5
Members of the Press	3

### 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 Steck declared a proximity interest in item 10.5.1 titled ‘Tender – Reconstruction Strickland Street and King Road Roundabout’ as her partner owns a proximity property. Cr Steck will leave the chamber for the duration of the discussion and the vote on the matter.

Cr Steck declared a proximity interest in item 10.5.3 titled ‘Spencer Street and Cornwall Street Intersection Upgrade’ as her partner owns property in the street. 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 28 November 2017 have been circulated.

#### **Recommendation**

The minutes of the Ordinary meeting of the City of Bunbury Council held 28 November 2017 be confirmed as a true and accurate record.

#### **Outcome – Council Meeting 12 December 2017**

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

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

#### **Council Decision 435/17**

***The minutes of the Ordinary meeting of the City of Bunbury Council held 28 November 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 checked="" type="checkbox"/> Information Purposes
<b>Attachments:</b>	Appendix MTBN-1 – Heritage Advisory Committee Minutes – 8 November 2017

#### Summary

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

1. Title: Heritage Advisory Committee Minutes – 8 November 2017  
Author: Lacey Brown,  
Appendix: MTBN-1

#### Council Committee Recommendation

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

1. Heritage Advisory Committee Minutes – 8 November 2017

#### Outcome – Council Meeting 12 December 2017

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

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

#### Council Decision 436/17

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

1. ***Heritage Advisory Committee Minutes – 8 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***

#### **Mr Gary Fitzgerald, Tecon WA Pty Ltd**

Mr Gary Fitzgerald requested to address item 10.4.1 titled “*Development Application for Workshop Extension at Lot 71 (#2) Beddingfield Street, Davenport*”.

#### **Council Decision 437/17**

*Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Gary Fitzgerald’s deputation request to address item 10.4.1 titled “Development Application for Workshop Extension at Lot 71 (#2) Beddingfield Street, Davenport” and allows a period of up to 5 minutes to present to Council.*

CARRIED

13 votes “for” / Nil votes “against”

### **8.4 *Council Delegates’ Reports***

Nil.

### **8.5 *Conference Delegates’ Reports***

Nil.

## 9. Method of Dealing with Agenda Business

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

Pursuant to Standing Order 5.5, the Council “*adopted by exception*” (i.e. without discussion) the recommendation listed for item 10.5.2.

Items 10.1.1, 10.2.1, 10.3.1, 10.3.2, 10.4.1, 10.5.1 and 10.5.3 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 item “*adopted by exception*” was moved Cr Cook, seconded Cr McGuinness.

## 10. Reports

### 10.1 *Tender - Pipeline Construction Horseshoe Lake (was listed as item 10.5.2 on the Council Agenda)*

<b>File Ref:</b>	RFT1718-00008
<b>Applicant/Proponent:</b>	Internal
<b>Responsible Officer:</b>	David Russell, Senior Contracts and Procurement Officer
<b>Responsible Manager:</b>	Shaun Millen, Manager Engineering
<b>Executive:</b>	Gavin Harris, Director Works and Services
<b>Authority/Discretion</b>	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
<b>Attachments:</b>	CRUSC-2: Evaluation Report – Horseshoe Lake

#### Summary

Tenders for the Pipeline Construction Horseshoe Lake have been received and Council is requested to appoint the preferred Tenderer as the contractor.

#### Executive Recommendation

That Council:

1. Accept the Tender as recommended within the Confidential Report.
2. Authorise the Chief Executive Officer to enter into a contract with the successful tenderer for the Horseshoe Lake Pipeline Construction.

#### Strategic Relevance

Key Priority Area 2      Transport and Infrastructure  
Objective 1              Maintain transport infrastructure at levels consistent with community expectations.

#### Background

The City has a linked stormwater drainage network between Horseshoe Lake, Stubbs Close (SC) drainage basin and the outflow to the Preston River. The City manages stormwater runoff within this network through a combination of gravity pipes, drainage basins, two pump stations and two pressure discharge mains. Much of the infrastructure that allows this management is ageing and will soon require upgrading. There is also increasing demand on the network, designed to cope with a significantly lower density catchment, from ongoing urban development in the area (residential and commercial).

To improve the Horseshoe Lake stormwater drainage network, the City engaged a consultant to complete the design of a new pump station and new discharge pipeline from Horseshoe Lake to the Preston River. The City of Bunbury wishes to engage a suitable contractor to upgrade the Horseshoe Lake Pump Station and Discharge Pipeline.

The tender was advertised in the West Australian newspaper on Saturday 14 October 2017. The tender document was made available via [www.tenderlink.com/bunbury/](http://www.tenderlink.com/bunbury/).

A total of 2838 suppliers viewed the advertisement, 55 companies downloaded the documentation, and at closing 8 responses was received from:

Advanteering – Civil Engineers	590 Newcastle Street, WEST PERTH 6005
Cobey Projects Pty Ltd	37 Roscoe Street, HENDERSON WA 6166
DIG Deep Contracting Pty Ltd	PO Box 6406, BUNBURY WA 3260
Geographe Civil Pty Ltd	PO Box 5070, BUNBURY WA 3260
Maintenance and Construction Services Australia (MACS)	2/32 Mandurah Road, KWINANA WA 6167
Quality Assured Contracting Pty Ltd	PO Box 3449, MANDURAH EAST WA 6210
RCR Water Pty Ltd	PO Box C130, PERTH BC 6849
Rob Carr Pty Ltd	PO Box 396, WELSHPOOL WA 6986

An evaluation panel comprising internal staff evaluated the responses as follows:

- Director Works and Services (Voting)
- Manager Engineering (Voting)
- Technical Engineering Officer (Voting)
- Senior Contracts and Procurement Officer (non-voting/chairperson)

The tenders were evaluated using the following criteria:

Compliance Criteria – Yes / No answers

Qualitative Criteria weighting

1. 20% Relevant Experience
2. 20% Key Personnel Skills and Experience
3. 20% Tenderer's Resources
4. 20% Demonstrated Understanding
5. 20% Price

*Evaluation of the tender prices (and ranking) has been assessed but because the results are "commercial in confidence" details are listed in a Confidential Report that has been circulated to members under separate cover at Appendix CRUSC-2.*

### **Council Policy Compliance**

Tendering for goods and services is conducted in accordance with:

- Purchasing Local Preferences Policy
- Access and Inclusion Policy

### **Legislative Compliance**

Advertising and processing of tenders was conducted in accordance with:

- *Local Government (Functions and General) Regulations 1996, Part 4 Tender for Providing Goods or Services*

- *Local Government Act 1995*

The cost of this procurement exceeds the Chief Executive Officer's level of authority, therefore it has been dealt with in accordance with *Local Government (Functions and General) Regulations 1996* (Part 4 - Tenders for Providing Goods or Services).

**Officer Comments**

All members of the evaluation panel have signed a declaration of confidentiality and interest to ensure probity.

**Analysis of Financial and Budget Implications**

This project is funded out of the 2017/2018 budget for an amount of \$1, 500 357 excluding GST through PR-2421, Construct Stormwater Quality and Capacity Improvements Horseshoe Lake Catchment East Bunbury. As at 28<sup>th</sup> November 2017 there is \$1, 442 716 excluding GST in available funds to complete the project.

The procurement estimate for the construction tender was estimated to be approximately \$1.2 million dollars excluding GST. The proposed contract amount is below the budgeted estimate for the construction tender and within available funding for the project.

**Community Consultation**

The works do not directly affect the frontage of adjacent properties. The appointed contractor will be required to undertake a letter drop prior to the commencement of works for residents.

**Councillor/Officer Consultation**

The Director of Works and Services, Manager Engineering and Engineering Technical Officers has been consulted regarding this project with an appropriate design solution identified.

**Outcome – Council Meeting 12 December 2017**

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

**Council Decision 438/17**

***That Council:***

- 1. Accept the offer made by Geographe Civil Pty Ltd for the lump sum of \$969,611 excluding GST for the Horseshoe Lake Pipeline Construction.***
- 2. Authorise the Chief Executive Officer to enter into a contract with Geographe Civil Pty Ltd for the Horseshoe Lake Pipeline Construction.***

CARRIED

13 votes "for" / Nil votes "against"

**10.2 Retrospective Application for Patio, Outbuilding and Installation of Solar Panels at Lot 1 (#3) Hayes Street, East Bunbury (was listed as item 10.1.1 on the Council Agenda)**

<b>File Ref:</b>	5/2017/48/1
<b>Applicant/Proponent:</b>	Patricia Tapper
<b>Responsible Officer:</b>	Anthony Pick, 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"/> 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 RAC-1: Site Plan, Development Plans and Information Appendix RAC-2: Site Photographs Appendix RAC-3: City of Bunbury Stop Work Notice

**Summary**

The City of Bunbury has received a development application seeking retrospective development approval for an outbuilding, patio and installation of solar panels at Lot 1 (#3) Hayes Street, East Bunbury. The property is included on the Heritage List, under the City of Bunbury Town Planning Scheme No. 7 (the Scheme), and is located within the Stirling Street Heritage Area.

The main issue with the development is that the solar panels were installed after the City of Bunbury formally advised the applicant to stop works in respect of the construction of an unauthorised patio and outbuilding, which were commenced without development approval.

The solar panels were installed on the verandah and main roof fronting the primary street and are highly visible in the streetscape. The siting of the solar panels is inconsistent with the draft Local Planning Policy: East Bunbury Heritage Area and is considered to adversely affect the significance of the heritage place and the heritage area.

Furthermore, in this case, the dwelling has a large expanse of roof to the rear which could be used to site the solar panels and be orientated on brackets to face north for maximum efficiency. It is therefore recommended that development approval be granted subject to conditions, namely the relocating of the solar panels to the side or rear of the roof.

**Heritage Advisory Committee Recommendation**

That the Heritage Advisory Committee recommends retrospective development approval, subject to the following draft conditions:

1. All development shall be in accordance with the approved development plans (attached) which form part of this development approval.
2. Within sixty (60) days from the date of this development approval the installed solar panels shall be relocated from the primary street frontage to the side or rear of the dwelling in accordance with details to be submitted and approved by the City of Bunbury. The solar panels shall be re-installed in accordance with the approved details.



3. 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.
4. The boundary walls, including footings and associated structures, shall be constructed wholly within the lot boundaries and finished to a quality finish and professional standard, to the satisfaction of the City of Bunbury.

Advice Notes:

- (a) The patio (gazebo) the subject of this development approval is also regulated by the *Western Australia Building Act 2011*, *Building Regulations 2012* and Building Code of Australia. The owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.

