



City of Bunbury Council

Minutes

23 February 2021



CITY OF BUNBURY
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Bunbury WA 6230
Western Australia

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Acknowledgement of Country

We acknowledge the Traditional Custodians of this land, the Wardandi Noongar people, and pay our respects to Elders past, present and future.

Vision

Bunbury: welcoming and full of opportunities.

Organisational Values

#WEARECOB

WE ARE COMMUNITY

We are one team
We keep each other safe
We display empathy and respect
We have fun and celebrate our successes
We work together to achieve great outcomes

WE ARE OPEN

We are open to opportunities
We actively listen and think things through
We are inclusive and treat everyone equally
We are honest and open in our communications
We are open to feedback to improve our performance

WE ARE BRAVE

We lead the change, we own it
We trust and empower each other
We have the difficult conversations early
We hold ourselves to the highest standard
We have the courage to improve and simplify

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.

1. Declaration of Opening / Announcements of Visitors

The Deputy Mayor declared the meeting open at 5.30pm and acknowledged the Traditional Custodians of the land, the Wardandi Noongar people and paid his respects to Elders, past, present and future.

1.1 Request by Cr Yip to Participate by Phone

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

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

Cr Yip has advised she will be situated at Unit 1/142 Salvado Road, Wembley for the duration of the meeting.

Regulation 14A(4) defines a suitable place as a place that the council has approved as a suitable place for the purpose of this regulation and that is located:

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

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

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

That Council:

1. Approves 1/142 Salvado Road, Wembley as a suitable place for the purposes of Regulations 14A(1)(b) and 14A(4).
2. Approves the participation of Cr Yip at the Ordinary Council Meeting held 23 February 2021 via telephone pursuant to Regulation 14A(1)(c).

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr Giles and seconded by Cr Plumb.

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

Council Decision 17/21

That Council:

- 1. Approves 1/142 Salvado Road, Wembley as a suitable place for the purposes of Regulations 14A(1)(b) and 14A(4).***
- 2. Approves the participation of Cr Yip at the Ordinary Council Meeting held 23 February 2021 via telephone pursuant to Regulation 14A(1)(c).***

CARRIED UNANIMOUSLY
11 votes "for" / nil votes "against"

Councillor Yip formally joined the meeting at 5.30pm.

2. Disclaimer

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

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

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

Copyright

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Recording and Webstreaming of Meetings

- All Ordinary and Special Council Meetings are electronically recorded except when Council resolves to go behind closed doors
- All recordings are retained as part of the City's records in accordance with the General Disposal Authority for Local Government Records produced by the Public Records Office
- The live stream can be accessed at <http://www.bunbury.wa.gov.au/Pages/Live-Stream.aspx>
- Recordings can be accessed at <http://www.bunbury.wa.gov.au/Pages/Council-Meeting-Videos-2019.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 announced that this year is the sesquicentenary of local government in Western Australia with Bunbury being one of the original local governments to be established in 1871.

4. Attendance

Council Members:	
Presiding Member:	Mayor G Brennan
Members:	Deputy Mayor J Miguel
	Councillor K Turner
	Councillor J Hayward
	Councillor B McCleary
	Councillor T Smith
	Councillor C Kozisek
	Councillor W Giles
	Councillor A Yip (via telephone)
	Councillor T Brown
	Councillor K Plumb
	Councillor M Steck
Executive Leadership Team (Non-Voting)	
Chief Executive Officer	Mr M Osborne
Director Infrastructure	Mr G Harris
Director Sustainable Communities	Mr G Barbour
Director Strategy and Organisational Performance	Mr D Chandler
City of Bunbury Officers (Non-Voting)	
Manager Governance	Mr G Golinski
Manager Finance	Mr D Ransom
Manager City Growth	Ms F Anderson
Media and Communications Officer	Ms K Fielding
Executive Assistant to the Mayor	Mr L Murphy
Others (Non-Voting)	
Members of the Public	7

4.1 Apologies

Councillor Steele was an apology for this meeting.

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 an impartiality interest in the item titled *“10.1.2 Grant Funding Program Reallocation of the Seed Funding Project to an Iconic Event Project and Consideration of a Proposal for an Iconic Event.”*

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 9 February 2021 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the City of Bunbury Council held 9 February 2021 be confirmed as a true and accurate record.

Voting Requirement: Simple Majority Required

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr Giles and seconded by Cr Kozisek.

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

Council Decision 18/21

The minutes of the Ordinary meeting of the City of Bunbury Council held 9 February 2021 be confirmed as a true and accurate record.

CARRIED UNANIMOUSLY
12 votes "for" / nil votes "against"

7.1.2 Minutes – Annual General Meeting of Electors

The minutes of the City of Bunbury Annual General Meeting of Electors held 16 February 2021 have been circulated.

Recommendation

The minutes of the City of Bunbury Annual General Meeting of Electors held 16 February 2021 be confirmed as a true and accurate record.

Voting Requirement: Simple Majority Required

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr McCleary and seconded by Cr Kozisek.

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

Council Decision 19/21

The minutes of the City of Bunbury Annual General Meeting of Electors held 16 February 2021 be confirmed as a true and accurate record.

CARRIED UNANIMOUSLY
12 votes "for" / nil votes "against"

7.1.3 Minutes – Council Advisory Committees and Working/Project Groups

Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Mal Osborne, Chief Executive Officer
Authority/Discretion:	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input checked="" type="checkbox"/> Information Purposes
Attachments:	Appendix MTBN-1: BEAC Minutes 21 January 2021 Appendix MTBN-2: DAIC Minutes 27 January 2021

Summary

The following Advisory Committee Meeting was held, and the minutes are presented for noting:

1. Title: Bunbury Events Advisory Committee
Author: Liz Allan, Executive Assistant Research and Projects
Appendix: MTBN-1
2. Title: Disability Access and Inclusion Committee
Author: Danika Wellington, Community Partnership Officer – Youth and Activation
Appendix: MTBN-2

Council Committee Recommendation

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

1. Bunbury Events Advisory Committee Minutes 21 January 2021
2. Disability Access and Inclusion Committee Minutes 27 January 2021

Voting Requirement: Simple Majority Required

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr Hayward and seconded by Cr Giles.

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

Council Decision 20/21

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

- 1. Bunbury Events Advisory Committee Minutes 21 January 2021***
- 2. Disability Access and Inclusion Committee Minutes 27 January 2021***

CARRIED UNANIMOUSLY
12 votes "for" / nil votes "against"

8. Petitions, Presentations, Deputations and Delegations

8.1 Petitions

Nil

8.2 Presentations

Nil

8.3 Deputations

Mr Cody Bates

Mr Cody Bates requested to address item 10.4.3 *“Proposed Outbuilding (Shed) at Lot 320 (#11) Holtzman Place, Carey Park.”*

Council Decision 21/21

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Cody Bates’ deputation request to address item 10.4.2 “Proposed Outbuilding (Shed) at Lot 320 (#11) Holtzman Place, Carey Park.” and allows a period of up to 5 minutes to present to Council.

CARRIED UNANIMOUSLY
12 votes “for” / nil votes “against”

Mr Simon Berns

Mr Simon Berns requested to address item 10.4.3 *“Proposed Road Closure – Portion Carey Street, Bunbury.”*

Council Decision 22/21

Pursuant to clause 6.9 (2)(b) of Councils Standing Orders, Council approves Mr Simon Berns’ deputation request to address item 10.4.3 “Proposed Road Closure – Portion Carey Street, Bunbury.”

CARRIED UNANIMOUSLY
12 votes “for” / nil votes “against”

8.4 Council Delegates’ Reports

Nil

8.5 Conference Delegates’ Reports

Nil

9. Method of Dealing with Agenda Business

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

Pursuant to Standing Order 5.5, the Council “*adopted by exception*” (i.e. without discussion) those recommendations listed for items 10.1.1, 10.3.1, 10.3.2 and 10.4.1.

Items 10.1.2, 10.3.3, 10.4.2 and 10.4.3 were discussed and voted on separately. All items have been renumbered with the items voted “by exception” listed first.

The items “*adopted by exception*” were moved by Cr Brown and seconded by Cr Hayward.

10. Reports

10.1 Grant Funding Program New “Major Community Events” Funding Category Proposal (listed as 10.1.1 in the agenda)

File Ref:	COB/530		
Applicant/Proponent:	BEAC		
Responsible Officer:	Juaini Taylor, Senior Events Officer		
Responsible Manager:	Sarah Upton, Manager Community Services		
Executive:	Gary Barbour, Director Sustainable Communities		
Authority/Discretion	<input type="checkbox"/> Advocacy	<input type="checkbox"/> Review	
	<input checked="" type="checkbox"/> Executive/Strategic	<input type="checkbox"/> Quasi-Judicial	
	<input type="checkbox"/> Legislative	<input type="checkbox"/> Information Purposes	
Attachments:	Nil		

Summary

This report is presented to the Council to advise of the proposed establishment of a new ‘Major Community Events’ category and to request Council consider allocating \$40,000 from PR-4211 towards this new category during budget deliberations for 2021/22.

Bunbury Events Advisory Committee Recommendation

That Council considers allocating \$40,000 from PR-4211 ‘Provide funding for an Events Grants Funding Round’ towards the new “Major Community Events” funding category during budget deliberations for 2021/22.

Voting Requirement: Simple Majority

Strategic Relevance

Theme 1	Our community and culture
Goal	A safe, healthy and cohesive community, with a rich cultural life, and supportive social environment
Objective 1.4	Arts, culture, heritage and events that enrich our understanding and enjoyment of life, celebrate our identity and bring the community together.
Theme 4	Our City
Goal	Civic Leadership, partnerships and sound governance in delivering with and for the community
Objective 4.2	A highly engaged and involved community, working together on strategy development and implementation.

Regional Impact Statement

Events play an important role in the cultural fabric of our community and provide significant cultural, economic and social benefit. The newly proposed “Major Community Events” category will reduce the application process for established and proven local events increasing the efficiency and sustainability for them to be delivered.

Background

The City provides an annual funding program that aims to enable a range of quality and diverse events and activities. There are three funding categories available:

- Arts;
- Community; and
- Events

At the BEAC grant assessment meeting held on 26 August 2020, BEAC briefly discussed the possibility of offering ongoing funding to major community events requiring support from the City to continue long term.