**Executive Recommendation**

That Council:

In accordance with the *Planning and Development Act 2005* (as amended) hereby resolves to approve the retrospective approval for a patio, outbuilding and installation of solar panels at Lot 1 (#3) Hayes Street, East Bunbury (DA5/2017/48/1) subject to the following conditions of development approval:

1. All development shall be in accordance with the approved development plans (attached) which form part of this development approval.
2. Within sixty (60) days from the date of this development approval the installed solar panels shall be relocated from the primary street frontage to the side or rear of the dwelling in accordance with details to be submitted and approved by the City of Bunbury. The solar panels shall be re-installed in accordance with the approved details.
3. 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.
4. The boundary walls, including footings and associated structures, shall be constructed wholly within the lot boundaries and finished to a quality finish and professional standard, to the satisfaction of the City of Bunbury.

Advice Note:

- (a) The patio (gazebo) the subject of this development approval is also regulated by the *Western Australia Building Act 2011*, *Building Regulations 2012* and Building Code of Australia. The owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.

### Strategic Relevance

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

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

### Background

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

Property Address:	Lot 1 (#3) Hayes Street, East Bunbury
Zoning:	Residential Zone (R15/R40)
Existing Land Use:	Single House
Lot Area:	362.62m <sup>2</sup>
Heritage:	<ul style="list-style-type: none"><li>• Included on the Heritage List;</li><li>• Located within the Stirling Street Heritage Area; and</li><li>• Regional Heritage Place – to be assessed (14 November 2003).</li></ul>

### City of Bunbury Heritage List

The dwelling is included on the City of Bunbury Heritage List which is adopted under the Scheme. The Municipal Heritage Inventory (MHI) contains the following statement of significance for the place:

*'House, 3 Hayes Street, a single storey timber and iron house has cultural heritage significance for the following reasons:*

*The place is an example of a bungalow constructed in the Federation period; the place has landmark qualities and contributes significantly to an intact streetscape (including nos 3, 5, 7, 9 and 13 Hayes Street) and the community's sense of place.'*

### Stirling Street Heritage Area

The development site is located within the Stirling Street Heritage Area adopted in February 2008. The heritage area has been on the assessment program for consideration as a State registered place since 2003.

The MHI contains the following statement of significance for the heritage area:

*'Precinct which contains areas of high cultural significance illustrating the evolution of settlement with the period 1875 to 1925 particularly well represented. The precinct contains areas of aesthetic characteristics highly valued by the community; cultural landscapes and notable streetscapes, all ensconced in a collection of harmoniously related buildings. Illustrations of several major historic themes of human settlement are evident. The precinct is also important for a range of social, cultural, education and spiritual associations.'*

The proposed development plans and supporting information are **attached** at Appendix RAC-1 and officer site visit photographs are **attached** at Appendix RAC-2.

### ***Unauthorised Development***

The City of Bunbury wrote to the applicant in December 2016, see **attached** at Appendix RAC-3, giving notification to stop works in relation to the unauthorised construction of a gazebo and shed. The applicant was advised that as the property was on the Heritage List and that all internal and external works would require development approval.

The applicant sought to regularise the unauthorised development by lodging an application for retrospective development approval in March 2017. However, the application was incomplete and further information requests were sent 13 March 2017, 11 April 2017, and 25 May 2017. In response to the City of Bunbury's request of 25 May 2017 the applicant advised that the development was on hold.

The City of Bunbury contacted the applicant again on 3 and 10 August 2017 advising that the application could not be deferred indefinitely and requested a meeting with the applicant. The applicant was also advised that it had come to the attention of the City of Bunbury that since the stop work notice had been issued the applicant had subsequently installed solar panels on the primary street frontage of the dwelling without development approval.

Following the meeting the applicant provided the required information and also sought retrospective development approval for the solar panels.

### ***Relevant Council Decisions***

Council recently granted (11 July 2017 and 7 February 2017) retrospective development approval for solar panels located on the primary street frontage at 51A and 49 Stirling Street in East Bunbury (Council Decisions 257-17 and 39-17).

It should be noted that the aforementioned applications were recommended for development approval by the Executive and the Heritage Advisory Committee. The recommendation was based on the fact that the solar panels had been installed prior to the draft Local Planning Policy: East Bunbury Heritage Area being advertised, and furthermore, weight was given to the length of time the panels had been installed prior to seeking development approval.

Following Council's decision the City of Bunbury wrote to solar panel companies both locally and in the metro area to remind installers of the need to seek confirmation that a residential property is neither on the Heritage List or located within a Heritage Area.

In this case the solar panels were installed post advertising of the draft Local Planning Policy: East Bunbury Heritage Area and following the City of Bunbury's letter advising the applicant not to undertake any internal or external works without development approval.

### **Legislative and Council Policy Compliance**

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

- *Planning and Development Act 2005 (as amended);*

- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *City of Bunbury Town Planning Scheme No. 7 (the Scheme);*
- *City of Bunbury Heritage List;*
- *Stirling Street Heritage Area;*
- *State Planning Policy 3.5: Historic Heritage Conservation;*
- *State Planning Policy 3.1: Residential Design Codes (R-Codes);*
- *Local Planning Policy: Heritage Conservation and Development Policy for Heritage Places;*
- *Local Planning Policy: Stirling Street Heritage Area;*
- *Draft Local Planning Policy: Development Assessment Process for Heritage; and*
- *Draft Local Planning Policy: East Bunbury Heritage Area.*

### **Officer Comments**

The subject site contains a single storey timber and iron house constructed in the Federation period, which makes a positive contribution to the streetscape and the heritage area generally.

### ***R-Codes Assessment***

The proposed development is assessed to be compliant with the deemed-to-comply and corresponding design principles requirements of the R-Codes. The main issue is therefore an assessment of the impacts of the development on the heritage place and the heritage area, specifically in relation to the installation of the solar panels.

### ***Heritage Assessment***

Policy measure 6.6 of State Planning Policy 3.5: Historic Heritage Conservation sets out the guiding development control principles in considering applications in relation to a place entered on the Heritage List and also addresses applications within a heritage area. The following provisions are considered relevant to the consideration of the application.

*‘Alterations, extensions or change of use affecting a heritage place:*

- (a) (Development should conserve and protect the cultural significance of a heritage place based on respect for the existing building or structure, and should involve the least possible change to the significant fabric.*
- (b) Alterations and additions to a heritage place should not detract from its significance and should be compatible with the siting, scale, architectural form, materials and external finishes of the place. Compatibility requires additions or alterations to sit well with the original fabric rather than simply copying or mimicking it.’*

*‘Development within a heritage area*

- (a) Development within a heritage area should respect and complement the heritage significance of the area as identified in the local planning policy. A respectful design approach gives special consideration to the siting, scale, architectural style and form, materials and finishes of the proposed development in relation to its neighbours, without copying historic detailing or decoration.*
- (b) Alterations and additions to existing buildings should be designed and sited in a manner that respects and complements the heritage significance of the area.’*

The above guiding principles are applied in the City of Bunbury's local planning policies on heritage matters.

The current adopted local planning policy for the Stirling Street Heritage Area does not explicitly make reference to solar panels or incidental development; however, the development would be considered under the following objectives of the policy:

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

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

The City of Bunbury is currently finalising its revised draft local planning policies on heritage conservation. As such, the advertised draft Local Planning Policy: East Bunbury Heritage Area proposes to include a performance based assessment and deemed-to-comply provisions in order to synchronise better with the R-Codes and Liveable Neighbourhoods.

The draft Local Planning Policy: East Bunbury Heritage Area has been publicly advertised for comment, and hence, is relevant to the consideration of applications for development approval in this case, due to the draft local planning policy being a planning instrument that is a seriously entertained planning proposal.

The following clauses of the draft Local Planning Policy: East Bunbury Heritage Area is applicable to this application.

Clause 8.4.1 states:

*'...that good conservation practice involves retaining significant building and landscape elements where possible.'*

Clause 9.1.2 states:

*'Desired Development Outcomes:*

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

Section 9.3 of the draft policy deals with alterations and additions and lists the following desired outcomes:

- (a) *All development should, as far as practicable, retain the significant character, detailing, orientation and setting of the heritage place.*
- (b) *Additions and new buildings/structures (including garages, carports, patios, swimming pools, gazebos etc.) should take account of the significance and character of the heritage place, involve the least possible alteration to significant fabric, retain the prominence of the original building in public views, and not unnecessarily obscure significant elements/details.*
- (c) *Additions and new buildings/structures should be set back behind the main façade.*

The solar panels are presently located on the primary street elevation and due to their scale are considered to be inconsistent with the draft Local Planning Policy: East Bunbury Heritage Area.

### ***Heritage Advisor Referral Response***

The assessing officer has discussed the application with the Heritage Advisor. The Heritage Advisor has verbally confirmed that previous comments apply in respect of the solar panels on the primary street elevation, which can be summarised as:

*‘The location of the solar panels is not consistent with the intent of the draft Local Planning Policy and it would set a precedent in the Stirling Street Heritage Area.*

*If the City of Bunbury were to approve solar panels on the primary street frontage then the cumulative impact of solar panels on the Stirling Street Heritage Area would be noticeable in the long run, and therefore the heritage value of the area would be diminished. It is recognised that the northern elevation provides maximum efficiency, but this should still be balanced with heritage outcomes.’*

### ***Conclusion***

The outbuilding and patio are considered to be acceptable, as they are sited behind the dwelling to the rear of the property and have limited impact on the heritage significance of the place or heritage area.

However, it is considered that the solar panels by reason of their prominent location and scale would adversely affect the significance of the heritage place and heritage area. Given that the preferred solution of avoiding the is feasible, it is recommended that retrospective development approval is granted subject to a condition requiring the relocation of the solar panels to the side or rear of the dwelling.

### ***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 review of the decision through the State Administrative Tribunal (SAT). If the decision is forwarded to SAT for appeal, the City of Bunbury may incur legal costs.

### **Community Consultation**

The application was referred to adjoining landowners for comment. No submissions were received.

The application was referred to the Heritage Advisory Committee at its meeting of 8 November 2017 for its recommendation, in order to inform Council's consideration of the application. The Heritage Advisory Committee discussed that the solar panels shouldn't be visible from the dominant roof elevation of the primary street.

The cost implications for relocating the solar panels was discussed but it was recognised that this work had occurred after the issue of a stop work notice advising the owner that any work requires a development approval since the property is heritage listed.

### **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**

Officers have met with the applicant to discuss preferred alternative options (e.g. the relocation of the solar panels). However, the applicant has subsequently confirmed that they do not intend to make any change to the siting of the solar panels due to the costs.

The applicant was advised that the application would be referred to Council for determination.

### **Outcome – Council Meeting 12 December 2017**

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

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

#### **Council Decision 439/17**

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

***In accordance with the Planning and Development Act 2005 (as amended) hereby resolves to approve the retrospective approval for a patio, outbuilding and installation of solar panels at Lot 1 (#3) Hayes Street, East Bunbury (DA5/2017/48/1) subject to the following conditions of development approval:***

- 1. All development shall be in accordance with the approved development plans (attached) which form part of this development approval.***
- 2. Within sixty (60) days from the date of this development approval the installed solar panels shall be relocated from the primary street frontage to the side or rear of the***

***dwelling in accordance with details to be submitted and approved by the City of Bunbury. The solar panels shall be re-installed in accordance with the approved details.***

- 3. 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.***
- 4. The boundary walls, including footings and associated structures, shall be constructed wholly within the lot boundaries and finished to a quality finish and professional standard, to the satisfaction of the City of Bunbury.***

***Advice Note:***

- (a) The patio (gazebo) the subject of this development approval is also regulated by the Western Australia Building Act 2011, Building Regulations 2012 and Building Code of Australia. The owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.***

CARRIED

13 votes "for" / Nil votes "against"



**10.3 Deputy Members and Proxies for Council Committees and External Groups (was listed as item 10.2.1 on the Council Agenda)**

<b>File Ref:</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 checked="" 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 for Council to consider how it wishes to manage deputy and proxy members for its Committees, as well as external boards of management with Council representation.

**Executive Recommendation**

That Council:

1. Nominates all non-member Councillors as deputy committee members for committees that have been established in accordance with section 5.8 of the *Local Government Act 1995*.
2. Nominates all non-member Councillors as proxy members for any external board/committee with Council representation.
3. Nominates all non-member Councillors as proxy members for any working group established by the Council.

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

**Strategic Relevance**

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

**Background**

There have been instances in the past where committee meetings have failed to attract a quorum due to the unavailability of some Elected Members.

Similarly, the City of Bunbury is represented on a number of external boards and committees where, on occasion, the nominated Elected member cannot attend.

**Council Policy Compliance**

Not applicable

### **Legislative Compliance**

Section 5.11A of the Local Government Act 1995 (the Act) enables Council to appoint deputy members to its committees.

### **Officer Comments**

Appointing those Councillors who are not ordinary members of a committee or working group as a deputy member or a proxy is seen as a logical way to help ensure that quorums are maintained for formal Council committees, and that representation continues on external boards where Council is represented.

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

Nil

### **Community Consultation**

Not applicable

### **Councillor/Officer Consultation**

The matter is presented to Council for consideration.

### **Outcome – Council Meeting 12 December 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 440/17**

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

- 1. Nominates all non-member Councillors as deputy committee members for committees that have been established in accordance with section 5.8 of the Local Government Act 1995.***
- 2. Nominates all non-member Councillors as proxy members for any external board/committee with Council representation.***
- 3. Nominates all non-member Councillors as proxy members for any working group established by the Council.***

CARRIED

13 votes "for" / Nil votes "against"

**ABSOLUTE MAJORITY VOTE ATTAINED**

**10.4 Support Jiaxing and Setagaya Sister City Visit (was listed as item 10.3.1 on the Council Agenda)**

<b>Applicant/Proponent:</b>	Carol McDowall, Senior Officer International Relations		
<b>Responsible Officer:</b>	Carol McDowall, Senior Officer International Relations		
<b>Responsible Manager:</b>	Stephanie Addison-Brown, Director Corporate and Community Services		
<b>Executive:</b>	Stephanie Addison-Brown, Director Corporate and Community Services		
<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**

Bunbury has had a sister city relationship with Setagaya, Japan since 1992 and a friendship city relationship with Jiaxing, China since 2000. The City of Setagaya attended 25 year anniversary celebrations in Bunbury in late October 2017 and has requested that Bunbury visit Setagaya in early May 2018 to reaffirm the agreement. In addition, there has not been a visit to Jiaxing in over 5 years and therefore a visit to Jiaxing to further the relationship with Jiaxing would occur on the same trip.

**Executive Recommendation**

That Council approve the attendance of Mayor Gary Brennan, the Chief Executive Officer and Senior Officer International Relations at the Official 25 year Celebrations in Setagaya, Japan in early May 2018 as well as a visit to Jiaxing, China either before or after the Setagaya visit.

**Strategic Relevance**

- Key Priority Area 1      Enhancing community well-being and the quality of life for the people who live and work in Bunbury
- Objective 1.2            Promote and celebrate multiculturalism; and
- Objective 1.5            Celebrate and recognise the richness of our arts, culture heritage.

**Background**

The City of Bunbury signed the original Sister City agreement with Setagaya, Japan on 10 November 1992. Since then there have been many exchanges in sport, culture, arts, education and trade. This is evidenced by the annual Student Goodwill Tour exchange, Bunbury Runners Club marathons exchange, the biennial photo exchange, and various community led exchanges including basketball visits, dance groups, Chamber of Commerce visits, and many others. There have been anniversary celebrations held in Bunbury and Setagaya in 1997, 2002, 2007, 2012 and 2017.

The Friendship agreement between the City of Bunbury and the City of Jiaxing was signed on 13 October 2000. Since 2000 the Bunbury Port Authority and the Zha Pu Port entered into a Port Relationship to promote economic development and trade between the two cities. For the last eleven years, there has been a delegation from ECU Bunbury that travels to Jiaxing to teach English summer school at Jiaxing Number One High School. There have been a number of Mayoral

delegations to Jiaxing as well as business delegations. The most recent delegation from Jiaxing was by the Deputy Mayor in charge of education. The purpose of the visit was to learn about Australian education and explore areas for exchange. There has not been a Bunbury Mayoral delegation to Jiaxing since 2012.

### **Council Policy Compliance**

Nil

### **Legislative Compliance**

*Local Government Act 1995*

### **Officer Comments**

A visit to our Sister and Friendship Cities is an opportunity for the City of Bunbury to explore opportunities for our ratepayers as well as to learn from other local governments. When Setagaya came to visit Bunbury earlier this year, Mayor Hosaka had a particular interest in social services and requested to visit facilities such as College Row School, Department of Communities and Head Space. There are many opportunities and challenges that are common to all cities and the opportunity to learn from others can return value to our ratepayers.

In addition, there is a long history of exchanges in sport, education, trade, culture and tourism. By visiting our relationship cities, we reaffirm our commitment to these exchanges and discover new opportunities for growth.

The funds for this visit were allocated through PR-4151 Support Jiaxing Sister City Visit. The total budget for this project is \$10,000.

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

The estimated cost implication of sending three delegates to Setagaya and Jiaxing would be approximately \$10,000.

Flights	\$4500
Accommodation	\$4000
Meals	\$750
In country travel	\$750
<b>TOTAL</b>	<b>\$10,000</b>

The funds to cover the cost of this visit are currently provided for in the current 2017/2018 financial year budget.

If Council decide that they wish to include additional members as part of the delegation, this will require additional funding of approximately \$3,500 per delegate.

### **Community Consultation**

Nil

### **Councillor/Officer Consultation**

The Chief Executive Officer, the Bunbury Mayor and the Director of Corporate and Community Services and Project Officer were consulted in the preparation of this Report.

### **Outcome – Council Meeting 12 December 2017**

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

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

*That Council approve the attendance of Mayor Gary Brennan, ~~the International Relations Committee Chair or City Councillor, the Chief Executive Officer and Senior Officer International Relations at the Official 25 year Celebrations in Setagaya, Japan in early May 2018 as well as a visit to Jiaxing, China either before or after the Setagaya visit.~~*

The Mayor put the amendment to the vote and it was CARRIED 7 votes “for” / 6 votes “against”.

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

### **Council Decision 441/17**

***That Council approve the attendance of Mayor Gary Brennan, the International Relations Committee Chair or City Councillor, and Senior Officer International Relations at the Official 25 year Celebrations in Setagaya, Japan in early May 2018 as well as a visit to Jiaxing, China either before or after the Setagaya visit.***

CARRIED  
12 votes “for” / 1 vote “against”

**10.5 Installation of Community Lockers (was listed as item 10.3.2 on the Council Agenda)**

<b>Applicant/Proponent:</b>	Bella Burgemeister
<b>Responsible Officer:</b>	Sharon Chapman, Manager Community and Library Services
<b>Responsible Manager:</b>	Sharon Chapman, Manager Community and Library Services
<b>Executive:</b>	Stephanie Addison-Brown, Director Corporate and Community Services
<b>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>	Appendix DCCS-1: Lockers Research Appendix DCCS-2: Type of Lockers Appendix DCCS-3: Locking Mechanism Instructions

**Summary**

Bella Burgemeister is a 12 year old community member that has been campaigning for the installation of homeless lockers in the Bunbury CBD. Bella’s research has included discussions with community members that are currently experiencing homelessness and the investigation of other models throughout the world. Bella now requests that the City support the installation of lockers in Bunbury via financial and in-kind support. She has also asked for assistance to determine suitable locations throughout the CBD area.

City Officers propose to include lockers at multiple locations throughout the City for use by a range of customers, i.e. shoppers, travelers, youth, community groups, etc. It is intended that the City will install twelve of the lockers in two locations for an initial trial period. At the end of the 2017/2018 financial year, this will be reviewed. If this installation is deemed a success, a further twelve lockers will be installed at two other separate locations within the CBD during the 2018/2019 financial year.

**Executive Recommendation**

That Council:

1. Approves \$15,000 (plus GST) from the City’s unallocated 2017/18 budget for the installation of twelve (12) lockers in two (2) locations as identified in the report.

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

2. Agrees to consider the request of \$15,000 (plus GST) for the installation of a further twelve (12) lockers in locations to be determined, when deliberating the 2018/19 Budget

**Strategic Relevance**

Key Priority Area 2	Transport and Infrastructure
Objective 2.3	Maintain a High Standard of Community Infrastructure

## Background

Bella and City Officers have researched models throughout Australia and other countries to determine the best options for the installation of lockers in Bunbury. Similar ideas for lockers have been implemented in Australia (Busselton, Hobart, Brisbane and Melbourne) and overseas (United Kingdom, America and British Columbia) with a significant amount of success. An overview is **attached** at Appendix DCCS-1.