Council Policy Compliance

The Grant Funding Program Council Policy will need to be amended to reflect the introduction of the new grant funding category which will require endorsement by Council.

Legislative Compliance

Local Government Act 1995.

Officer Comments

The City's events calendar has improved significantly over the past few years welcoming new and exciting events. There are several long-term community events that continue to grow and evolve into major events for Bunbury.

Apart from the ANZAC Day and Remembrance Day commemorations, the City does not provide ongoing support to any events. Applicants are encouraged to apply for support from the City annually. This ensures the funding program is open and transparent, and all applicants are provided an equal opportunity to apply and be assessed in a competitive round.

In addition to the City's internally hosted events, Christmas in the City and the Sky Fest Australia Day, there are several community events that have sealed their place as major events for Bunbury. It is therefore proposed that a multi-year "Major Community Events" funding category be created with a contract period of up to three (3) years. This will allow events to be sustainable longer term and reduce the pressure of applying each year, especially for not for profit groups with limited resourcing.

The Grants Officer and Senior Events Officer have workshopped the new funding category which was presented to the Bunbury Events Advisory Committee Meeting held 20 January 2021. At this Meeting the Committee supported the establishment of a new 'Major Community Events' funding category as a multi-year funding program with up to three years funding.

The City's Grant Funding Program policy will be amended to include the "Major Community Events" category. Following completion of the review, the draft amended policy and draft guidelines will be referred back to the Bunbury Events Advisory Committee Meeting scheduled to occur 10 March 2021 after which it will be referred to Council for endorsement at its Ordinary Council Meeting scheduled for 6 April 2021.

This will allow the amended policy to be launched in April 2021 in line with the release of the annual Grant Funding Program.

Analysis of Financial and Budget Implications

It is proposed to accommodate the funding within the existing allocation for event funding. The funds for this new category would be quarantined from the 'Provide funding for an Events Grants Funding Round' budget (PR-4211). A total of \$40,000 would be set aside to fund up to two (2) high quality applications that address the new funding criteria. Should applicants not meet the funding criteria, the budget from this category will be re-allocated back to the events funding pool.

Currently there are two events with contracts in place which also require funds to be set aside from the Events budget. The below table shows the funds remaining in the annual events budget with consideration of existing contracts and the proposed "Major Community Events" grant.

Total amount in the annual events budget	\$257,556
Groovin the Moo (contracted until 2024)	\$15,000
CinefestOZ (contracted until 2021)	\$30,000
Proposed Major Community Events Grant	\$40,000
Remaining funds within the annual events budget	\$172,556

Community Consultation

A local major event organiser was contacted to discuss the suitability of the proposed "Major Community Events" grant. The event organiser advised they are solely reliant on grants and sponsorship to deliver their event. Any financial returns made from running events offset event costs, with no profits retained. Therefore, they supported the "Major Community Events" category being established.

Councillor/Officer Consultation

Not applicable.

Applicant Consultation

The attached proposal was discussed with BEAC during informal discussions immediately following its Meeting held Wednesday 11 November 2020.

Timeline: Council Decision Implementation

If Council decides to consider allocating \$40,000 from PR-4211 'Provide funding for an Events Grants Funding Round' towards the new "Major Community Events" funding category during budget deliberations for 2021/22 a determination will be made at the time of budget adoption.

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr Brown and seconded by Cr Hayward.

The Mayor put the motion to the vote, and it was adopted (en-bloc) to become the Council's decision on the matter.

Council Decision 23/21

That Council considers allocating \$40,000 from PR-4211 'Provide funding for an Events Grants Funding Round' towards the new "Major Community Events" funding category during budget deliberations for 2021/22.

CARRIED UNANIMOUSLY
12 votes "for" / nil votes "against"

10.2 Schedule of Accounts Paid for the 1 December 2020 to 31 December 2020 (listed as 10.3.1 in the agenda)

File Ref:	COB/1647	
Applicant/Proponent:	Internal Report	
Responsible Officer:	David Ransom, Manager Finance	
Responsible Manager:	David Ransom, Manager Finance	
Executive:	Dave Chandler, Director Strategy & Organisational Performance	
Authority/Discretion:	<input type="checkbox"/> Advocacy <input type="checkbox"/> Executive/Strategic <input checked="" type="checkbox"/> Legislative	<input type="checkbox"/> Review <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Information Purposes
Attachments:	DSOP-1: Schedule of Accounts Paid December 2020	

Summary

The City of Bunbury "*Schedule of Accounts Paid*" covering the period 1 December 2020 to 31 December 2020 is attached at Appendix DSOP-1. The schedule contains details of the following transactions;

1. Municipal Account – payments totalling \$7,306,300.69
2. Trust Account – payments totalling \$26,828.95
3. Visitor Information Centre Trust Account – payments totalling \$19,324.90
4. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$1,128,655.88

Executive Recommendation

The Schedule of Accounts Paid for the period 1 December 2020 to 31 December 2020 be received.

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr Brown and seconded by Cr Hayward.

The Mayor put the motion to the vote, and it was adopted (en-bloc) to become the Council's decision on the matter.

Council Decision 24/21

The City of Bunbury "Schedule of Accounts Paid" covering the period 1 December 2020 to 31 December 2020 is attached at Appendix DSOP-1. The schedule contains details of the following transactions;

- 1. Municipal Account – payments totalling \$7,306,300.69**
- 2. Trust Account – payments totalling \$26,828.95**
- 3. Visitor Information Centre Trust Account – payments totalling \$19,324.90**
- 4. Bunbury-Harvey Regional Council Municipal Account – payments totalling \$1,128,655.88**

CARRIED UNANIMOUSLY
12 votes "for" / nil votes "against"

10.3 Financial Management Report for the Period Ending 31 December 2020 (listed as 10.3.2 in the agenda)

File Ref:	COB/1647	
Applicant/Proponent:	Internal Report	
Responsible Officer:	David Ransom, Manager Finance	
Responsible Manager:	David Ransom, Manager Finance	
Executive:	Dave Chandler, Director Strategy and Organisational Performance	
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Executive/Strategic <input checked="" type="checkbox"/> Legislative	<input type="checkbox"/> Review <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Information Purposes
Attachments:	Appendix DSOP-2: Statement of Comprehensive Income Appendix DSOP-3: Statement of Financial Activity Appendix DSOP-4: Statement of Net Current Assets Appendix DSOP-5: Statement of Financial Position Appendix DSOP-6: Capital Projects Expenditure Summary Appendix DSOP-7: Operating Projects Expenditure Summary Appendix DSOP-8: Monthly Community Financial Report	

Summary

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

- Statement of Comprehensive Income (**attached** at Appendix DSOP-2)
Actual Financial Performance to 31 December 2020 (refer explanations within the report)
 - Actual income of \$52.22M is \$569K more than the year-to-date budgeted income of \$51.65M.
 - Actual expenditure of \$30.20M is \$479K less than the year-to-date budgeted expenditure of \$30.68M.
 - Actual operating surplus of \$22.02M is \$1.05K more than the year-to-date budgeted operating surplus of \$20.97M.
- Statement of Financial Activity (**attached** at Appendix DSOP-3)
Closing Funding Surplus to 30 June 2021 is forecast at \$112K, which is \$45K more than the budgeted surplus of \$67K. The City’s income and expenditure is currently being reviewed and any forecast changes noted will be included in the February 2021 Budget Review.
- Statement of Financial Position (**attached** at Appendix DSOP-5)

The City’s year-to-date actuals and end of financial year (F/Y) forecast balances are as follows:

	Year-to-date	F/Y Forecast
* Current Assets of \$65.70M includes:		
- Cash and Investments	\$52.42M	\$21.26M
- Rates Receivable	\$12.17M	\$1.81M
- Other Current Assets	\$1.11M	\$1.87M
* Current Liabilities of \$15.54M includes:		
- Trade and Other Payables	\$9.15M	\$4.86M
- Annual Leave and LSL Provisions	\$4.21M	\$4.75M

- | | | |
|--|-----------|-----------|
| * Working Capital
(Current Assets less Current Liabilities) | \$50.16M | \$12.52M |
| * Equity
(Total Assets less Total Liabilities) | \$579.55M | \$553.93M |
4. Capital Works (**attached** at Appendix DSOP-6)
- Actual capital works of \$6.17M is \$3.64M less than the year-to-date budgeted capital works of \$9.81M, (refer explanation within report).
 - The progress of capital works is monitored on a monthly basis.
 - Capital works include a combination of funding sources including municipal, reserve and grant funds.
5. Operating Project Expenditure (**attached** at Appendix DSOP-7)
- Actual operating project expenditure of \$1.73M is \$794K less than the year-to-date budgeted operating project expenditure of \$2.53M.
 - Operating projects include a combination of funding sources including municipal, reserve and grant funds.

Executive Recommendation

The Financial Management Report for the period ending 31 December 2020 be received.

Strategic Relevance

- Theme 4: Our City.
Goal: Civic leadership, partnerships and sound governance in delivering with and for the community.
Objective No.4.4: A skilled organisation, which exercises responsible asset stewardship, sound financial management, and exemplary customer service.

Background

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

- Statement of Comprehensive Income (**attached** at Appendix DSOP-2)
- Statement of Financial Activity (**attached** at Appendix DSOP-3)
- Statement of Net Current Assets (**attached** at Appendix DSOP-4)
- Statement of Financial Position (**attached** at Appendix DSOP-5)
- Capital Projects Expenditure Summary (**attached** at Appendix DSOP-6)
- Operating Projects Summary (**attached** at Appendix DSOP-7)
- Monthly Community Financial Report (**attached** at Appendix DSOP-8)

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

Council Policy Compliance

Not applicable.