Feedback provided by other local agencies to City staff has indicated a need for a secure central location preferably in the CBD area to store belongings, i.e. blankets, bags, clothing, toiletries, etc.

The City originally intended to locate a large bank of lockers in a central CBD location. This idea was not supported by the West Australian Police (Bunbury) or our Ranger Services section as concerns were raised about anti-social behaviour and congregation of groups. After reviewing, City Officers then proposed to install smaller clusters of lockers at multiple locations throughout the City for use by a range of community members/groups, i.e. shoppers, travelers, youth, community members, etc. Officers have been advised by the City's Ranger Services section and the West Australian Police (Bunbury) that this is a more suitable and acceptable option.

## Council Policy Compliance

N/A

## Legislative Compliance

N/A

## Officer Comments

A number of locations have been investigated and a summary has been outlined below for your consideration.

Proposed Location	Comments
Accordwest Forrest Avenue	Accordwest are not supportive - prefer the location for lockers to be in the CBD. CCTV is not on the City's network for monitoring.
Bunbury Library Parkfield Street	CCTV available around a large portion of the perimeter of the building.
Council Chambers Wittenoom Street Wall	May have heritage implications. Lack of CCTV coverage in this area.
Graham Bricknell Music Shell, Symons Street	CCTV available around a large portion of the perimeter of the building. Concerns in the past with large congregations.
In-Town Centre, Wittenoom Street	In-Town Centre not supportive - concerns about increasing anti-social behaviour of the public on the weekends. CCTV may be installed via grant funding currently applied for by the City – if this is not successful, the City may have to agree to pay an extra \$5000 for CCTV equipment installation.
Queens Gardens	Lack of CCTV in this area.

Public Rest Rooms	May promote congregation of large groups for showers, lockers, etc. Further community consultation may be required from local residents.
Rocky Point Public Rest Rooms	Lack of CCTV in this area. Exposed to weather elements.
City of Bunbury Administration Building (Rear door entrance)	CCTV available around a large portion of the perimeter of the building.
Bunbury Skate Park, Cobblestone Carpark	Passive monitoring via thoroughfare and road traffic.
Bunbury Visitors Centre Rest Rooms, Old Railway Building	CCTV available around a large portion of the perimeter of the building.

There would be six lockers at each location and 24 in total throughout the Bunbury CBD. Proposed locations selected for installation of the lockers include:

- Bunbury City and Regional Library, Parkfield Street;
- In-Town Lunch Centre, Wittenoorn Street;
- Bunbury Skate Park, Cobblestone Car Park; and
- Bunbury Visitors Centre Rest Rooms, Old Railway Building.

In relation to the In-Town Centre location, Officers are in discussions with the facilitators of the Centre regarding the placement of the lockers at the facility.

If this proposal is approved by Council, City Officers will proceed to developing simple Conditions of Use and Security Guidelines which can be displayed at each location.

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

Bella has raised over \$3,000 towards the project via community sponsorship and crowd funding. Bella will need further assistance from the City of Bunbury to complete the project. The funding raised by Bella is not linked to a specific area and Bella is happy for the City to utilise the funding towards the overall project.

Accordwest have provided Bella with a letter of support for the project. In this letter, they have nominated a \$2,000 in-kind (not cash) donation which is intended for the initial maintenance of the lockers (not the actual purchase). Since this offer, City officers have investigated other models of lockers that do not need keys and will require limited annual maintenance.

After research, City Officers have concluded that the following lockers would be the most suitable option for the installation:

- 24 x Premier Lockers, Two Door Luggage Lockers, 1803H x 495W x 900D, KL1000 digital code locking with protective weather covering, zinc coated for outdoor use, many colour options



The total cost for the purchasing of 24 lockers is estimated to be around \$30,000 (ex GST). This includes lockers, freight and locking mechanisms. Please refer to Appendix DCCS-2 and Appendix DCCS-3 **attached** for more information relating to the locker design and implementation.

The City has also considered a less expensive model (\$20,000) but is concerned with the following:

- Removal of the zinc coating will mean that the lockers will rust over time;
- The cheaper alternative won't have reinforced doors; and
- The digital lock will be exposed to the elements without protective covering.

It must be noted that Bella has applied for funding through the City's annual Community Assistance Grant Funding Program but was unsuccessful in her application as it did not meet the grant funding criteria.

The City will be providing an in-kind contribution to install the lockers in the locations identified. It is also acknowledged that the City will be responsible for the maintenance of the lockers (as required) from within existing operational budgets.

### **Community Consultation**

Bella has contacted local agencies and organisations that provide services and programs to the homeless to broker their support. A positive response has been received from Accordwest a \$2,000 commitment to the maintenance of the lockers and the potential for partnerships in the future.

Staff from the In-Town Centre has indicated to City Officers that they have concerns regarding locating the lockers in the Bunbury CBD due to the potential of anti-social behaviour that they may attract. This concern is predictive in nature and would need to be monitored over time. Further discussions with staff from the Centre will continue to ensure a suitable location can be finalised.

Officers from the West Australian Police (Bunbury) have indicated that providing several locations of lockers is preferable to placing them all together. They expect that this will lessen the likelihood of anti-social behaviour and disputes occurring. They have committed to assisting the City of Bunbury by providing regular patrols when available of the locker locations to reduce antisocial behaviour, breaches of the peace and damage to the lockers themselves. They also recognise that CCTV coverage will also assist them in monitoring the locker locations.

### **Councillor/Officer Consultation**

As mentioned previously within this report, consultation has occurred with Officers from our Ranger Services section.

### **Applicant Consultation**

N/A

**Outcome – Council Meeting 12 December 2017**

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

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

**Council Decision 442/17**

***That Council:***

- 1. Approves \$15,000 (plus GST) from the City’s unallocated 2017/18 budget for the installation of twelve (12) lockers in two (2) locations as identified in the report.***
- 2. Agrees to consider the request of \$15,000 (plus GST) for the installation of a further twelve (12) lockers in locations to be determined, when deliberating the 2018/19 Budget***

CARRIED

12 votes “for” / 1 vote “against”

**ABSOLUTE MAJORITY VOTE ATTAINED**

**10.6 Development Application for Workshop Extension at Lot 71 (#2) Beddingfield Street, Davenport (was listed as item 10.4.1 on the Council Agenda)**

<b>File Ref:</b>	P13138, DA/2017/196/1
<b>Applicant/Proponent:</b>	Tecon WA
<b>Responsible Officer:</b>	Thor Farnworth, Manager Sustainability, Planning and Development
<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-1: Site Photographs Appendix DPDS-2: Location Plan Appendix DPDS-3: Existing Development Approval Appendix DPDS-4: Proposed Development Plans Appendix DPDS-5: Applicant's Justification for Reduced Setback Appendix DPDS-6: Pre-lodgement Draft Development Plans

**Summary**

Development approval is sought for an extension and upper floor addition to an existing industrial building at Lot 71 (#2) Beddingfield Street, Davenport. The application is recommended for conditional development approval and can be determined under delegation by City of Bunbury officers. However, the application is referred to Council for determination at the applicant's request.

The applicant is seeking a nil secondary street front setback. Under the existing Town Planning Scheme No. 7 (TPS7), where a lot is situated at the intersection of two or more streets, the local government may reduce the distance of the building line from any road reserve other than that which, in the opinion of the local government, the lot fronts.

The initially viewed plans at the pre-lodgement meeting stage provided for comment showed a setback of 1.5 metres to Leichardt Street. In respect to the ultimately submitted development plans which propose a nil side street front setback, the local government may exercise its discretion under the Scheme to approve this proposal where in the opinion of the Council the proposal was justified in this specific circumstance due to the following reasons:

- (a) the presence of an existing walled compound and hardstand area in the Leichardt Street front setback area;
- (b) that the proposal will not have a significant visual impact on the streetscape character and amenity of the locality; and
- (c) that any development approval will be subject to statutory approvals having been obtained from Western Power.

Nevertheless, if a landscaping strip was to be accommodated in the secondary street front setback of the proposed development, a supplementary draft of a condition requiring that the proposed extension be setback 1.5m is provided as an option for consideration by Council for completeness. It is also recommended that the building colour is improved and that additional doors or windows are introduced on the façade of the new building fronting Leichardt Street, in order to improve the visual impact of the development on the streetscape.

### **Executive Recommendation**

In accordance with the *Planning and Development Act 2005* (as amended), hereby resolves to grant development approval for addition and extension to existing workshop at Lot 71 (#2) Beddingfield Street, Davenport (application reference: DA/2017/196/1), subject to the following conditions:

1. At all times, the development the subject of this development approval must comply with the definition of 'industry - general' land use class 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. Before the development is commenced, detailed design plans shall be prepared in accordance with relevant Australian Standards, Austroads Guidelines, and City of Bunbury requirements, for all access, car parking and pedestrian movement requirements, to the satisfaction of the City of Bunbury. Once plans are approved construction is to be in accordance with the approved plans and be completed before the development is occupied.
5. Before the development commences, a crossover permit must be obtained from the City of Bunbury. Construction and maintenance of the crossover shall be in accordance with the crossover permit.
6. Before the development is occupied, any alterations, relocation or damage of existing infrastructure within the road reserve must be completed and reinstated to the specification and satisfaction of the City of Bunbury.
7. Before the development is occupied, line marking and parking signage must be installed in accordance with the approved plans.
8. Before the development commences, a damage bond to the value of \$2,000 must be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy: Bonds.
9. A minimum of 2m<sup>3</sup> of storm water storage for each 65m<sup>2</sup> of impervious area must be provided on site in accordance with the city of Bunbury's Information Guide – Stormwater Disposal from Private, Commercial and Industrial Properties.

10. Detailed design plans of the proposed stormwater management must be submitted for approval prior to the development commencing, and be implemented in accordance with the approved plan prior to the development being occupied.
11. All construction activities must be undertaken so as to avoid dust nuisance to occupiers of land in the vicinity to the satisfaction of the City of Bunbury.
12. Before the development commences, the existing power pole located within the approved development area is to be relocated by the applicant and all the necessary statutory approvals are to be obtained from Western Power.
13. The front façade of the approved extension to the existing workshop is to be amended to include a major opening such as a door and window to the satisfaction of the City of Bunbury. Revised plans shall be submitted as part of the Building Permit application for the approval of the City of Bunbury.
14. A Landscaping Plan is to be submitted which includes suitable screening vegetation to the new building as viewed from Leichardt Street to assist in breaking up the building bulk. Details are to be submitted to the satisfaction of the City of Bunbury and submitted as part of the Building Permit application process for the approval of the City of Bunbury.
15. A schedule of exterior materials, colours and finishes must be submitted with the Building Permit application for the approval of the City of Bunbury. The schedule of materials is to match and blend with the existing development. The subject development must be finished and maintained in accordance with any schedule of materials.

Advice Notes:

1. 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.
2. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

An application for an extension of time to an existing development approval shall require a formal written request, signed by both the land owner and applicant (if applicable) and the payment of the appropriate application fee (as per the Council's Fees & Charges Schedule), details of the relevant development approval are required (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.

3. 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.
4. The development the subject of this development approval is also regulated by the *Western Australia Building Act 2011*, *Building Regulations 2012* and Building Code of Australia. A separate building permit must be granted before the development

commences, where offences occur statutory penalties apply. The owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.

5. When a new crossover is proposed, and before construction of it can commence, a separate verge crossover application must be submitted and approved.

A permit application form can be obtained on the City of Bunbury's website [www.bunbury.wa.gov.au](http://www.bunbury.wa.gov.au)

6. Please be aware that the subject land is located in a high groundwater table area. Treatments such as subsoil drainage may be required to prevent any increases to groundwater table levels on adjoining properties.
7. Leach drains or soak wells must not be located beneath areas subject to vehicular traffic.
8. With regards to condition 4, the applicant is advised that the disabled parking bay is required to comply with AS 2890.6. In addition, the proposed crossover is to be modified and details to be submitted to ensure it can accommodate a crane outrigger.
9. Before development commences, the existing effluent disposal system(s) must be decommissioned in accordance with Division 3 of the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.
10. 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. Specifically in relation to the existing storm water soak well that is located within the proposed extended workshop area, appropriate measure shall be taken to prevent wash down water or any other materials under Schedule 1 of these regulations from entering the environment through this storm soak well. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100.
11. The City notes that there may be a low – medium possibility of the existence of Acid Sulfate Soils (ASS) on the land concerned. At the time of subdivision and/or, at the time of the construction of any buildings/structures on the land, the applicant is to ensure compliance with all relevant legislation and/or standards in this regard.

### **Strategic Relevance**

Key Priority Area 3:	Natural and Built Environment
Objective 3.1	Undertake assessments of the City's key natural areas, activity centres and streetscapes to identify opportunities to improve biodiversity.
Objective 3.4	Facilitate urban design, diversity of land uses, and enabling infrastructure.
Key Priority Area 4:	Regional Economy
Objective 4.1	Maintain support for local business.
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 71 (#2) Beddingfield Street, Davenport
Existing Town Planning Scheme No. 7 Zoning:	Industry Zone
Proposed Local Planning Scheme No. 8 Zoning:	Light Industry Zone
Existing Land Use:	Workshop and Ancillary Office
Lot Area:	2,299m <sup>2</sup>

The subject lot is located on the corner of Leichardt Street and Beddingfield Street. Similar zoned properties adjoin the subject site's north-western and north eastern boundaries. Directly opposite the proposed development on the adjacent side of Leichardt Street is a wide road reserve consisting of predominately grass.

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

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

The subject site consists of an existing workshop and ancillary offices. It is noted the existing building has a reduced front setback to Beddingfield Street being six metres in lieu of the nine metres required under TPS7.

The proposal is for an extension to the existing building to improve the operational requirements of the existing business which specialises in the servicing, sale, design and installation of lubrication, hydraulic, pneumatic, filtration and fire suppression systems. Included inside the existing workshop is an onsite substation to cater for the business's power demand which exceeds the normal power supply for the area.

A copy of the existing development approval for the subject site is **attached** at Appendix DPDS-3.

## Legislative and Council Policy Compliance

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

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- City of Bunbury Town Planning Scheme No. 7 (TPS7)
- Local Planning Policy: Building facades of Commercial and Industrial Development
- Local Planning Policy: Landscaping
- Draft City of Bunbury Local Planning Strategy
- Draft City of Bunbury Local Planning Scheme No. 8 (LPS8).

### Officer Comments

The proposal is for two extensions to the existing building which consists of the following:

- (a) An extension to the western portion of the building measuring approximately 319m<sup>2</sup> in area with a proposed wall height of 6.4m and length of 28m as viewed from Leichardt Street. Whilst the building will be setback 125mm from the lot boundary, the addition of screening attached to the building results in a nil setback to Leichardt Street. This portion of the extension also proposes a nil setback to the side lot boundary.
- (b) An additional first floor to be used as offices measuring approximately 100m<sup>2</sup> in area bringing the total height of the building to 7.2m.

Development plans for the proposed development are **attached** at Appendix DPDS-4.

#### *Side Setback Variation*

The applicant has provided the following justification to vary the development standards of TPS7 with respect to seeking a nil setback to the secondary street and side lot boundary within the front setback area (**attached** at Appendix DPDS-5), with the relevant extract provided below:

*'National Lubrication & Hydraulic Systems is a locally owned and operated company based in Bunbury Western Australia. Offering a highly specialised service including Sales, Design, Installation and Service/Repair of Lubrication, Hydraulic, Pneumatic, Filtration and Fire Suppression Systems.*

*Their extensive knowledge and experience in these fields has led to the company being involved in major projects across Australia and internationally from complete fabrication & construction through to exporting of equipment to projects overseas.*

*The company's highly skilled team of hydraulic fitters provides expertise in the following areas:*

- *Drilling rigs*
- *Floating plant and dredge equipment*
- *Stackers and reclaimers*
- *Hydraulic workshop equipment*
- *Pneumatic systems*
- *Fire suppression systems*
- *Crushing mills and crushing plants*
- *Kilns and coolers*
- *Heavy earthmoving equipment*

*NLS has developed a unique and highly specialised business that involves the use of equipment requiring the need for a significant onsite highly controlled power source to suit the finely calibrated equipment used in the operations of design and testing. The recent purchase and upgrade of equipment that allows the operations to expand the business has generated the need to expand the area of the building as proposed in the submitted Development Application.*

*The existing electrical supply infrastructure constructed within the building far exceeds the normal power supply requirements. In what is quite a unique situation the building has been constructed with an onsite Substation and transformer. This configuration and the high-power demand*



*requirement is clearly not a normal situation for a general industry type use, however is critical to the operations of the Business.*

*While expansion of a business is not an unusual or uncommon situation for a business to find itself in, what is unusual is the power requirements which as outlined is unique and the possibility of duplication of this arrangement on a new site is unlikely and at the very least cost prohibitive for the owner. As such they are needing to expand the business in floor area within the existing site to achieve operational requirements. To achieve this the owner is requesting a reduced setback to the secondary boundary.*

*To address the relaxation of setback the owner has proposed a number of measures to lessen the impact on the existing streetscape as follows:*

- *Wall height kept to a minimum to achieve operational requirements, keeping the wall height as low as possible ensures that there is no negative impact in regard to a height, bulk and mass on either the streetscape or adjoining properties.*
- *The scale and style of development is in keeping with surrounding built form.*
- *High quality treatment of façade of building facing the street including decorative metal sheeting and complimentary colour scheme of the Building.*
- *High quality landscaping to the northern frontage of the site in keeping with the high quality of amenity already created.*
- *Colours and decorative finishes providing an attractive and articulated frontage to the street.*

*It is also noted that Beddingfield Street directly faces a large reserve area with significant existing vegetation that screens the property from Dodson Road. Surrounding landowners have also provided positive comment to the proposal welcoming the new development.*

*The business directly employs a number of people that work within the operations, additionally the nature of is highly technical and specialised field of work means that the business is creating a flow on effect to other businesses. For example, the testing facility attracts a significant number of clients from the mining sector who operate on an national and international basis and the service provided by NLS is attracting this highly specialised work to Bunbury with many flow on effects to other business. The ability to be able to expand will mean the generation of more employment and the further growth of a developing industry for the area.*

*In summary, the owner acknowledges the City's operative Town Planning Scheme requirements regarding minimum secondary setbacks of buildings in an Industry Zone but also notes that Council has the authority, if it wishes to vary these requirements. The nature of the operations in particular the requirement for an onsite substation and specific power supply requirements mean that without the ability for expansion of the building as proposed the business will not be able to expand its operations effectively. The costs and logistics of relocation are not viable and as such the owner requests that Council approve the proposed extensions inclusive of the reduced setback.'*

*Existing Town Planning Scheme No. 7*

The proposal complies with the general development requirements for the 'Industry Zone' in regards to site coverage, plot ratio and landscaping requirements. The specific variations being sought under the existing TPS7 are:

- (a) Reduced setback to the side lot boundary to nil; and
- (b) Reduced setback to the secondary street in which a nil setback is proposed to Leichardt Street.

With regards to the proposed nil side lot boundary setback, clause 5.10.6.2.1 of TPS7 states:

*Within each of the various Industrial zones under the Scheme, the side and rear setbacks are to be at the discretion of the local government.*

Whilst a nil setback to the side lot boundary is common on industrial zoned land, it is generally the case that nil setbacks do not extend into the front setback area.

However, it is noted that the subject development directly abuts dense landscaping on the adjoining property, and given that no objection was received from the adjoining landowner, it may be considered that the proposed nil side setback to Leichardt Street will not negatively impact on the adjoining neighbour and may be considered in this instance.

#### *Clause 5.10.6.2 - Setbacks*

With regards to the proposed nil setback to Leichardt Street, clause 5.10.6.2.2 of TPS7 is relevant and states:

*'Where a lot is situated at the intersection of two or more streets, the local government may reduce the distance of the building line from any road reserve other than that which, in the opinion of the local government, the lot fronts.'*

In light of the above, officers have given due regard to draft Local Planning Scheme No. 8 (LPS8) in determining an acceptable reduced setback to Leichardt Street. Under draft LPS8, the subject lot is proposed to be included in a new 'Light Industry Zone', in which a three metre setback to the secondary street is required.

In addition draft LPS8 requires the primary and secondary street front setback areas to be landscaped for the full frontage of the lots to an average width of 3m, but with a minimum width of not less than 1.5m.

In light of the above information, officers acknowledge that there may be exceptional circumstances in which a variation to the required setback can be supported. In this instance it is considered that the existing business represents an unusual situation in that the subject site has its own substation. It is acknowledged that the specialised nature of the business such as the testing of hydraulic equipment requires a power supply that exceeds the normal power supply in the area.