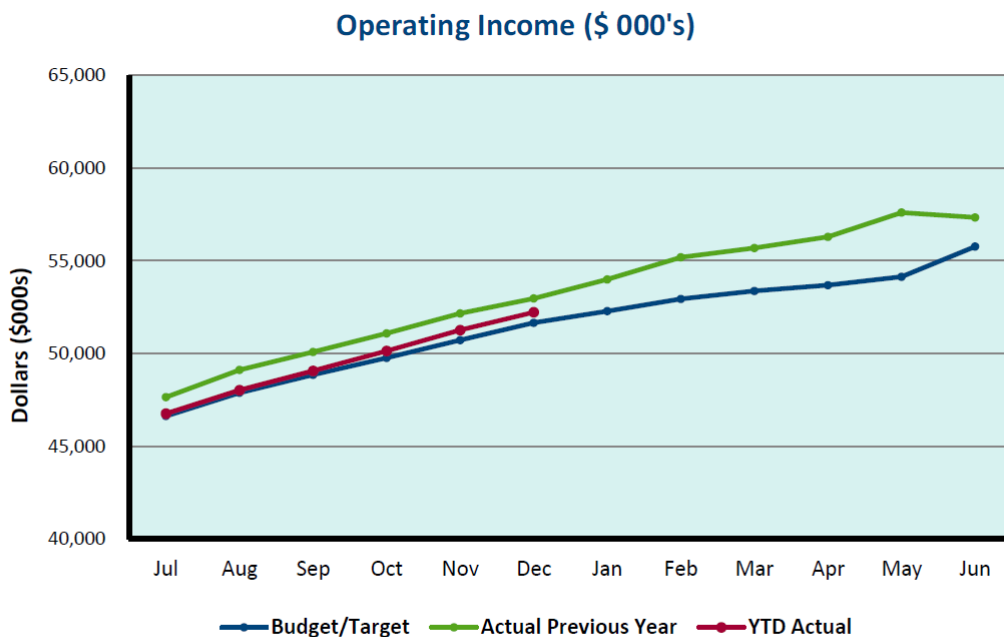
Legislative Compliance

In accordance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996, a Local Government is to prepare each month a Statement of Financial Activity (**attached** at Appendix DSOP-3) reporting on the revenue and expenditure as set out in the annual budget under Regulations 22 (1) (d) for this month.

At the Special Council Meeting 28 July 2020, Council adopted that a variance between actual and budget-to-date of greater than or equal to 10% and \$25,000 is considered to be a material variance for reporting purposes in the Statement of Financial Activity for 2020/21.

Officer Comments

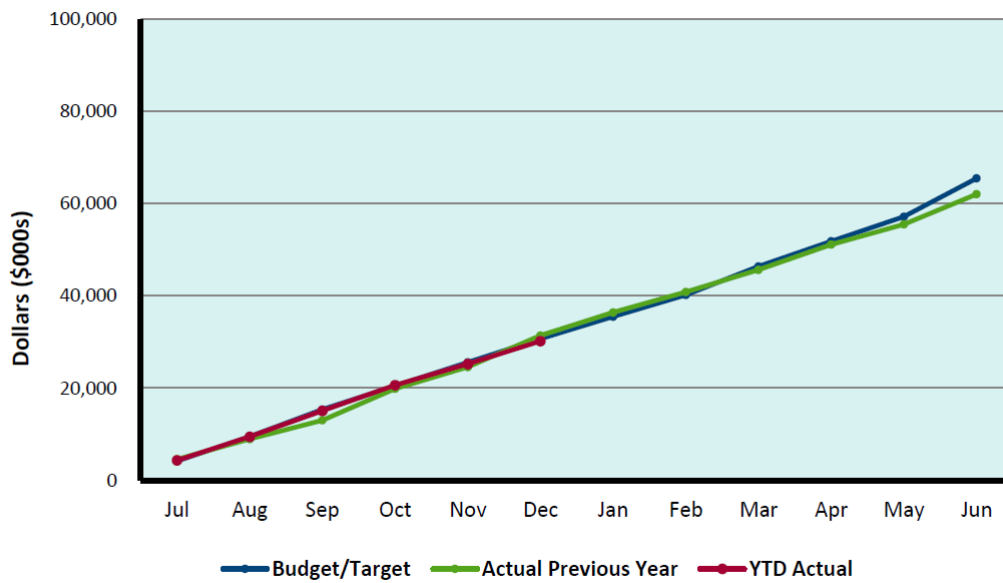
The Operating Income, Operating Expenditure and Capital Expenditure graphs provide an overview on how the actual income/expenditure is tracking to budget and the previous financial year. Comments are provided on each graph regarding the current financial position.



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

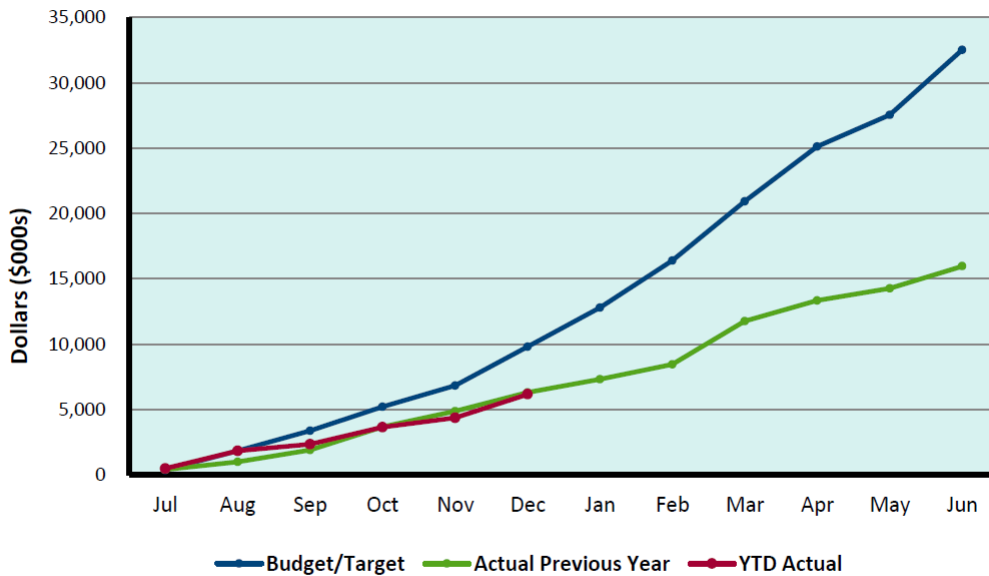
Actual income of \$52.22M is \$569K more than the year-to-date budgeted income of \$51.65M.

Operating Expenditure (\$ 000's)



Note: Actual operating expenditure for both base and operating projects is \$479K under the year-to-date budget.

Capital Expenditure (\$ 000's)



Note: The capital expenditure variance to the end of December 2020 is \$3.64M less than the year-to-date budget. The monthly Capital Works Expenditure Summary Report to Council provides more detail on all capital projects.

The following is an explanation of significant variances identified in the Statement of Financial Activity. Please refer to Appendices DSOP-6 and DSOP-7 for more detailed information regarding projects:

Statement of Financial Activity	YTD Actual to Budget Variance
Operating Revenue	
Contributions, Reimbursements and Donations – Favourable year-	\$219,916

to-date variance of \$152K mainly due to higher than anticipated contributions received of \$77K (including \$37K of credits for the solar panel installation, and \$38K towards structure planning projects) and reimbursements of \$114K (including various insurance reimbursements of \$68K and Container Deposit Scheme reimbursements of \$46K). Forecast adjustments have been entered and will be included in the February 2021 Budget Review.	46%
Other Revenue – Favourable year-to-date variance of \$53K mainly due to income associated with the Container Deposit Scheme handling fees received of \$38K. A forecast adjustment has been entered and will be included in the February 2021 Budget Review.	\$53,167 36%
Capital Expenses	
<p>Acquisition of Assets – Favourable year-to-date variance due to the timing of capital expenditure. The capital projects are monitored on a monthly basis.</p> <p>PR-4786 - Detailed design and construction of Youth Precinct - \$1.65M PR-4799 - Upgrade Halifax Business Park infrastructure - \$647K PR-4015 - Improve City’s Landscaping, Parks, Gardens and Entry Statements - \$411K PR-1809 - Construct Hay North Pavilion - \$215K PR-4943 - Implement land exchange, land acquisitions and rationalisation - \$191K PR-4847 - Construct new UAT Public Facility at Des Ugle Park - \$117K PR-4781 - Replace SWSC fire system - \$113K PR-1283 - Expand cycleways - \$99K</p>	\$3,637,447 37%

Analysis of Financial and Budget Implications

This Financial Management Report on the financial performance of the City is provided for Councillors information and does not have any financial or budget implications for the 2020/21 financial year. Any forecast changes noted will be included in the February 2021 Budget Review.

Community Consultation

There is no requirement for community consultation on this report. A Monthly Community Financial Report (attached at Appendix DSOP-8) has been prepared to give the community an easy to understand summary of the City’s financial performance. Once received by Council, this report will be made available on the City’s website for community information.

Councillor/Officer Consultation

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

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

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr Brown and seconded by Cr Hayward.

The Mayor put the motion to the vote, and it was adopted (en-bloc) to become the Council's decision on the matter.

Council Decision 25/21

The Financial Management Report for the period ending 31 December 2020 be received.

CARRIED UNANIMOUSLY
12 votes "for" / nil votes "against"

10.4 Proposed Outbuilding (Shed) at Lot 15 (#12) Tuxford Fairway, Usher (listed as 10.4.1 in the agenda)

File Ref:	DA.2020.279.1
Applicant/Proponent:	Xpress Patio, Sheds & Powdercoaters
Responsible Officer:	Matilda Hodge, Planning Officer
Responsible Manager:	Felicity Anderson, Manager City Growth
Executive:	Gary Barbour, Director Sustainable Communities
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix DSC-1 – Location Plan LOT15 Tuxford Fairway Usher Appendix DSC-2 – Site Photos LOT15 Tuxford Fairway Usher Appendix DSC-3 – Development Plans LOT15 Tuxford Fairway Usher

Summary

Development approval is sought for an outbuilding (shed) at Lot 15 (#12) Tuxford Fairway, Usher.

The application seeks variations to the Residential Design Codes and the City’s Local Planning Policy, in relation to primary street setback (1.5m in lieu of 6m) and wall height (3.0m in lieu of 2.4m). The siting of an outbuilding within the primary street setback area, having regard also to the proposed materials and height, would have an adverse impact and be detrimental to the existing streetscape and character of the locality. The recommendation is therefore for refusal.