Furthermore it is acknowledged that relocating the business would present additional logistical issues due to the requirement for a substation and the associated approval process with Western Power that would be required in setting up the business in a new location.

Given that the subject site presents exceptional circumstances in that the development has its own substation, officers consider that a variation to the three metre setback to a secondary street under draft LPS8 is warranted in this instance. Therefore, while a reduced setback of 1.5m to accommodate a landscaping strip is a desirable outcome, officers nevertheless consider that this proposal would not set an undesirable precedence, as not every industrial site has the same infrastructure constraints of requiring a substation on site.

*Local Planning Policy: Building Facades of Commercial & Industrial Development*

The proposed frontage to Leichardt Street consists of a single wall and a roller door. The proposed colour is a deep magenta. Decorative screening is proposed to be attached to the wall to break up the expanse of blank wall and to provide some visual relief. Small shrubs are proposed on either side of the decorative screening to provide further interest to the façade of the building.

The acceptable development criteria of Local Planning Policy: Building Facades of Commercial and Industrial Development states that building facades and walls that front a street are to be detailed and articulated with design indentation/reliefs, architectural features, colour schemes and active frontages, such as door and window opening that reduce the visual impact of large blank wall spaces.

In the circumstances where a reduced front setback is supported, the requirement for an attractive façade which lessens the impact of the building in terms of building bulk and scale on the streetscape is considered to be even more important. For this reason officers recommend a number of improvements to the proposed façade to lessen the impact of the building on the existing streetscape. Hence, it is recommended that the façade of the proposed extension should be upgraded to include major openings as specified in condition 13 of the recommended conditions in order to provide an active frontage to Leichardt Street and permit passive surveillance of streetscapes.

Furthermore, it is considered the current colour scheme of the existing building which includes contrasting colours provides visual relief, lessens the impact of the building in terms of bulk and scale and enhances the existing streetscape. Therefore, it is recommended that the colour of the proposed extension to the building matches the existing development as specified in condition 15 in order to ameliorate the impact of a blank expanse of wall on the streetscape.

*Local Planning Policy: Landscaping*

The landscaping for the proposed frontage to Leichardt Street consist of small shrubs located in an area between the building and the lot boundary which measures approximately 125mm in width.

The objectives of Local Planning Policy: Landscaping states that landscaping must make a positive contribution to the area and that landscaped areas should be at least one metre in width to ensure enough space for plants to grow and to be of any landscape value. Furthermore the policy states planting selection should relate to the building scale and mass.

Officers consider the proposed nil setback to Leichardt Street does not permit a sufficient landscaping strip to be contained within the lot boundaries to effectively reduce the imposing impact of the building on the streetscape and to contribute positively to the prevailing context. For this reason it is recommended screening vegetation should be included as specified in condition 14 to mitigate the impact of the proposed extension on the streetscape in addition to the recommended setback of 1.5m to Leichardt Street.

## 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.

It should be noted that the initially viewed plans provided for comment at the pre-lodgement meeting stage showed a setback of 1.5 metres to Leichardt Street (**attached** at Appendix DPDS-6). However, the ultimately submitted development plans propose a nil side street front setback to Leichardt Street. Under the Scheme, the local government may exercise its discretion to approve this proposal where in the opinion of Council the proposal was justified in this specific circumstance due to the following reasons:

- (a) the presence of an existing walled compound and hardstand area in the Leichardt Street front setback area;
- (b) that the proposal will not have a significant visual impact on the streetscape character and amenity of the locality; and
- (c) that any development approval will be subject to statutory approvals having been obtained from Western Power.

Nevertheless, in the interest of completeness a supplementary draft condition requiring that the proposed extension be setback 1.5m is provided below for Council's consideration, should it be considered necessary to provide space for a landscaping strip in front of the proposed building. The suggested wording for such a condition is as follows:

- '16. The subject development is to be setback a minimum of 1.5m from the secondary street lot boundary (Leichardt Street) to the satisfaction of the City of Bunbury. Revised plans shall be submitted as part of the Building Permit application for the approval of the City of Bunbury.'

## Analysis of Financial and Budget Implications

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

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

### **Community Consultation**

The proposed development application was advertised to adjacent landowners for public comment from 13 October 2017 to 3 November 2017. No submissions were received.

### **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. The applicant has thanked staff for the opportunity to make comment on the recommended conditions and believe that the conditions reflect clearly the advice received from staff. Whilst the applicant appreciates the reasoning behind the optional condition 16, they request that the local government exercise its discretion under the Scheme to approve the development with a nil setback as per the proposed application.

### **Outcome – Council Meeting 12 December 2017**

Mr Gary Fitzgerald addressed Council in relation to this item.

The recommendation (as printed) was moved Cr McGuinness, 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 443/17**

***In accordance with the Planning and Development Act 2005 (as amended), hereby resolves to grant development approval for addition and extension to existing workshop at Lot 71 (#2) Beddingfield Street, Davenport (application reference: DA/2017/196/1), subject to the following conditions:***

- 1. At all times, the development the subject of this development approval must comply with the definition of 'industry - general' land use class 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. Before the development is commenced, detailed design plans shall be prepared in accordance with relevant Australian Standards, Austroads Guidelines, and City of Bunbury requirements, for all access, car parking and pedestrian movement requirements, to the satisfaction of the City of Bunbury. Once plans are approved***

- construction is to be in accordance with the approved plans and be completed before the development is occupied.*
5. *Before the development commences, a crossover permit must be obtained from the City of Bunbury. Construction and maintenance of the crossover shall be in accordance with the crossover permit.*
  6. *Before the development is occupied, any alterations, relocation or damage of existing infrastructure within the road reserve must be completed and reinstated to the specification and satisfaction of the City of Bunbury.*
  7. *Before the development is occupied, line marking and parking signage must be installed in accordance with the approved plans.*
  8. *Before the development commences, a damage bond to the value of \$2,000 must be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy: Bonds.*
  9. *A minimum of 2m<sup>3</sup> of storm water storage for each 65m<sup>2</sup> of impervious area must be provided on site in accordance with the city of Bunbury's Information Guide – Stormwater Disposal from Private, Commercial and Industrial Properties.*
  10. *Detailed design plans of the proposed stormwater management must be submitted for approval prior to the development commencing, and be implemented in accordance with the approved plan prior to the development being occupied.*
  11. *All construction activities must be undertaken so as to avoid dust nuisance to occupiers of land in the vicinity to the satisfaction of the City of Bunbury.*
  12. *Before the development commences, the existing power pole located within the approved development area is to be relocated by the applicant and all the necessary statutory approvals are to be obtained from Western Power.*
  13. *The front façade of the approved extension to the existing workshop is to be amended to include a major opening such as a door and window to the satisfaction of the City of Bunbury. Revised plans shall be submitted as part of the Building Permit application for the approval of the City of Bunbury.*
  14. *A Landscaping Plan is to be submitted which includes suitable screening vegetation to the new building as viewed from Leichardt Street to assist in breaking up the building bulk. Details are to be submitted to the satisfaction of the City of Bunbury and submitted as part of the Building Permit application process for the approval of the City of Bunbury.*
  15. *A schedule of exterior materials, colours and finishes must be submitted with the Building Permit application for the approval of the City of Bunbury. The schedule of materials is to match and blend with the existing development. The subject development must be finished and maintained in accordance with any schedule of materials.*

**Advice Notes:**

1. *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.*
2. *Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.*

*An application for an extension of time to an existing development approval shall require a formal written request, signed by both the land owner and applicant (if applicable) and the payment of the appropriate application fee (as per the Council's Fees & Charges Schedule), details of the relevant development approval are required (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.*

3. *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.*
4. *The development the subject of this development approval is also regulated by the Western Australia Building Act 2011, Building Regulations 2012 and Building Code of Australia. A separate building permit must be granted before the development commences, where offences occur statutory penalties apply. The owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.*
5. *When a new crossover is proposed, and before construction of it can commence, a separate verge crossover application must be submitted and approved.*

*A permit application form can be obtained on the City of Bunbury's website [www.bunbury.wa.gov.au](http://www.bunbury.wa.gov.au)*

6. *Please be aware that the subject land is located in a high groundwater table area. Treatments such as subsoil drainage may be required to prevent any increases to groundwater table levels on adjoining properties.*
7. *Leach drains or soak wells must not be located beneath areas subject to vehicular traffic.*
8. *With regards to condition 4, the applicant is advised that the disabled parking bay is required to comply with AS 2890.6. In addition, the proposed crossover is to be modified and details to be submitted to ensure it can accommodate a crane outrigger.*
9. *Before development commences, the existing effluent disposal system(s) must be decommissioned in accordance with Division 3 of the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.*
10. *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. Specifically in relation to the existing storm water soak*

***well that is located within the proposed extended workshop area, appropriate measure shall be taken to prevent wash down water or any other materials under Schedule 1 of these regulations from entering the environment through this storm soak well. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100.***

- 11. *The City notes that there may be a low – medium possibility of the existence of Acid Sulfate Soils (ASS) on the land concerned. At the time of subdivision and/or, at the time of the construction of any buildings/structures on the land, the applicant is to ensure compliance with all relevant legislation and/or standards in this regard.***

CARRIED

13 votes "for" / Nil votes "against"



**10.7 Tender – Reconstruction Strickland Street and King Road Roundabout (was listed as item 10.5.1 on the Council Agenda)**

<b>File Ref:</b>	RFT1718-00009
<b>Applicant/Proponent:</b>	Internal
<b>Responsible Officer:</b>	David Russell, Senior Contracts and Procurement Officer
<b>Responsible Manager:</b>	Shaun Millen, Manager Engineering
<b>Executive:</b>	Gavin Harris, Director Works and Services
<b>Authority/Discretion</b>	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
<b>Attachments:</b>	Appendix CRUSC-1: Evaluation Report – Strickland Street Roundabout

**Summary**

Tenders for the Reconstruction of the Strickland Street and King Road Roundabout have been received and Council is requested to appoint the preferred Tenderer as the contractor.

**Executive Recommendation**

That Council:

1. Accept the Tender as recommended within the Confidential Report.
2. Authorise the Chief Executive Officer to enter into a contract with the successful tenderer for the Strickland Street and King Road Roundabout Reconstruction.

**Strategic Relevance**

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

**Background**

The Strickland Street and King Road Roundabout Reconstruction works have been identified as part of the asset renewal programme. The works have been commissioned due to the poor condition of the existing road pavement, and were listed within the 10 year capital works programme.