The application is before Council as officers do not have delegation to refuse an application for development approval.

Executive Recommendation

That Council, in accordance with clause 68(2) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the City of Bunbury Local Planning Scheme No. 8 resolves to refuse the application for an outbuilding at Lot 15 (#12) Tuxford Fairway, Usher, for the following reasons:

1. The development does not satisfy the design principles of clause 5.1.2 (Street Setback) and 5.4.3 (Outbuildings) of the Residential Design Codes as the proposed outbuilding would be inconsistent with and adversely impact the existing streetscape and character of the area.
2. The development is inconsistent with the City of Bunbury’s Local Planning Policy: 3.5 Minor Structures (Including Outbuildings) in respect of siting and height within the primary street setback area and does not meet the policy requirements for supporting a variation (Part C). The development by reason of its siting and design would be visually dominant in the streetscape and adversely impact the visual amenity of the area.

Voting Requirement: Simple Majority

Strategic Relevance

Theme 3	Our places and spaces
Goal	A natural and built environment

Objective 3.3 High-quality urban design, well-planned neighbourhoods with housing choice, and appropriate provision for diverse land uses to meet the community's needs.

Regional Impact Statement

The proposal relates to an individual property and is not considered to have a regional impact.

Background

The subject site is within the Residential Zone, with a density coding of R20. A locality plan and site photographs are **attached** at Appendix DSC-1 and Appendix DSC-2.

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

Property Address:	Lot15 #12 Tuxford Fairway, Usher
Zoning:	Residential (R20)
Existing Land Use:	Single House
Lot Area:	617m ²

The proposed outbuilding is to be constructed of colorbond. The dimensions of the outbuilding are 6.0m x 9.0m (54m²) with a wall height of 3.0m and ridge height of 3.8m. The outbuilding is proposed to be setback 1.5m from the primary street lot boundary and located forward of the main dwelling/building line.

Development plans are **attached** at Appendix DSC-3.

The proposal seeks two significant variations to the requirements of Local Planning Policy 3.5: Minor Structures (Including Outbuildings) (LPP3.5).

1. The proposal has a reduced primary street setback distance of 1.5m, in lieu 6m; and
2. The proposal has an increased wall height of 3m, in lieu of 2.4m, noting the outbuilding is within the primary street setback area.

Council Policy Compliance

Not applicable.

Legislative Compliance

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

Legislation

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*.

State Planning Framework

- *State Planning Policy 3.1 - Residential Design Codes (R-Codes)*;
- *State Planning Policy 7.0 – Design of the Built Environment*.

Local Planning Framework

- City of Bunbury Local Planning Strategy;
- City of Bunbury Local Planning Scheme No.8 (LPS8);
- City of Bunbury Local Planning Policy 3.5: Minor Structures (including Outbuildings); and

Officer Comments

The main consideration relates to an assessment of the proposed variations against the R-Codes and LPP3.5.

Residential Design Codes

The main variation relates to the siting of the proposed outbuilding within the primary street setback area. The outbuilding is setback 1.5m from the lot boundary in lieu of 6m. Furthermore, the design of the outbuilding (colorbond) and increased height would further accentuate the visual impact. It is therefore considered that the proposal would not satisfy the applicable Design Principle of clause 5.4.3 Outbuildings of the R-Codes, which states:

Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.

Local Planning Policy 3.5: Minor Structures (including Outbuildings)

Relevant Clause	Assessment
Clause 8.3.1 Minor structures (including outbuildings) other than a carport shall not be located within the primary street setback area, in accordance with Table 1 of the Residential Design Codes.	Does not comply. Outbuilding setback 1.5m in lieu of 6.0m.
Clause 8.3.2 Where a minor structure (including outbuildings) is located to the side or forward of the dwelling and is visible from the primary street (including rights-of-way) the minor structure shall not impact on the streetscape and/or amenity of the area, and shall match/complement the material, colours and built form (including roof pitch and style) of the existing dwelling to the satisfaction of Development Services.	Does not comply. The proposed building is colorbond and projects significantly forward of the existing dwelling building line.
8.6 Height 8.6.2 Outbuildings shall not exceed a wall height of 2.4m and a ridge height of 4.2m. 8.6.3 Table 1 – Maximum Height of Outbuildings, provides for an increased wall height of 2.7m for lot sizes 601m ² to 700m ² , subject to compliance with the setback requirements.	Does not comply. The proposal wall height is 3.0m. The outbuilding does not comply with the street setback requirement.

Any variations to the requirements of LPP 3.5 are required to be assessed against the objectives of the policy, the aims of LPS8, the objectives of the Residential Zone and the relevant 'matters to be considered' in Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The outbuilding is considered to be inconsistent with the following relevant objectives of the LPP, which include:

- To ensure that the Performance Criteria of the Residential Design Codes are appropriately addressed;
- To ensure that minor structures (including outbuildings) are appropriately located on premises;
- To preserve and enhance the amenity of the area and to limit the visual impact of minor structures (including outbuildings) by controlling building bulk (size and height).

The outbuilding would be inconsistent with the objectives of the Residential Zone, which include:

- To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.

The outbuilding is inconsistent the requirements of Clause 67(m) and (n) of the Matters to be Considered under the *Planning and Development (Local Planning Schemes) Regulations 2015*. The proposed outbuilding will adversely impact the streetscape and character of the locality and would give rise to an undesirable precedence.

The applicant has advised that there is an existing outbuilding opposite the application site at 2 Foreman Drive. However, the setback is a secondary street setback which is 1.5m and not a primary street.

In conclusion, it is considered the proposed outbuilding located within the primary street setback would adversely impact on the appearance of the streetscape and character of the area.

Analysis of Financial and Budget Implications

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

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

Community Consultation

Neighbour notification letters were sent by the City to adjoining residential landowners/occupiers. Consultation was undertaken between 21 December 2020 to 15 January 2021.

One submission objecting to the application was received from the Department of Communities, as a landowner – comments provided below.

"The Department has concerns in relation to the front setback of the proposed shed, being 1.5m from the primary street. The reduced setback does not meet the Design Principles of Clause 5.4.3 in that the shed will detract from the streetscape given its proximity to the primary street.

Matters to be considered under Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 need to be taken into consideration, particularly Clauses m and n. The Department is of the view that the reduced setback of the shed will negatively impact the character of the locality, particularly given the openness of this particular streetscape.

It is recommended that the shed be setback behind the predominant building line of the dwelling onsite, to be consistent with the streetscape and to not set a negative precedent for other sheds in the future.”

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 advised the applicant of appropriate modifications to the proposal in order to comply with the R-Codes and LPP. Given the sufficient vacant area directly behind the proposed shed location, it is considered that the proposal could have been readily modified to achieve the required primary street setback distance.

The applicant has requested the application be determined based on the original development plans and information lodged and the applicant has been informed of the officer recommendation.

Timeline: Council Decision Implementation

Should Council refuse the application, the applicant has the option to lodge an appeal within 28 days of the date of the decision to the State Administrative Tribunal.

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr Brown and seconded by Cr Hayward.

The Mayor put the motion to the vote, and it was adopted (en-bloc) to become the Council's decision on the matter.

Council Decision 26/21

That Council, in accordance with clause 68(2) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the City of Bunbury Local Planning Scheme No. 8 resolves to refuse the application for an outbuilding at Lot 15 (#12) Tuxford Fairway, Usher, for the following reasons:

- 1. The development does not satisfy the design principles of clause 5.1.2 (Street Setback) and 5.4.3 (Outbuildings) of the Residential Design Codes as the proposed outbuilding would be inconsistent with and adversely impact the existing streetscape and character of the area.***
- 2. The development is inconsistent with the City of Bunbury's Local Planning Policy: 3.5 Minor Structures (Including Outbuildings) in respect of siting and height within the primary street setback area and does not meet the policy requirements for supporting a variation (Part C). The development by reason of its siting and design would be visually dominant in the streetscape and adversely impact the visual amenity of the area.***

CARRIED UNANIMOUSLY
12 votes "for" / nil votes "against"

10.5 Grant Funding Program Reallocation of the Seed Funding Project to an Iconic Event Project and Consideration of a Proposal for an Iconic Event (listed as 10.1.2 in the agenda)

File Ref:	COB/530
Applicant/Proponent:	BEAC
Responsible Officer:	Juaini Taylor, Senior Events Officer
Responsible Manager:	Sarah Upton, Manager Community Services
Executive:	Gary Barbour, Director Sustainable Communities
Authority/Discretion	<input type="checkbox"/> Advocacy <input checked="" type="checkbox"/> Review <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix CRUSC-1: 2017-2020 Bunbury Fringe Festival Officer’s Report Appendix CRUSC-2: Bunbury-Ferguson Valley Event Concept Report

Summary

The purpose of this report is to request Council consider redirecting the funding to establish a new Iconic Event project and supporting a Bunbury Ferguson Valley iconic event concept as **attached** at Appendix CRUSC-2.

Bunbury Events Advisory Committee Recommendation

That the Bunbury Events Advisory Committee recommend Council:

1. Note the Bunbury Fringe Festival Officer’s Report (**attached** at Appendix CRUSC-1).
2. Rename PR-4299 ‘Provide funding for seed funding round’ to ‘Provide funding for iconic event funding round’.
3. Approve the allocation of \$30,000 from PR-4299 ‘Provide funding for iconic event funding round’ towards the Bunbury and Ferguson Valley Event Concept (**attached** at Appendix CRUSC-2).

Voting Requirement: Absolute Majority

Strategic Relevance

Theme 1	Our community and culture
Goal	A safe, healthy and cohesive community, with a rich cultural life, and supportive social environment
Objective 1.4	Arts, culture, heritage and events that enrich our understanding and enjoyment of life, celebrate our identity and bring the community together.
Theme 4	Our City
Goal	Civic Leadership, partnerships and sound governance in delivering with and for the community.
Objective 4.4	A skilled organisation, which exercises responsible asset stewardship, sound financial management, and exemplary customer service.