The tender was advertised in the West Australian and the Bunbury South West Times newspapers on 4<sup>th</sup> and 5<sup>th</sup> October 2017 respectively. The tender document was made available via [www.tenderlink.com/bunbury/](http://www.tenderlink.com/bunbury/).

A total of 189 suppliers viewed the advertisement, 21 companies downloaded the documentation, and at closing 6 responses was received from:

- 1      **Advantearing Civil Engineers** - 590 Newcastle Street, West Perth WA 6005
- 2      **Busselton Civil Pty Ltd** - 19 Cable Sands Road, Yalyalup WA 6280
- 3      **Carbone Bros Pty Ltd** - PO Box 61, Brunswick Junction WA 6224
- 4      **Dig Deep Contracting Pty Ltd** - PO Box 6406, Bunbury WA 6230

- 5 **Geographe Civil Pty Ltd** - PO Box 5070, Davenport WA 6230
- 6 **JAK Civil Pty Ltd** - 7 Ditchingham Place, Australind WA 6233

An evaluation panel comprising internal staff evaluated the responses as follows:

- Team Leader Engineering Program and Planning (acting)
- Engineering Technical Officer
- Senior Contracts and Procurement Officer (non-voting/chairperson)

The tenders were evaluated using the following criteria:

Compliance Criteria – Yes / No answers

Qualitative Criteria weighting

1. 40% Relevant Experience and Key Personnel
2. 20% Tenderer Resources
3. 40% Price

*Evaluation of the tender prices (and ranking) has been assessed but because the results are "commercial in confidence" details are listed in a Confidential Report that has been circulated to members **under separate cover** at Appendix CRUSC-1.*

### **Council Policy Compliance**

Tendering for goods and services is conducted in accordance with:

- Purchasing Local Preferences Policy
- Access and Inclusion Policy

### **Legislative Compliance**

Advertising and processing of tenders was conducted in accordance with:

- *Local Government (Functions and General) Regulations 1996*, Part 4 Tender for Providing Goods or Services
- *Local Government Act 1995*

The cost of this procurement exceeds the Chief Executive Officer's level of authority, therefore it has been dealt with in accordance with *Local Government (Functions and General) Regulations 1996* (Part 4 - Tenders for Providing Goods or Services).

### **Officer Comments**

All members of the evaluation panel have signed a declaration of confidentiality and interest to ensure probity.

All relevant information pertaining to the tender is included in the Evaluation Report under separate cover with some tenderers placing more than one tender submission for this procurement.

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

The project is funded out of the 2017/2018 financial year from PR-1225 Reconstruct Roundabout Strickland Street/King Road for a total amount of \$350, 000 excluding GST including project contingency. The reconstruction tender is within the allocated budget and available funds.

### **Community Consultation**

Community Consultation was not required for this project.

### **Councillor/Officer Consultation**

Consultation was undertaken with Director Works and Services, Manager Engineering and Engineering Technical staff for inclusion in the 10 Year Capital Works Program and design for the reconstruction of the roundabout.

### **Outcome – Council Meeting 12 December 2017**

Cr Steck declared a proximity interest in this item and left the chamber at 5.41pm for the duration of the discussion and the vote on the matter.

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

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

#### **Council Decision 444/17**

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

- 1. Accept the offer made by Carbone Bros Pty Ltd for the lump sum of \$268,375.67 excluding GST for the Strickland Street and King Road Roundabout Reconstruction.***
- 2. Authorise the Chief Executive Officer to enter into a contract with Carbone Bros Pty Ltd for the Strickland Street and King Road Roundabout Reconstruction.***

CARRIED

12 votes "for" / Nil votes "against"

**10.8 Spencer Street and Cornwall Street Intersection Upgrade** (was listed as item 10.5.3 on the Council Agenda)

<b>File Ref:</b>	A06628
<b>Applicant/Proponent:</b>	Internal Report
<b>Responsible Officer:</b>	Shaun Millen, Manager Engineering and Civil Operations
<b>Responsible Manager:</b>	Shaun Millen, Manager Engineering and Civil Operations
<b>Executive:</b>	Gavin Harris, Director Works and Services
<b>Authority/Discretion</b>	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
<b>Attachments:</b>	Appendix DWS-1: Option 1 Appendix DWS-2: Option 2 Appendix DWS-3: Intersection Design Appendix DWS-4: Schedule of Public Submissions

**Summary**

Public consultation has occurred with property and business owners potentially impacted by proposed modifications to the intersection of Spencer Street and Cornwall Street.

**Executive Recommendation**

Council endorses modifying the intersection of Spencer Street and Cornwall Street to improve the sight distance and prohibit vehicles turning right from Cornwall Street northwards onto Spencer Street as per the plan titled "Spencer St Cornwall St Preliminary Design.pdf".

**Strategic Relevance**

Key Priority Area 1: Transport & Infrastructure  
Objective 2.3 Maintain a high standard of community infrastructure

**Background**

The existing layout of the Spencer Street and Cornwall Street intersection (site) is not ideal, in particular vehicles exiting Cornwall Street have limited sight distance northwards along Spencer Street. As a result the City undertook an investigation into the site and it was found that there was an over representation of right angle crashes when compared to network averages.

To alleviate this issue intersection treatments were developed to modify kerbing at the intersection to allow the stop hold line in Cornwall Street to be moved forward by two metres to increase driver sight distance.

Two proposals were developed with Option 1 is shown at Appendix DWS-1 removing the ability of vehicles to turn right out of Cornwall Street northwards into Spencer Street and Option 2 is shown at Appendix DWS-2 removing the ability to undertake both right turn in and out of Cornwall Street. City staff then undertook public consultation with adjoining landowners to gauge the affect and acceptance of each proposal.

### **Council Policy Compliance**

Nil

### **Legislative Compliance**

Nil.

### **Officer Comments**

The Safe Intersection Sight Distance (SISD) cannot be met with the existing intersection configuration. Observations undertaken at peak traffic times by City staff indicate that 39 vehicles turned right at Cornwall Street in a 90 minute period and that peak traffic volumes along Spencer Street increased driver frustration when undertaking the turn.

The relocation of the holding line will improve the SISD. The recommendation to remove the right turn from Cornwall Street will ensure the Sight Distance for left turning vehicles is not impaired. The intersection design developed following the consultation is shown at Appendix DWS-3.

Future predicted traffic increases at this intersection and along Spencer Street propose that a roundabout will be required to allow for traffic flow. The future roundabout will require acquisition of land from adjacent properties, including the recent truncation as part of the development approval for Lot 1 and Lot 2 (#27) Spencer Street and Lot 23 (#4) Zoe Street, Bunbury. A truncation of Lot 570 Cornwall Street (northern side) will also be required however a building is located on this lot that occupies the full lot to each boundary. The truncation will only be available should the building be removed in the future or the City decides to purchase the property in the future if it is placed on the market.

The traffic volumes at this time do not warrant a roundabout and the modification of kerbing and no right turn out of Cornwall Street is considered adequate treatment at this time.

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

The proposed works will be funded from PR-4281 Upgrade Spencer Street and Cornwall Street Intersection.

### **Community Consultation**

A letter and sketches outlining the different options were mailed to 34 adjoining property owners with a letter drop also being undertaken to ensure that property tenants were notified. Consultation commenced on the 4<sup>th</sup> July and concluded on the 24<sup>th</sup> July. A total of 14 responses were received these are summarised below and in more detail in the Schedule of Public submissions is shown at Attachment DWS-4.

Option 1 - Respondents generally felt that modifications to the intersection were required. Respondents were split however on what this should entail, some felt that restricting the right turn from Cornwall Street would affect their business and others would like to take a wait and see approach so that impacts related to ALDI could be assessed.

Responses for Option 1 are collated as follows:

- Five respondents supported;

- Three respondents did not make specific comment;
- Two Supported modifications of kerbs only;
- Four respondents objected.

Option 2 - Respondents overwhelmingly objected to Option 2 as it prohibits the right turn in and out of Cornwall Street. Owners and tenants were concerned about congestion created by trucks, large vehicles and buses at Spencer Street/Stirling Street/Blair Street should the right turn into Cornwall Street be removed. Other respondents recommended Council purchase and demolish the Lewis Canvas Works located to the north of the intersection. One respondent supported Option 2 as it provided greater pedestrian safety at the intersection.

Reponses for Option 2 are collated as follows:

- One respondent supported;
- Ten respondents objected;
- Two respondents did not make a specific comment;
- One respondent proposed the installation of traffic signals.

Based on the community consultation Option 1 is accepted as the preferred option.

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

Nil.

#### **Applicant Consultation**

Nil.

#### **Outcome – Council Meeting 12 December 2017**

Cr Steck declared a proximity interest in this item and remained outside the chamber for the duration of the discussion and the vote on the matter.

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

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

#### **Council Decision 445/17**

***Council endorses modifying the intersection of Spencer Street and Cornwall Street to improve the sight distance and prohibit vehicles turning right from Cornwall Street northwards onto Spencer Street as per the plan titled "Spencer St Cornwall St Preliminary Design.pdf".***

CARRIED

8 votes "for" / 4 votes "against"

Cr Steck returned to the chamber at 5.43pm.

## 11. Applications for Leave of Absence

Nil.

## 12. Motions on Notice

### 12.1 Motion on Notice – Disaster Relief Fund

<b>Author:</b>	Councillor Brendan Kelly
<b>Executive:</b>	Mal Osborne, Acting Chief Executive Officer
<b>Attachments:</b>	Nil

Cr Kelly has submitted the following motion for the Ordinary Council Meeting of 12 December 2017.

#### Summary

The purpose of this Motion on Notice is for Council to consider the development and adoption of a Council Policy to govern the City of Bunbury Disaster Relief Fund.

#### Councillor Recommendation

That Council requests the ‘Policy Review and Development Committee’ to develop a policy that guides the collection, accrual and distribution of funds by the City of Bunbury Disaster Relief Fund.

#### Background

On 1<sup>st</sup> March 2011, a Motion on Notice (MoN) was placed before Council to establish a permanent ‘Disaster Relief Reserve Fund’.

The MoN proposed that the City of Bunbury set up a permanent natural disaster fund, whereby emergency funds would be readily available to be distributed within an agreed process, according to fixed criteria.

The intention and (by implication) the spirit of the MoN was clearly stated in comments printed in the MoN paper (verbatim):

“to establish an acceptable method and structure, guided by an Administrative Policy, by which funds can be collected, accrued and distributed to disaster relief without being subject to an ad-hoc process, or the randomness of the day”.