Regional Impact Statement

The City of Bunbury is committed to ensuring our community and visitors have the opportunity to experience and participate in a range of quality and exciting events. The Ferguson Valley is located within the Shire of Dardanup, part of the wider Greater Bunbury region. Collaboration with surrounding local governments provides a greater opportunity to develop events which celebrate the unique assets of the region.

Background

The City launched the Seed Funding project in January 2017, which is a multi-year (up to three years) grant designed to assist with new, innovative and emerging events, in-line with the City of Bunbury Events Strategy. This project is additional to the City's annual grant program that comprises three (3) categories of Events, Community and the Arts.

The Seed Funding Category aims to assist events that:

- Generate a significant number of visitors to Bunbury;
- Receive media coverage raising the profile of Bunbury Geographe as a tourist destination;
- Drive tourism through economic and community benefits and creates promotional opportunities for Bunbury; and
- Are extraordinary, innovative and activate public spaces while adding vibrancy to Bunbury.

Upon launching the category in 2017, the Bunbury Fringe Festival was the successful recipient and received the following cash contribution over the three years:

- 2018: \$60,000
- 2019: \$50,000
- 2020: \$50,000

The organiser of the Bunbury Fringe Festival completed annual event reports during their contracted term. A full report of the event over three years is **attached** at Appendix CRUSC-1.

With the Bunbury Fringe Festival completing the three year contract last financial year (2019/20), the Seed Funding project will be available for application. Consideration is required on the future of the project to ensure it aligns with current priorities including the establishment of an iconic event for the City of Bunbury.

Australia's South West (ASW) Regional Tourism Organisation (RTO) contracted AHOY Management to undertake a feasibility report to establish a new iconic event concept for the Bunbury and Ferguson Valley region. This iconic event would highlight the regions distinctive assets and increase awareness of the tourist destination and drive visitation.

Council Policy Compliance

The Grant Funding Program policy provides an equitable and transparent process when Council determines financial support to individuals, community and sporting groups, and other legal entities.

Legislative Compliance

Local Government Act 1995.

Officer Comments

The City's events calendar has grown significantly over the past five years due to the City's proactive approach in supporting event organisers.

Although the Seed Funding project assisted in creating a successful Bunbury Fringe Festival, the organiser remains reliant on financial support from the City to deliver the event each year. As such, the initial concept of the Seed Funding project to establish self-sustainable events has not been met and is unlikely to be met.

Since the establishment of the Seed Funding project, there has been a desire to establish an iconic event for the City. Objective 2.5 within the City's 2017-2020 Events Strategy which has not yet been met, seeks to *develop new 'iconic' arts and cultural festivals to showcase the strengths of the region*.

As part of focused efforts to establish iconic events in the region, Australia's South West (ASW) Regional Tourism Organisation (RTO) contracted AHOY Management to undertake a feasibility report for a new iconic event concept for the Bunbury and Ferguson Valley region.

The confidential document prepared by AHOY Management provides a brief overview of the event concept including consideration of a partnership with the Shire of Dardanup (**attached** at Appendix CRUSC-2). The iconic event concept has been created to align with the regions brand identity and provide potential visitors an understanding of the various experiences in the region.

AHOY Management has a proven track record in establishing iconic events within the South West Region. AHOY Management run the Cabin Fever Festival in the Margaret River region, a 10-day winter festival which aims to boost business in the middle of winter, and drive visitation in a traditionally off-peak period. The Festival, now in its third year has successfully achieved this, with more than 7,500 attendees in its second year with 42 per cent of being overnight visitors.

Bunbury's events calendar features an impressive range of minor and major community events. A list of annual events, excusing one-off events negotiated through the Sports Marketing Australia program is provided below:

- Skyfest Australia Day Celebrations
- Christmas in the City
- Bunbury Fringe Festival
- Chefs Long Table Lunch
- Bunbury Show
- CinefestOz
- Street Pole Vault
- South West Festival of Japan
- Dolphin Festival
- Bunbury Cup
- Country Coastal Junior Soccer Association Carnival
- Women's Triathlon
- Relay for Life
- Targa Bunbury Sprint
- Surf to Surf Fun Run
- Groovin the Moo
- 3 Waters Running Festival
- Pridefest South West
- Bunbury Markets
- Bunbury Biennale
- South West Art Now

- Noongar Country
- Bunbury Summer School
- Tree Street Art Safari
- NAIDOC Week
- WA Performing Arts Eisteddfod
- Grand Families Day
- South West Junior Hockey Championships
- State Youth Games
- Bunbury City Classic Triathlon
- SWAS Fun Run
- Barrett Bunbury Swim Thru
- South West Multicultural Festival
- Shift Youth Festival
- Krikke Boys Shootout
- Chinese New Year Festival
- Bunbury Beer and Cider Festival
- Stakes Day
- Bunbury Trotting Club New Year's Eve Fireworks
- South West Seniors Expo

Whilst each above-mentioned event has merit in terms of community and economic benefit, they have never been truly unique to Bunbury. While the list is impressive, it is anticipated that a growth in event standards, appeal and sustainability are key catalysts in attracting tourism to the region.

As a result of COVID-19 restrictions, the City was unable to administer the seed funding during 2020. As a result, there is unspent money remaining with the current Seed Funding budget.

The submitted iconic event concept is an opportunity for the City to utilise this unspent grant to trial an iconic event for the Bunbury Geographe Region, with opportunities for the Bunbury aspect of the concept to grow as a separate entity over time. While the City hasn't developed funding mechanisms to administer the proposed Iconic Event project, the submitted event has been specifically prepared as an iconic event. Once the City has developed funding mechanisms for the Iconic Event project, all future proposal will be assessed against these mechanisms.

Analysis of Financial and Budget Implications

The Seed Funding budget (PR-4299) of \$60,000 will be renamed the Iconic Event budget. This will allow development of the iconic event concept and suitable funding mechanisms without the need to request any additional budget.

Should the submitted iconic event be supported, \$30,000 from the newly named Iconic Event budget (PR-4299) will be attributed towards the event as an iconic event trial. The allocation of \$30,000 toward the event, will leave \$30,00 remaining within the 2020/21 Iconic Event budget.

In addition to the City's \$30,000 cash contribution, the applicant for the submitted iconic event has secured \$30,000 of seed funding from the Ferguson Valley Wellington Forrest, with further income to be sourced from marketing fees, program advertising, accommodation partners and other sponsors, totalling \$82,000.

Community Consultation

The proponent of the proposed iconic event undertook community/ industry consultation with a cross section of businesses from the Bunbury, Ferguson Valley and Wellington Forrest region. Feedback collected from the surveyed businesses has been considered in the attached confidential report.

Councillor/Officer Consultation

Not applicable.

Applicant Consultation

The proposal to reallocate the funding and resources from the Seed Funding project towards an Iconic Event project was discussed with BEAC upon closing the official committee meeting held 11 November 2020.

The proponent of the proposed iconic event, AHOY Management, has conducted a detailed report outlining the current events scene. AHOY Management presented the proposal to BEAC in March 2020 upon closing the official meeting, and subsequent discussions have also been held between AHOY Management and City Officers.

Timeline: Council Decision Implementation

If Council supports the Executive Recommendation the funds can be allocated immediately as the funds are already budgeted.

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr Kozisek and seconded by Cr Yip.

Cr Plumb moved, and Cr Turner seconded an amendment to point 3 of the motion as follows:

...Approve the allocation of a dollar for dollar contribution in partnership with the Shire of Dardanup up to a maximum of \$20,000 ~~\$30,000~~ from PR-4299 'Provide funding for iconic event funding round' towards the Bunbury and Ferguson Valley Event Concept (attached at Appendix CRUSC-2).

The Mayor put the amendment to the vote and it was carried 11 votes for to 1 vote against. Mayor Brennan and Councillors Brown, Giles, Hayward, Kozisek, McCleary, Miguel, Plumb, Smith, Turner and Yip voted "for" and Cr Steck voted "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 27/21

That Council:

- 1. Note the Bunbury Fringe Festival Officer's Report (attached at Appendix CRUSC-1).***
- 2. Rename PR-4299 'Provide funding for seed funding round' to 'Provide funding for iconic event funding round'.***
- 3. Approve the allocation of a dollar for dollar contribution in partnership with the Shire of Dardanup up to a maximum of \$20,000 from PR-4299 'Provide funding for iconic event funding round' towards the Bunbury and Ferguson Valley Event Concept (attached at Appendix CRUSC-2).***

CARRIED

8 votes "for" / 4 votes "against"

Mayor Brennan and Councillors Brown, Giles, Hayward, Kozisek, Miguel, Plumb and Yip voted "for."

Councillors McCleary, Smith, Steck and Turner voted "against."

10.6 Adoption of City of Bunbury Code of Conduct for Council Members, Committee Members and Candidates (listed as 10.3.3 in the agenda)

File Ref:	COB/378
Applicant/Proponent:	Internal
Responsible Officer:	Leanne French, Senior Governance and Risk Officer
Responsible Manager:	Greg Golinski, Manager Governance
Executive:	Dr Dave Chandler, Director Strategy and Organisational Performance
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix DSOP-9 City of Bunbury Code of Conduct for Council Members, Committee Members and Candidates Appendix DSOP-10 Draft Code of Conduct Complaint Form Appendix DSOP-11 Local Government (Model Code of Conduct) Regulations 2021 Appendix DSOP-12 Local Government (Model Code of Conduct) Regulations 2021 - Explanatory Notes Appendix DSOP-13 DLGSC Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates

Summary

The purpose of this report is to present the recently legislated *Local Government (Model Code of Conduct) Regulations 2021* which applies a model code of conduct applicable to Council Members, Committee Members and Candidates. The recommendations within this report seek Council adoption of the Model Code of Conduct, request Council to authorise the Chief Executive Officer as its current complaint officer to receive complaints and ensure an approved form for submitting complaints is in place.

The model Code of Conduct supersedes the current City of Bunbury Code of Conduct 2017 for Elected Members, Committee Members and Employees.

New Regulations prescribing the minimum requirements for an Employee Code of conduct were also proclaimed. The CEO will prepare and implement a code of conduct to be observed by employees accordingly. Endorsed Management Policies and procedures relating to Employee Customer Service Charter and complaint processes remain in place.

Executive Recommendation

That Council:

1. Adopt the Model Code of Conduct as contained within the *Local Government (Model Code of Conduct) Regulations 2021* as the City model, applicable to Council Members, Committee Members and Candidates as presented at Appendix DSOP-9.*
2. Request the CEO to publish the adopted Code of Conduct on the City of Bunbury website in accordance with section 5.104(7) of the *Local Government Act 1995*.
3. Authorise the Chief Executive Officer for the purposes of receiving complaints and withdrawal of complaints in accordance with Clause 11(3) of the *Local Government (Model Code of Conduct) Regulations 2021*.

4. Delegate to the Chief Executive Officer the power to appoint one or more persons to receive complaints and withdrawals of complaints in accordance with section 5.42 of the *Local Government Act 1995*. *
5. Approve the Complaint form as presented at Appendix DSOP-9 in accordance with Clause 11(2)(a) of the *Local Government (Model Code of Conduct) Regulations 2021*.
6. Request the CEO to commence workshops/consultation with Council Members to consider any additional behavioural requirements for incorporation into the Code of Conduct for adoption.

*Voting Requirement: *Points 1 and 4 Absolute Majority; Points 2-3 and 5-6 Simple Majority*

Strategic Relevance

Theme 4: Our City
Goal: Civic leadership, partnerships and sound governance in delivering with and for the community
Objective 4.3: Trusted leadership and robust decision-making

Regional Impact Statement

Not applicable to this Council item.

Background

On 27 June 2019 the *Local Government Legislation Amendment Act 2019* was passed by Parliament.

On Tuesday, 2 February 2021 the following regulations were gazetted to take effect on Wednesday, 3 February 2021:

- *Local Government (Administration) Amendment Regulations 2021*
- *Local Government (Model Code of Conduct) Regulations 2021*
- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021*.

New sections of the Local Government Act that provided for the New Regulations were proclaimed concurrently and are also now in effect.

The Department of Local Government Sporting and Cultural Industries (DLGSC) recognises the speed with which these changes were made, providing an implementation timeframe of up to three months for local governments to operationalise the new regulations.

Local governments are required to take specific initial actions within three weeks of the regulations taking effect (by 24 February 2021) as included within the Executive Recommendation of this report.

It is further expected that local governments adopt the new regulations and any other procedures and processes required for implementation within three months from the regulations taking effect (by 3 May 2021).

Council Policy Compliance

No Council Policy currently applies. The DLGSC have provided *Local Government (Model Code of Conduct) Regulations 2021* Explanatory Notes as well as Guidelines on the model Code of Conduct for Council Members, Committee Members and Candidates, which are attached at Appendix DSOP-11 and Appendix DSOP-12 respectively.

Legislative Compliance

Section 5.104 of the Act requires that local governments adopt the model Code as their Code of Conduct within three months of the *Local Government (Model Code of Conduct) Regulations 2021* coming into operation (by 3 May 2021).

The operational requirements of Division 3 require local governments to take certain initial actions within three weeks (by 24 February 2021).

Officer Comments

The *Local Government (Model Code of Conduct) Regulations 2021* bring into effect sections 48-51 of the Amendment Act by introducing a mandatory code of conduct for council members, committee members and candidates.

The Model Code Regulations provide for:

- overarching principles to guide behaviour
- behaviours which are managed by local governments
- rules of conduct breaches which are considered by the Standards Panel.

The purpose of the model is to guide decisions, actions and behaviours. It also recognises that there is a need for a separate code for council members, committee members and candidates to clearly reflect community expectations of behaviour and ensure consistency between local governments. It also provides for a process to deal with complaints to ensure a consistent approach across the sector.

If a council member does not comply with any action required by the local government following a breach of the model Code, the local government may refer the matter to the Standards Panel as an alleged contravention of a rule of conduct. The Standards Panel has the authority to make binding decisions to resolve minor breaches.

To begin implementation of the model Code, as soon as practical (by 24 February 2021), local governments must:

- appoint a person to receive complaints by either affirming the current complaint officers or appoint a new or additional officer(s), and
- approve a form for complaints to be lodged as attached Appendix DSOP-9.

While local governments may not amend Division 2 (Principles) or Division 4 (rules of Conduct), additional behaviour requirements can be included in Division 3 (Behaviours) if deemed appropriate by the local government. Any additions must be consistent with the model Code of Conduct (section 5.104(3) of the Act).

The CEO must publish the adopted Code of Conduct on the Local Government's official website as required by section 5.104(7)) *Local Government Act 1995*.

Analysis of Financial and Budget Implications

The recommendations within this report can be implemented within the current budget allocation.

Community Consultation

No community consultation is required in relation to this report.

Elected Member/Officer Consultation

No Elected Member consultation has been sought in relation to this report.

Applicant Consultation

Not applicable

Timeline: Council Decision Implementation

Following approval by Council:

- Recommendations 1 to 5 will be implemented immediately; and
- Recommendation 6 will be implemented within 6 months.

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr McCleary and seconded by 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 28/21

That Council:

- 1. Adopt the Model Code of Conduct as contained within the Local Government (Model Code of Conduct) Regulations 2021 as the City model, applicable to Council Members, Committee Members and Candidates as presented at Appendix DSOP-9.****
- 2. Request the CEO to publish the adopted Code of Conduct on the City of Bunbury website in accordance with section 5.104(7) of the Local Government Act 1995.***
- 3. Authorise the Chief Executive Officer for the purposes of receiving complaints and withdrawal of complaints in accordance with Clause 11(3) of the Local Government (Model Code of Conduct) Regulations 2021.***
- 4. Delegate to the Chief Executive Officer the power to appoint one or more persons to receive complaints and withdrawals of complaints in accordance with section 5.42 of the Local Government Act 1995. ****
- 5. Approve the Complaint form as presented at Appendix DSOP-9 in accordance with Clause 11(2)(a) of the Local Government (Model Code of Conduct) Regulations 2021.***
- 6. Request the CEO to commence workshops/consultation with Council Members to consider any additional behavioural requirements for incorporation into the Code of Conduct for adoption.***

CARRIED UNANIMOUSLY
12 votes "for" / nil votes "against"

10.7 Proposed Outbuilding (Shed) at Lot 320 (#11) Holtzman Place, Carey Park (listed as 10.4.2 in the agenda)

File Ref:	DA.2020.282.1
Applicant/Proponent:	Southern City Building
Responsible Officer:	Alice Baldock, Planning Officer
Responsible Manager:	Felicity Anderson, Manager City Growth
Executive:	Gary Barbour, Director Sustainable Communities
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix DSC-4: Location Plan Lot 320 Holtzman Place Carey Park Appendix DSC-5: Site Photographs Lot 320 Holtzman Place Carey Park Appendix DSC-6: Development Plans Lot 320 Holtzman Place Carey Park Appendix DSC-7: Schedule of Submissions Lot 320 Holtzman Place Carey Park

Summary

Development approval is sought for an outbuilding (shed) at the rear of Lot 320 (#11) Holtzman Place, Carey Park.

The proposed development seeks variations to the deemed-to-comply requirements of the R-Codes. The variations are consistent with the City's Local Planning Policy 3.5 which guides assessment of outbuildings against the relevant design principle of the Residential Design Codes (R-Codes), subject to adjoining landowner support. Whilst the variations are consistent with the requirements of the LPP, the application is accompanied by an objection from an adjoining landowner in relation to the proposed height, setback and impact on visual amenity.

The proposal has been assessed against the planning framework and is considered that the proposal would not adversely impact on the visual amenity of adjoining residents and is compatible with its setting. The development application is recommended for approval.

The application is before Council as officers do not have delegation to grant development approval where a valid planning objection has been received.

Executive Recommendation

That Council, in accordance with clause 68(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City of Bunbury Local Planning Scheme No. 8, resolves to approve the application for an outbuilding at Lot 320 (#11) Holtzman Place, Carey Park subject to the following conditions:

1. At all times, the development the subject of this development approval must comply with the definition of 'Outbuilding' as contained in the State Planning Policy 7.3 Residential Design Codes (R-Codes) Volume 1.
2. All development shall be in accordance with the approved development plans (attached) which form part of this development approval.

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. 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.
5. 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.

Advice Notes:

- a. This is a development approval only. The applicant/owner is advised that it is their responsibility to ensure that the proposed development complies with all other applicable legislation, local laws and/or license requirements that may relate to the development.
- b. The applicant is hereby advised that in accordance with clause 4.2 of the Notice of Exemption from Planning Requirements During a State of Emergency issued by the Minister for Planning under clause 78H of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* on 8 April 2020, the deadline for the substantial commencement of works associated with this approval is extended by two years from the expiry date stated in the conditions of approval.
- c. 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 new application for development approval to be submitted, 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).
- d. The development the subject of this development approval is also regulated by the Western Australia Building Act 2011, Building Regulations 2012 and Building Code of Australia. A separate demolition permit and 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.

Voting Requirement: Simple Majority

Strategic Relevance

Theme 3.	Our places and spaces
Goal	A natural and built environment that reflects Bunbury's core values.
Objective 3.3	High-quality urban design, well planned neighbourhoods with housing choice, and appropriate provision for diverse land uses to meet the community's needs.

Regional Impact Statement

The proposal relates to an individual property and is not considered to have a regional impact.

Background

The subject site is within the Residential Zone, with a density coding of R20. A locality plan and site photographs are **attached** at Appendices DSC-4 and Appendix DSC-5.

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

Property Address:	Lot 320 (#11) Holtzman Place, Carey Park
Zoning:	Residential Zone (R20)
Existing Land Use:	Single House
Lot Area:	736m ²

The proposed outbuilding is to be constructed of colorbond and would be located to the rear of the lot in the south west corner. The dimensions of the outbuilding are 6.4m x 7.0m (44.8m²) with a wall height of 2.7m and ridge height of 3.8m.

The proposal seeks two main variations to the requirements of the R-Codes.

1. The outbuilding has a proposed rear lot boundary setback of 0.9m in lieu of 1.0m; and
2. Increased wall height of 2.7m in lieu of 2.4m

A copy of the proposed development plans are attached in Appendix DSC-6.

Since the development application was first received, the wall height has been reduced in accordance with Officer advice from 2.8m to 2.7m, and the side lot boundary setback increased from 1m to 1.5m in line with State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes).