Subsequently Council resolved unanimously (Council Decision 47/11):

1. That a permanent Disaster Relief Reserve Fund be established by the City of Bunbury to provide relief of personal hardship and distress arising from natural disasters occurring within Western Australia and Australia.

2. That the Disaster Relief Reserve Fund be referred to the Annual Budget workshops for consideration for annual allocation.
3. That the Disaster Relief Reserve Fund be setup to enable community donations to be received, and an application be made to the appropriate authorities for donations (of \$2 and over) to be tax deductible.
4. That the Disaster Relief Reserve Fund be administered by a Committee of Council comprised of the Mayor, Chief Executive Officer and one Councillor.

### **Strategic Relevance**

The City of Bunbury strives to provide good governance for all its functions, which requires Council to be accountable, transparent and legally compliant.

The Policy Review and Development Committee (the Committee) considers current practices and procedures in order for the City to ensure compliance with relevant legislative and administrative requirements.

The Committee develops new policies for consideration by Council and makes recommendations to Council on matters of policy, policy review and policy development.

### **Councillor Comments**

On 28<sup>th</sup> November 2017, Council resolved to make a donation of \$3,000 from PR-4116 “Provide Disaster Assistance” within the 2017/18 budget, to our friendship City Nha Trang, Khanh Hoa Province for assistance with disaster recovery works following Typhoon Damrey.

There was a strong view that this decision was contra to the spirit and intent of Council Decision 47/11, which was specifically to provide relief from natural disasters occurring within Western Australia and Australia.

It was also noted that Part 4 of Council Decision 47/11, which required the Disaster Relief Reserve Fund to be administered by a Committee of Council comprised of the Mayor, Chief Executive Officer and one Councillor, had never been enacted.

In hindsight, the spirit and intent of Council Decision 47/11 has not been fulfilled, in as far as:

- There is no policy to guide how funds are collected, accrued and distributed to disaster relief,
- There is no formal structure to administer the Disaster Relief Reserve Fund,
- Funds from the Reserve have been distributed outside of Western Australia and Australia, albeit by resolution of Council, namely to the City Nha Trang, Khanh Hoa Province.

Whereas it may be considered that the Reserve account “intent” does not mention Western Australia or Australia as the only areas that can benefit from the disaster relief funds; and this may have been ratified by Council through the adoption of recent Council budgets; the fact is that Council has reverted to an ad-hoc process.



Specifically, any Councillor at any time can choose a disaster outside of Western Australia or Australia for funding, albeit (seemingly) always by resolution of Council.

This is the very situation that a previous Council identified as being unsatisfactory, in that it was subject to not only randomness, but also to the emotional template that is fixed by disaster.

In addition, the decision to place a request for an allocation from the Disaster Relief Fund onto the Council agenda, irrespective of its merits, is subject to the judgement of the CEO.

Ultimately any expenditure of ratepayers' funds must be accountable and in the case of the Disaster Relief Fund the development of a Council Policy will ensure that a process is clearly in place.

#### **Officer Comments**

The Executive support the development of a policy that guides the collection, accrual and distribution of funds by the City of Bunbury Disaster Relief Fund.

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

The Disaster Relief Reserve Fund already exists and there are no implications for the ongoing administration of the Fund caused by this MoN.

#### **Outcome – Council Meeting 12 December 2017**

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

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

#### **Council Decision 446/17**

***That Council requests the 'Policy Review and Development Committee' to develop a policy that guides the collection, accrual and distribution of funds by the City of Bunbury Disaster Relief Fund.***

CARRIED

13 votes "for" / Nil votes "against"

## **13. Questions on Notice**

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

Nil

### **13.2 *Questions from Members***

Cr Steck asked the Mayor the following questions:

1. Why is it that there has been promotion from the Mayor to indicate there has been a decision from Council to move the Basketball Courts to Eaton when Council has not formally addressed this matter as discussed at the recent Elector's Meeting?
2. Why is there an indication in today's newspaper that there have been works pertaining to moving the basketball courts to Eaton when Council itself has not given a direction to do so?
3. Given that the list of indications from the Mayor of topics he wishes Councillors to work on, why is basketball courts and sporting facilities not one of them?

The Mayor took the questions on notice and will provide a response to Cr Steck within 14 days.

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

Due to this being the last Council Meeting of 2017 (with Council reconvening as of the 16 January 2018) it is requested that the report titled *“CEO Employment Contract and Key Performance Indicators”* be dealt with as urgent business. An affirmative Council Decision is required before this matter can be considered.

### **Recommendation**

That Council pursuant to section 5.4 of Council’s Standing Orders, agree to receive the item titled *“CEO Employment Contract and Key Performance Indicators”* as a matter of urgent business.

### **Outcome – Council Meeting 12 December 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 447/17**

***That Council pursuant to section 5.4 of Council’s Standing Orders, agree to receive the item titled “CEO Employment Contract and Key Performance Indicators” as a matter of urgent business.***

CARRIED

13 votes “for” / Nil votes “against”

#### 14.1 CEO Employment Contract and Key Performance Indicators

<b>Applicant/Proponent:</b>	CEO Performance Review Panel
<b>Responsible Officer:</b>	Gary Brennan, Mayor
<b>Responsible Manager:</b>	Gary Brennan, Mayor
<b>Executive:</b>	Gary Brennan, Mayor
<b>Authority/Discretion</b>	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
<b>Attachments:</b>	Appendix CEO-1: CEO KPI's 2018-2023

##### Summary

At the Council Meeting held Tuesday 28 November 2017, Council resolved to appoint the preferred candidate, Mr Malcolm Osborne as the City's Chief Executive Officer.

The CEO Performance Review Panel has met with Mr Osborne to develop the Draft CEO Employment Contract and Key Performance Indicators in accordance with Council Resolution 433/17.

##### CEO Performance Review Panel Recommendation

Council resolves to authorise the Mayor to sign the proposed Chief Executive Officer Employment Contract with Mr Malcolm Osborne as circulated to Elected Members on 11 December 2017 and Key Performance Indicators as attached to this report, with the contract commencing 18 December 2017 for a term of five (5) years.

##### Strategic Relevance

Key Priority Area 5: Corporate  
Objective 5.5: Ensure organisational capability

##### Background

At the Ordinary Council meeting of 28 November 2017 the following was resolved:

*Council Decision 433/17*

*That Council:*

- 1. Appoint the Preferred Candidate, Mr Malcolm Osborne as identified in Confidential Attachment CRUSC-1-1 Beilby Report as City of Bunbury Chief Executive Officer subject to a draft contract to the satisfaction of both parties being negotiated for a term of up to 5 years.*
- 2. Authorise the CEO Performance Review Panel (the Panel) negotiate with the Preferred Candidate a draft contract based on the advertised remuneration package, terms and requirements for the position including draft Key Performance Indicators.*

3. *Request the Panel, following conclusion of the negotiations, submit a draft contract to Council for approval at the earliest possible opportunity.*
4. *Agree that Mr Malcolm Osborne continue in the role of Acting Chief Executive Officer until Council has approved the contract referred to in point 3 above.*

In accordance with point 2 and 3 of Decision 433/17, the matter is now presented to Council for approval.

### **Council Policy Compliance**

No Council Policy applies in this instance

### **Legislative Compliance**

Section 5.38 of the Local Government Act 1995 requires the performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

### **Officer Comments**

The CEO Performance Review Panel consists of the Mayor and Councillors McGuinness, Hayward and McCleary. A Panel meeting convened with Mr Osborne on Monday 4 December 2017 to develop and review the Draft CEO Employment Contract for the City's Chief Executive Officer and detail the Key Performance Indicators.

A copy of the draft CEO Employment Contract for the period 2018/2023 was circulated separately to Elected Members. A copy of the Key Performance Indicators for 2018 is attached at Appendix CEO-1. It is suggested that an informal review of the CEO's KPI's be held after six months as this will allow an analysis of the KPI's and an opportunity to consider the key outcomes of the full review of the Strategic Community Plan.

### **Mayor's Comments**

On behalf of the CEO review Panel I advise the Panel has completed its review of the draft contract in consultation with Mr Osborne. The Panel and Mr Osborne have reached agreement with the draft Contract of Employment and Draft Key Performance Indicators and submit these documents to Council for its consideration and approval

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

The negotiated salary package (as detailed in the Draft CEO Contract) is within the current allocations contained in the existing budget.

### **Community Consultation**

Not applicable.

### **Councillor/Officer Consultation**

This report is presented to Council by the CEO Performance Review Panel

**Applicant Consultation**

Not applicable

**Outcome – Council Meeting 12 December 2017**

Cr McCleary moved, Cr McGuinness seconded that the meeting go behind closed doors.

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

**Council Decision 448/17**

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

*a) "14.1 CEO Employment Contract and Key Performance Indicators"*

CARRIED

13 votes "for" / Nil votes "against"

The meeting was closed to all members of the public, press and city officers (with the exception of the Acting CEO and Minute Secretary) at 5.53pm.

Cr McGuinness moved, Cr Steele seconded that Standing Orders be suspended to facilitate discussion in relation to this item.

The Mayor put the motion to the vote and it was CARRIED.

Cr Cook moved, Cr McGuinness seconded that the Standing Orders be resumed.

The Mayor put the motion to the vote and it was CARRIED.

Cr Steele moved, Cr Cook seconded that the meeting be re-opened to the public and press.

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

**Council Decision 449/17**

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

CARRIED

13 votes "for" / Nil votes "against"

The meeting was re-opened to all members of the public, press and city officers at 6.01pm.

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

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

*Council resolves to authorise the Mayor to sign the proposed Chief Executive Officer Employment Contract with Mr Malcolm Osborne as circulated to Elected Members on 11 December 2017 and Key Performance Indicators as attached to this report, **subject to legal advice regarding implications of the contract amendments subsequent to the City’s legal counsel preparing the original contract.***

The Mayor put the amendment to the vote and it was LOST 6 votes “for” / 7 votes “against”.

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

**Council Decision 450/17**

***Council resolves to authorise the Mayor to sign the proposed Chief Executive Officer Employment Contract with Mr Malcolm Osborne as circulated to Elected Members on 11 December 2017 and Key Performance Indicators as attached to this report, with the contract commencing 18 December 2017 for a term of five (5) years.***

CARRIED

12 votes “for” / 1 vote “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 wished everyone a Merry Christmas and Happy New Year.

The meeting was declared closed at 6.12pm.