The proposal also has a reduced rear lot boundary setback of 900mm in lieu of the required 1m, however the affected adjoining neighbour has provided support for this variation.

The landowner's justification for their application is summarised as follows:

- The 2.7m wall height is required to fit a four-wheel drive inside the shed, while having storage space within the roof; and
- The shed cannot be located on the north western corner of the lot due to an existing Water Corporation sewer easement running the full length of the lot (east to west).

Council Policy Compliance

Not applicable.

Legislative Compliance

The following legislation and statutory planning instruments of the State and local planning framework are applicable to the assessment of this application:

Legislation

- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015.*

State Planning Framework

- State Planning Policy 3.1 - Residential Design Codes (R-Codes);

- State Planning Policy 7.0 – Design of the Built Environment.

Local Planning Framework

- City of Bunbury Local Planning Strategy;
- City of Bunbury Local Planning Scheme No.8 (LPS8); and
- City of Bunbury Local Planning Policy 3.5: Minor Structures (including Outbuildings).

Officer Comments

The main consideration relates to an assessment of the proposed variations against the R-Codes and the City's Local Planning Policy 3.5: Minor Structures (including Outbuildings) (LPP3.5).

Residential Design Codes

The proposal meets the deemed-to-comply provisions of LPP 3.5 clause 5.4.3 with the exception of the following variations:

- (a) Reduced rear setback of 0.9m in lieu of 1.0m; and,
- (b) Proposed wall height of 2.7m in lieu of 2.4m.

The application has been assessed against the applicable Design Principle of Clause 5.4.3 Outbuildings of the R-Codes, which states:

"Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties."

The outbuilding by reason of its location to the rear would have no impact on the streetscape. In terms of the impact on visual amenity, the wall height, which is consistent with the City's policy, is considered to be acceptable. The development complies with the 'deemed-to-comply' requirements for solar access to adjoining dwellings. The development would cast a shadow on 2.8% of the adjoining lot. Pursuant to the R-Codes, development within areas coded R20 can cast a maximum shadow 25% of the site area of the adjoining lot. All development on the subject site, including the proposed outbuilding, will cast a shadow on 11.2% of the adjoining lot and would meet the 'deemed-to-comply' requirements.

Local Planning Policy 3.5: Minor Structures (including Outbuildings)

The proposed development has been assessed against LPP3.5, which provides policy guidance for considering variations to the deemed-to-comply requirements of the R-Codes. The proposal development seeks the following variations.

Relevant Clause	Assessment
8.6 Height	
8.6.2 Outbuildings shall not exceed a wall height of 2.4m and a ridge height of 4.2m.	The City may approve outbuildings that exceed 2.4m subject to not exceeding the requirements in Table 1 – 2.7m and compliance with setback requirements.
8.6.3 Table 1 – Maximum Height of Outbuildings, provides for an increased wall height of 2.7m for lot sizes 701m ² to 800m ² , subject to compliance with the setback requirements.	The proposal is compliant with the height requirements.

The proposed outbuilding complies with LPP 3.5. However, an objection has been received from an adjoining landowner to the proposed variation to the R-Codes.

Any variations to the requirements of LPP 3.5 are required to be assessed against the objectives of the policy, the aims of LPS8, the objectives of the Residential Zone and the relevant 'matters to be considered' in Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The proposed outbuilding is considered compatible with its setting, including the relationship of the development with adjoining land. The proposed outbuilding will create a total wall length of 28m on the southern boundary, which requires a 1.5m side lot boundary setback. The applicant has amended the original proposal to setback the shed to be in accordance with the R-Codes and has reduced the height to mitigate the potential impacts on the adjoining landowner.

Whilst it is acknowledged that the proposed shed will cast some level of shadow onto the adjoining landowner's property at certain times of the day, the development meets the 'deemed-to-comply' requirements. Additionally, it is noted that the neighbouring landowner has a 15.9m long patio with a 750mm setback from the adjoining lot boundary of the subject site, attached with shade sail to the fence.

In light of the above, it is considered that the proposed development is compatible to development on the adjoining land, having a greater setback than the adjoining landowner's existing patio. The height, scale and appearance of the proposed outbuilding is considered to be appropriate for a residential lot, with the impact on solar access compliant with the relevant R-Codes provisions.

In terms of impact it is also noted that the R-Codes allow for a 9m wall to be built up to a side lot boundary (within 600mm of the lot boundary) with a 3m wall height without neighbours consent. The proposed outbuilding is considered to have less of an impact than a compliant boundary wall.

Analysis of Financial and Budget Implications

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

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

Community Consultation

The development application was submitted to the City with adjoining landowner comments. One objection was received which raised the following concerns:

- The height of the proposed outbuilding;
- The variation to the deemed-to-comply setback requirement; and
- The impact on the amenity of the dwelling, relating to solar access.

A Schedule of Submissions and officer comments is **attached** at Appendix DSC-7.

Officers have communicated with the applicant and objector to discuss alternative design options to address identified concerns. The wall height of the outbuilding was reduced to accord with LPP3.5 and the boundary setback of the outbuilding was increased to be compliant with the R-

Codes. The objector was advised of the amendments; however, objection remained that the scale of the shed would detract from the amenity of their property.

After discussions with both parties in which no compromise could be met, the application is with Council for determination.

Councillor/Officer Consultation

Not applicable, the development application was not referred to the City of Bunbury's Development Coordination Unit (DCU).

Applicant Consultation

Officers advised the applicant of modifications required to the proposal in order to comply with the R-Codes and LPP 3.5 in order to support the application. Officers have met with the applicant on site and informed the applicant of the officer recommendation.

Timeline: Council Decision Implementation

Should Council refuse the application, the applicant has the option to lodge an appeal within 28 days of the date of the decision to the State Administrative Tribunal.

Outcome of Meeting 23 February 2021

Mr Cody Bates delivered a deputation in relation to this item.

The recommendation (as printed) was moved by Cr McCleary and seconded by Cr Giles.

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

Council Decision 29/21

That Council, in accordance with clause 68(2) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the City of Bunbury Local Planning Scheme No. 8, resolves to approve the application for an outbuilding at Lot 320 (#11) Holtzman Place, Carey Park subject to the following conditions:

- 1. At all times, the development the subject of this development approval must comply with the definition of 'Outbuilding' as contained in the State Planning Policy 7.3 Residential Design Codes (R-Codes) Volume 1.***
- 2. All development shall be in accordance with the approved development plans (attached) which form part of this development approval.***
- 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. 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.***
- 5. 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.***

Advice Notes:

- a. This is a development approval only. The applicant/owner is advised that it is their responsibility to ensure that the proposed development complies with all other applicable legislation, local laws and/or license requirements that may relate to the development.***
- b. The applicant is hereby advised that in accordance with clause 4.2 of the Notice of Exemption from Planning Requirements During a State of Emergency issued by the Minister for Planning under clause 78H of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 on 8 April 2020, the deadline for the substantial commencement of works associated with this approval is extended by two years from the expiry date stated in the conditions of approval.***
- c. 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 new application for development approval to be submitted, 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).***
- d. The development the subject of this development approval is also regulated by the Western Australia Building Act 2011, Building Regulations 2012 and Building Code of Australia. A separate demolition permit and building permit must be granted before the development commences, where offences occur statutory penalties apply. The owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.***

CARRIED UNANIMOUSLY
12 votes "for" / nil votes "against"

10.8 Proposed Road Closure – Portion Carey Street, Bunbury (listed as 10.4.3 in the agenda)

File Ref:	SF/3336
Applicant/Proponent:	City of Bunbury
Responsible Officer:	Kristen Anderson, Team Leader Economic Development
Responsible Manager:	Felicity Anderson, Manager City Growth
Executive:	Gary Barbour, Director Sustainable Communities
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix DSC-8: Location Plan – Proposed Road Closure Portion Carey Street Appendix-DSC-9: Summary of Submissions Proposed Road Closure Portion Carey Street, Bunbury.

Summary

Following the statutory advertising period of the proposed road closure of a portion of Carey Street, Bunbury a map of which is **attached** at Appendix DSC-8 Location Plan Proposed Road Closure Portion Carey Street, the submission received is referred to Council for further consideration.

Executive Recommendation

That Council:

1. Notes the submission received; and
2. Agrees to close a portion of Carey Street, Bunbury in accordance with Section 86 of the *Land Administration Act 1997*.

Voting Requirement: Simple Majority

Strategic Relevance

Theme No. 4	Our City
Goal	Civic leadership, partnerships and sound governance in delivering with and for the community.

Regional Impact Statement

The closure of a portion of Carey Street, Bunbury will not have a regional impact.

Background

At the Ordinary Council Meeting held 26 September 2020 Council Decided (216/20):

“That Council:

1. *Authorises the Chief Executive Officer to enter into a sale and development agreement with the City’s preferred respondent based on the information contained within this report; and*
2. *Agrees to close a portion of Carey Street In accordance with Section 58 of the Land Administration Act 1997. “*

Following this decision, the Department of Planning, Lands and Heritage have advised the road can be closed and amalgamated with the City's freehold land at Lot 330 Ocean Drive under Section 86 of the *Land Administration Act 1997*.

This change in process was recommended following a Joint Venture meeting held between the City and the Department of Planning, Lands and Heritage (the "Parties") who are joint venture partners in Lot 330 Ocean Drive.

The Parties determined that the sale and amalgamation of the portion of road reserve into Lot 330 Ocean Drive constituted the highest and best use of the disposal of the land in line with the intent of the Joint Venture.

The Joint Venture Agreement between the Parties allows, with agreement of the State and the City, the inclusion of additional land into the Joint Venture.

Under this process there is no legislative requirement for the Department of Planning, Lands and Heritage to offer the land to other adjoining landowners if the sale is pursuant to Section 86 of the *Land Administration Act 1997*.

The Department of Planning, Lands and Heritage requested however, that the City follows similar steps to undertake the road closure as it would normally do under Section 58 of the *Land Administration Act 1997*. This includes obtaining public service provider comments and inviting public submissions for a period of no less than 35 days.

The Department of Planning, Lands and Heritage also requested that a Council Decision considering submissions be obtained prior to amalgamating the road reserve into Lot 330 Ocean Drive under the Joint Venture agreement.

Following this direction, officers undertook public advertising of the proposed road closure. The advertising period closed on 26 January 2021 with one public submission received. Detailed comments on the elements of the submission, along with service provider comments are included within the Summary of Submissions **attached** at Appendix DSC-9 Summary of Submissions Proposed Road Closure Portion Carey Street, Bunbury.

Council Policy Compliance

No Council Policy applies to the closure of public roads. This process is legislated by the *Land Administration Act 1997*.

Legislative Compliance

The City is proposing to amalgamate a portion of Carey Street, Bunbury with the adjoining property at Lot 330 Ocean Drive as part of the Joint Venture agreement between the City and the Department of Planning, Lands and Heritage pursuant to Section 86 of the *Land Administration Act 1997*.

Officer Comments

The City has received one submission in opposition of the proposed amalgamation of a portion of Carey Street with Lot 330 Ocean Drive.

While it is unfortunate that the respondent believes they will be impacted negatively by the proposal, the City believes that the amalgamation of this portion of road reserve into the adjoining Lot 330 Ocean Drive will provide the best outcome for future development of this land.

Analysis of Financial and Budget Implications

The road reserve has been valued by the Valuer General as requested by the Department of Planning, Lands and Heritage. The approximate value of the land, subject to the final amalgamation plan, is \$204,000 ex GST.

The value of this land will form part of an amendment to the College Grove Joint Venture agreement between the City and the Department of Planning, Lands and Heritage.

The agreement will be amended to reflect the City as purchaser of the road reserve being the adjoining land owner, however, the cost of the land will be nil until such time as a sale and development agreement is entered in to for the acquisition of Lot 330 Ocean Drive.

Community Consultation

Public submissions were called for from 22 December 2020 to 26 January 2021. These were publicly advertised in the City Focus and at public notices throughout City facilities.

During this submission period the City met with the respondent who has made a submission as well as fielded two enquiries from property owners in Carey Street, however, no formal submissions have been received by those property owners.

Councillor/Officer Consultation

The proposed amalgamation was reviewed by the City's Development Coordination Unit and no objections were submitted.

Applicant Consultation

In this instance, the City is the applicant. Council have previously considered the proposed road closure and subsequent amalgamation with Lot 330 Ocean Drive, subject to public submissions being called.

The purpose of this report is so that Council can consider submissions made in response to the proposal.

Timeline: Council Decision Implementation

Should Council determine to proceed with the closure of a portion of Carey Street and subsequent amalgamation into Lot 330 Ocean Drive, the City and the Department of Planning, Lands and Heritage will commence the amalgamation process immediately

Outcome of Meeting 23 February 2021

Mr Simon Berns delivered a deputation in relation to this item. Councillor Hayward moved and Councillor Giles seconded a motion to allow Mr Berns an additional 5 minutes to complete his deputation. The motion was carried unanimously.

The recommendation (as printed) was moved by Cr McCleary and seconded by Cr Kozisek.

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

Council Decision 30/21

That Council:

- 1. Notes the submission received; and***
- 2. Agrees to close a portion of Carey Street, Bunbury in accordance with Section 86 of the Land Administration Act 1997.***

CARRIED

9 votes "for" / 3 votes "against"

Mayor Brennan and Councillors Brown, Giles, Hayward, Kozisek, McCleary, Miguel, Plumb and Turner voted "for."
Councillors Smith, Steck and Yip voted "against."

11. Applications for Leave of Absence

Nil

12. Motions on Notice

Nil

13. Questions from Members

13.1 Response to Previous Questions from Members taken on Notice

Nil

13.2 Questions from Members

Nil

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

Nil

15. Meeting Closed to Public

15.1 *Matters for which the Meeting may be Closed*

A procedural motion pursuant to Standing Order 11.1(h) that the meeting be closed to the public was moved by Cr Giles and seconded by Cr Plumb.

The Mayor put the motion to the vote, and it was carried unanimously.

Council Decision 31/21

In accordance with sections 5.23(2)(a) of the Local Government Act 1995 and clause 6.2 of the City of Bunbury's Standing Orders Local Law, Council resolves to close the meeting to members of the public to consider the items titled "15.1.1 Request for Tender – Bunbury Entry Statements Landscaping" and "15.1.2 Request for Quotation – Supply and Lay of Asphalt and Road Profiling Services"

CARRIED UNANIMOUSLY
12 votes "for" / nil votes "against"

The meeting was closed to the public at 6:08pm.

Councillor Yip left the meeting at 6:08pm.

15.1.1 Request for Tender – Bunbury Entry Statements Landscaping

File Ref:	RFT2021/015
Applicant/Proponent:	Internal
Responsible Officer:	Lisa McDonald, Team Leader, Contracts & Commercial
Responsible Manager:	David Ransom, Manager Finance
Executive:	Gavin Harris, Director Infrastructure
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Confidential Appendix CRUSC-3 - Request for Tender – Bunbury Entry Statements Landscaping

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

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting*

A confidential report and recommendation will be circulated to members under separate cover (Confidential Report CRUSC-3). The report is not for circulation.

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr Plumb and seconded by Cr McCleary.

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

Council Decision 32/21

That Council:

- 1. Pursuant to RFT2021/015 Bunbury Entry Statements Landscaping, accept the tender from Sanpoint Pty Ltd T/A LD Total for the price of \$843,889.70 subject to minor variations to be negotiated in accordance with Regulation 20 of the Local Government (Functions and General) Regulations 1996 (FG Regulations);***
- 2. Delegates power and authority to the Chief Executive Officer to negotiate and agree with Sanpoint Pty Ltd T/A LD Total minor variations in accordance with Regulation 20 of the FG Regulations, subject to there being sufficient funds available within the approved expenditure budget and the variation being limited to 10% of the contract value; and***
- 3. Subject to resolutions 1 and 2, authorise the Chief Executive Officer to enter into a contract with Sanpoint Pty Ltd T/A LD Total to provide landscaping construction works for the Bunbury Entry Statements project.***

CARRIED UNANAMOUSLY
11 votes "for" / Nil votes "against"

15.1.2 Request for Quotation – Supply and Lay of Asphalt and Road Profiling Services

File Ref:	RFQ2021/026
Applicant/Proponent:	Internal
Responsible Officer:	Karen Urkko, Contracts and Procurement Officer
Responsible Manager:	David Ransom, Manager Finance
Executive:	Gavin Harris, Director Infrastructure
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Confidential Appendix CRUSC-4 - Request for Tender - Supply and Lay of Asphalt and Road Profiling Services

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

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting*

A confidential report and recommendation will be circulated to members **under separate cover** (Confidential Report CRUSC-4). The report is not for circulation.

Outcome of Meeting 23 February 2021

The recommendation (as printed) was moved by Cr McCleary and seconded by Cr Giles.

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

Council Decision 33/21

That Council:

- 1. Pursuant to RFQ2021/026 – Supply and Lay of Asphalt and Road Profiling Services, accept the submission from Malatesta at the rates as specified in the submission, subject to minor variations to be negotiated in accordance with Regulation 20 of the Local Government (Functions and General) Regulations 1996 (FG Regulations);***
- 2. Delegates power and authority to the Chief Executive Officer to negotiate and agree with Malatesta minor variations in accordance with Regulation 20 of the FG Regulations, subject to there being sufficient funds available within the approved expenditure budget and the variation being limited to 10% of the contract value; and***
- 3. Subject to resolutions 1 and 2, authorise the Chief Executive Officer to enter into a contract with Malatesta to supply, deliver and lay asphalt and bitumen for road resealing as part of the City's annual capital and maintenance program.***

CARRIED UNANAMOUSLY
11 votes "for" / nil votes "against"

A procedural motion to reopen the meeting to the public and press was moved by Cr Plumb and seconded by Cr Hayward. The Mayor put the motion to the vote, and it was carried as follows:

Council Decision 34/21

That the meeting be reopened to the public.

CARRIED UNANIMOUSLY
11 votes “for” / nil votes “against”

The meeting was reopened to the public at 6.10pm.

15.2 Public Reading of Resolutions that may be made Public

The Mayor read aloud Council’s decision in relation to item 15.1.1 as follows:

That Council:

1. *Pursuant to RFT2021/015 Bunbury Entry Statements Landscaping, accept the tender from Sanpoint Pty Ltd T/A LD Total for the price of \$843,889.70 subject to minor variations to be negotiated in accordance with Regulation 20 of the Local Government (Functions and General) Regulations 1996 (FG Regulations);*
2. *Delegates power and authority to the Chief Executive Officer to negotiate and agree with Sanpoint Pty Ltd T/A LD Total minor variations in accordance with Regulation 20 of the FG Regulations, subject to there being sufficient funds available within the approved expenditure budget and the variation being limited to 10% of the contract value; and*
3. *Subject to resolutions 1 and 2, authorise the Chief Executive Officer to enter into a contract with Sanpoint Pty Ltd T/A LD Total to provide landscaping construction works for the Bunbury Entry Statements project.*

The Mayor read aloud Council’s decision in relation to item 15.1.2 as follows:

That Council:

1. *Pursuant to RFQ2021/026 – Supply and Lay of Asphalt and Road Profiling Services, accept the submission from Malatesta at the rates as specified in the submission, subject to minor variations to be negotiated in accordance with Regulation 20 of the Local Government (Functions and General) Regulations 1996 (FG Regulations);*
2. *Delegates power and authority to the Chief Executive Officer to negotiate and agree with Malatesta minor variations in accordance with Regulation 20 of the FG Regulations, subject to there being sufficient funds available within the approved expenditure budget and the variation being limited to 10% of the contract value; and*
3. *Subject to resolutions 1 and 2, authorise the Chief Executive Officer to enter into a contract with Malatesta to supply, deliver and lay asphalt and bitumen for road resealing as part of the City’s annual capital and maintenance program.*

16. Closure

The Mayor declared the meeting closed at 6:12pm.

Confirmed this day, 16 March 2021 to be a true and correct record of proceedings of the City of Bunbury Council Meeting held 23 February 2021

Mr Gary Brennan
MAYOR